

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
ALABAMA

Ashwander v. Tennessee Valley Authority

14 F. Supp. 11 (N.D. Ala. 1936) · Decided March 19, 1936

SUMMARY

On remand from the Supreme Court, the district court denied the plaintiffs’ proposed amended and supplemental complaint. It set aside its prior decree, dismissed the complaint and all amendments and supplements, denied all requested relief, and taxed costs against the plaintiffs.

CASE DETAILS

COURT	United States District Court for the Northern District of Alabama
WRITING FOR THE COURT	Davis
JURISDICTION	Alabama
DECIDED	March 19, 1936
DISPOSITION	dismissed
PROCEDURAL POSTURE	Proceeding on remand from the Supreme Court of the United States after affirmance of the Fifth Circuit's disposition of the district court's prior decree.
PRECEDENTIAL VALUE	Published federal district court opinion
PARTIES	Ashwander and others v. Tennessee Valley Authority and others

TOPICS

- appellate procedure
- motion to amend
- pleadings
- civil procedure
- federal spending

PRACTICE AREAS

- civil procedure
- appellate procedure
- constitutional law
- federal spending

QUESTIONS PRESENTED

- Whether the district court had authority on remand to allow plaintiffs to file an amended and supplemental bill of complaint.
- Whether the district court was required by the Supreme Court's mandate to set aside its prior decree and dismiss the complaint.

HOLDINGS

1. A district court may not allow an amendment or supplemental bill that is inconsistent with the mandate of the Supreme Court following appellate review.
2. The district court was required to set aside its prior decree and dismiss the bill of complaint, including its amendments and supplements.

KEY QUOTATIONS

“The mandate of the Supreme Court is in effect a peremptory order to modify the decree of this court to conform with the opinion of the Supreme Court and to dismiss the bill of complaint.” (14 F. Supp. at 12)

“That the bill of complaint in. said cause and all amendments and supplements thereto be and same are hereby dismissed, and all prayers for relief are hereby denied.” (14 F. Supp. at 12)

FACTUAL BACKGROUND

The plaintiffs had previously obtained a district court decree granting some relief against the Tennessee Valley Authority and other respondents. The Fifth Circuit reversed the relief granted and affirmed the denial or failure to grant other relief, and the Supreme Court affirmed that disposition. After remand, the plaintiffs tendered an amended and supplemental bill of complaint, but the district court concluded that the Supreme Court's mandate required dismissal and left no authority to permit the amendment.

PROCEDURAL HISTORY

The district court entered a decree on March 2, 1935. The Fifth Circuit reversed the portion granting relief and affirmed the portion denying or failing to grant relief. The Supreme Court affirmed the Fifth Circuit's decree and remanded for further proceedings consistent with its opinion. On remand, the district court denied plaintiffs' proposed amended and supplemental bill, set aside its prior decree in its entirety, and dismissed the complaint and all amendments and supplements.

DISPOSITION

dismissed

REMAND INSTRUCTIONS

The district court was directed by the Supreme Court's mandate to conform its decree to the Supreme Court's opinion, deny the proposed amendment, set aside the prior decree, and dismiss the bill of complaint and all amendments and supplements.

CASES CITED

- Gulf Refining Co. v. United States of America, 269 U.S. 125, 46 S. Ct. 52, 70 L. Ed. 195
- Mortgage Loan Co. v. Livingston, 66 F. (2d) 636 (C.C.A.), certiorari denied, 290 U.S. 685, 54 S. Ct. 121, 78 L. Ed. 590
- Williams v. Ansehl, 279 F. 550 (C.C.A.)

OPINION

DAVIS, J.

DAVIS, District Judge. It appears from the mandate of the Supreme Court of the United States, dated March 14, 1936, and filed herein March 16, 1936, that the decree entered in this court in this cause on the second day of March, 1935 (9 F.Supp. 965), *12 was brought into the Circuit Court of Appeals of the Fifth Circuit, by appeal and cross-appeal, and that so much of said decree as granted relief to the plaintiffs was reversed, and so much thereof as denied or failed to grant relief to the plaintiffs was affirmed by said Circuit Court of Appeals [78 F.(2d) 578]; that thereafter the said decree of said Circuit Court of Appeals was brought into the Supreme Court of the United States by writs of certiorari, was affirmed by said Supreme Court, and that this cause remanded to this court for further proceedings, not inconsistent with the opinion of said Supreme Court dated February 17, 1936.

56 S.Ct. 466, 80 L.Ed. -. It also appears that the plaintiffs did, on March 16, 1936, tender to this court an amended and supplemental bill of complaint for allowance. I am of the opinion that the allowance of the amendment to the original bill of complaint should be denied; that the decree, in its entirety, should be set aside; and the original bill as amended and supplemented should be dismissed.

The mandate of the Supreme Court is in effect a peremptory order to modify the decree of this court to conform with the opinion of the Supreme Court and to dismiss the bill of complaint. I have no power to allow an amendment or supplemental bill. *Gulf Refining Co. v. United States of America*, 269 U.S. 125, 46 S.Ct. 52, 70 L.Ed. 195; *Mortgage Loan Co. v. Livingston* (C.C.A.)

66 F.(2d) 636, certiorari denied 290 U.S. 685, 54 S.Ct. 121, 78 L.Ed. 590; *Williams v. Ansehl* (C.C.A.) 279 F. 550. The plaintiffs seemed to be of the opinion, when they filed their application for rehearing in the Supreme Court, that the decision was an effective dismissal of their case.

On page 6 thereof, they said: "The effect of the opinion is, accordingly, by the decree of unqualified dismissal, etc." Again, on page 22, they said: "The unconditional dismissal by the opinion accomplishes that result." They are not in a very good position to object to a dismissal after making those statements to the Supreme Court. While I do not believe I have any discretion in the allowance of said amendment and supplemental bill of complaint, if, however, I have, I should, under the circumstances of this case, and do exercise it by denying the allowance of said amendment.

Now, therefore, in accordance with such mandate and said opinion of the Supreme Court, it is ordered, adjudged, and decreed, as follows: (1) That the allowance of the proposed amendment and supplemental bill of complaint in lieu of and in addition to and supplementing the original bill of complaint be and the same is hereby denied.

(2) That the aforesaid decree rendered by this court on March 2, 1935, be, and the same is, in its entirety set aside and held for naught, as to all parties respondents to said suit. (3) That the bill of complaint in. said cause and all amendments and supplements thereto be and same are hereby dismissed, and all prayers for relief are hereby denied.

(4) That the cost in all courts be taxed against the plaintiffs.