

SUPREME COURT OF ALABAMA

Ex parte Silver Chiropractic Group, Inc.

975 So. 2d 922 (Ala. 2007) · No. 1050980 · Decided June 15, 2007

SUMMARY

The Supreme Court of Alabama considered a petition for a writ of mandamus seeking transfer of an action from Chilton County to Montgomery County. The court held that venue was proper in Montgomery County for both the individual defendants and Silver Chiropractic Group because the relevant acts occurred there and the corporation did not conduct the requisite business in Chilton County. The petition was granted, and the trial court was directed to transfer the action.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Bolin, Justice; Cobb, C.J.; Lyons, J.; Stuart, J.; Murdock, J.
JURISDICTION	Alabama
DECIDED	June 15, 2007
DOCKET	1050980
DISPOSITION	writ_granted
PROCEDURAL POSTURE	The defendants petitioned for a writ of mandamus directing the Chilton Circuit Court to vacate its denial of their motion to dismiss for improper venue or to transfer the action to the Montgomery Circuit Court.
STANDARD OF REVIEW	For a mandamus petition challenging venue, the Supreme Court asks whether the trial court exceeded its discretion in granting or denying the motion for a change of venue. The petitioner must make a clear showing of error and satisfy the requirements for mandamus relief.
PRECEDENTIAL VALUE	published
PARTIES	Silver Chiropractic Group, Inc., Steve Silver, Dr. Dawn Havel, Dr. Jason Hart v. Alabama State Board of Chiropractic Examiners

TOPICS

- venue
- writ of certiorari
- appellate procedure
- civil procedure
- administrative law

PRACTICE AREAS

civil procedure

appellate procedure

administrative law

health law

QUESTIONS PRESENTED

1. Whether venue for the Board's equitable action against the individual defendants was proper in Chilton County because the defendants filed answers to the administrative complaints there.
2. Whether venue for the action against Silver Chiropractic Group was proper in Chilton County based on the corporation's dealings with the Board and the Board's offices there.
3. Whether the defendants established a clear legal right to mandamus relief directing transfer to Montgomery County.

HOLDINGS

1. Venue for the Board's action against the individual defendants was proper in Montgomery County, not Chilton County, because the defendants resided in Montgomery County and the acts or omissions alleged in the complaint occurred there rather than in the county where the administrative answers were filed.
2. Venue for the action against Silver Chiropractic Group was proper in Montgomery County because the corporation's principal place of business and chiropractic operations were there, and the Board failed to show that the corporation regularly performed business functions in Chilton County.
3. The defendants demonstrated a clear legal right to transfer, and the trial court exceeded its discretion by denying their motion; therefore, mandamus was appropriate to require transfer of the action to the Montgomery Circuit Court.

KEY QUOTATIONS

"A writ of mandamus is an extraordinary remedy, and it will be "issued only when there is (1) a clear legal right in the petitioner to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; and (4) properly invoked jurisdiction of the court." (925)

"This Court has stated that "[a] corporation 'does business' in a county for purposes of § 6-3-7 if, with some regularity, it performs there some of the business functions for which it was created." (927)

FACTUAL BACKGROUND

The Alabama State Board of Chiropractic Examiners brought administrative complaints alleging that Steve Silver, Dr. Dawn Havel, and Dr. Jason Hart violated advertising regulations governing chiropractic practice. The Board then filed an action in Chilton County seeking to prevent Silver from practicing chiropractic medicine without a license, to prevent Havel and Hart from aiding or abetting that practice, and to regulate future advertising. The individual defendants resided and worked in Montgomery County, and Silver Chiropractic Group's principal place of business and chiropractic operations were also in Montgomery County; the defendants submitted affidavits stating that the corporation did not conduct business in Chilton County.

PROCEDURAL HISTORY

The Alabama State Board of Chiropractic Examiners filed an action in the Chilton Circuit Court seeking injunctive relief against Silver, two chiropractors, and later Silver Chiropractic Group. The defendants moved to dismiss for improper venue or transfer the action to Montgomery County, supporting the motion with affidavits stating that they resided, worked, and conducted the relevant business in Montgomery County. The trial court denied the motion, and the Alabama Supreme Court granted mandamus relief and ordered transfer.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

The Chilton Circuit Court was directed to vacate its order denying the defendants' motion to transfer and enter a new order transferring the Board's action to the Montgomery Circuit Court.

CASES CITED

- Ex parte Alabama Power Co., 640 So. 2d 921, 922 (Ala. 1994)
- Ex parte Ralston, 519 So. 2d 488 (Ala. 1987)
- Ex parte Finance America Corp., 507 So. 2d 458 (Ala. 1987)
- Ex parte Children's Hosp. of Alabama, 721 So. 2d 184, 186 (Ala. 1998)
- Ex parte United Serv. Stations, Inc., 628 So. 2d 501, 503 (Ala. 1993)
- Ex parte Drill Parts & Serv. Co., 590 So. 2d 252 (Ala. 1991)
- Ex parte Empire Fire & Marine Ins. Co., 720 So. 2d 893, 894 (Ala. 1998)
- Ex parte Perfection Siding, Inc., 882 So. 2d 307, 310 (Ala. 2003)
- Ex parte Scott Bridge Co., 834 So. 2d 79, 81 (Ala. 2002)
- Ex parte Sawyer, 892 So. 2d 898, 901 (Ala. 2004)
- Ex parte Pike Fabrication, Inc., 859 So. 2d 1089, 1093 (Ala. 2003)
- Ex parte Wiginton, 743 So. 2d 1071, 1074-75 (Ala. 1999)
- Ex parte SouthTrust Bank of Tuscaloosa, N.A., 619 So. 2d 1356, 1358 (Ala. 1993)

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