

SUPREME COURT OF ALABAMA

Cornelius v. Browning

85 So. 3d 954 (Ala. 2011) · Decided December 2, 2011

SUMMARY

The Alabama Supreme Court held that a default judgment against Jeff Cornelius was void because the plaintiffs’ method of notifying him of the default-judgment motion was not reasonably calculated to provide actual notice, violating due process. Cornelius’s pro se answer constituted an appearance, and the court reversed the denial of his motion to set aside the judgment under Rule 60(b)(4), remanding for further proceedings.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Woodall, Justice; Malone, C.J.; Stuart, J.; Bolin, J.; Murdock, J.; Shaw, J.; Main, J.; Wise, J.; Parker, J.
JURISDICTION	Alabama
DECIDED	December 2, 2011
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Cornelius appealed the denial of his Rule 60(b) motion to set aside a default judgment entered against him after he allegedly failed to appear for a deposition.
STANDARD OF REVIEW	Ordinarily, denial of a motion to set aside a default judgment is reviewed for abuse of discretion. When relief is sought under Rule 60(b)(4) based on the invalidity or voidness of the judgment, however, discretion has no place; the reviewing court determines whether the judgment is valid.
PRECEDENTIAL VALUE	Published opinion of the Supreme Court of Alabama; binding state appellate precedent.
PARTIES	Jeff Cornelius v. Ronald Browning, Susan Browning, Bubba Beck, Debbie Beck, Allen Caprara, Pam Caprara, Bobby Fayet, Cindy Fayet, David Kennamer, Brad Kennamer, Steve Russell, Melinda Russell, Gary Strickland, Jennifer Strickland

TOPICS

default judgment

due process

service of process

civil procedure

remedies

PRACTICE AREAS

civil procedure

constitutional law

remedies

QUESTIONS PRESENTED

1. Whether the default judgment was void because Cornelius did not receive constitutionally adequate notice of the motion for default judgment.
2. Whether Cornelius's pro se answer constituted an appearance entitling him to notice under Rule 55(b)(2), Ala. R. Civ. P.
3. Whether mailing the default-judgment motion to an address the plaintiffs knew was undeliverable satisfied due process.

HOLDINGS

1. Cornelius's answer, which disputed the complaint's claims and included his telephone number, was sufficient to constitute an appearance and entitled him to notice of the application for a default judgment.
2. Mailing the default-judgment motion to an address the plaintiffs knew was undeliverable was not reasonably calculated to notify Cornelius and did not satisfy due process.
3. Because the trial court acted in a manner inconsistent with due process, the default judgment was void and Cornelius was entitled to have it set aside under Rule 60(b)(4), Ala. R. Civ. P.

KEY QUOTATIONS

“An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” (at 959)

“We cannot conclude that the plaintiffs’ purported attempt to notify Cornelius of the default-judgment motion — mailing the motion to an address at which they knew Cornelius would not receive it— was “reasonably calculated, under all the circumstances, to apprise [Cornelius] of the pendency of the [default-judgment motion] and afford [him] an opportunity to present [his] objections,”” (at 961)

“For the foregoing reasons, we conclude that the default judgment entered against Cornelius is inconsistent with due process and is, therefore, void.” (at 962)

FACTUAL BACKGROUND

The plaintiffs sued Cornelius concerning investments in several corporations and personally served him with the complaint at his Maple Drive home address. Cornelius filed a pro se answer listing a P.O. Box 190 address and providing a telephone number. The plaintiffs mailed a deposition notice and later the default-judgment motion to the P.O. Box address, but the deposition notice had already been returned as undeliverable and the plaintiffs knew the address was allegedly false or invalid. The trial court entered a \$975,000 default judgment without an apparent hearing, and Cornelius later learned of it through garnishment proceedings.

PROCEDURAL HISTORY

The plaintiffs sued Cornelius and several corporations over investment-related claims. Cornelius was personally served and filed a pro se answer. After a deposition notice mailed to the address listed in his answer was returned as undeliverable, the plaintiffs moved for a default judgment and mailed the motion to that same address, despite knowing it was not valid for delivery. The trial court entered a \$975,000 default judgment and later denied Cornelius's motion to set it aside. The Supreme Court of Alabama held the judgment void for denial of due process and reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion after setting aside the void default judgment.

CASES CITED

- Carroll v. Williams, 6 So. 3d 463, 466-67 (Ala. 2008)
- Zeller v. Bailey, 950 So. 2d 1149, 1152 (Ala. 2006)
- Pirtek USA, LLC v. Whitehead, 51 So. 3d 291, 295 (Ala. 2010)
- Orix Fin. Servs., Inc. v. Murphy, 9 So. 3d 1241, 1244 (Ala. 2008)
- Insurance Mgmt. & Admin., Inc. v. Palomar Ins. Corp., 590 So. 2d 209, 212 (Ala. 1991)
- Ex parte Weeks, 611 So. 2d 259, 261 (Ala. 1992)
- Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314-15 (1950)
- American Land Co. v. Zeiss, 219 U.S. 47, 67 (1911)
- Thomas v. Alabama Mun. Elec. Auth., 432 So. 2d 470, 477 (Ala. 1983)
- Butler v. Town of Argo, 871 So. 2d 1, 20 (Ala. 2003)
- Dykes v. Lane Trucking, Inc., 652 So. 2d 248, 251 (Ala. 1994)
- Progress Indus., Inc. v. Wilson, 52 So. 3d 500, 506 (Ala. 2010)
- Lee v. Martin, 533 So. 2d 185, 186 (Ala. 1988)
- Cockrell v. World's Finest Chocolate Co., 349 So. 2d 1117, 1120 (Ala. 1977)
- Ex parte Keith, 771 So. 2d 1018 (Ala. 1998)
- Piel v. Dillard, 414 So. 2d 87, 90 (Ala. Civ. App. 1982)
- Evans v. Waddell, 689 So. 2d 23, 26 (Ala. 1997)

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