

SUPREME COURT OF MISSISSIPPI

Shirley Ann James Hanshaw v. Larry Hanshaw

Shirley Ann James Hanshaw v. Larry Hanshaw · No. 2005-CT-01680-SCT · Decided July 29, 2005

SUMMARY

The Mississippi Supreme Court reviewed a contempt finding arising from Shirley Hanshaw’s failure to vacate the marital home pursuant to divorce-related court orders. The court held that the contempt proceeding required proper notice under Mississippi Rule of Civil Procedure 81, reversed the contempt finding and the Court of Appeals’ judgment in Shirley’s favor, and remanded for properly noticed contempt proceedings, including consideration of appropriate civil or criminal contempt sanctions.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Waller, Chief Justice; Carlson, Presiding Justice; Graves, Presiding Justice; Dickinson, Justice; Randolph, Justice; Lamar, Justice; Kitchens, Justice; Pierce, Justice
JURISDICTION	Mississippi
DECIDED	July 29, 2005
DOCKET	2005-CT-01680-SCT
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Following a chancery court contempt order in a divorce-related property-division matter, the Mississippi Court of Appeals reversed and rendered judgment for Shirley. The Mississippi Supreme Court granted certiorari and reviewed the notice and contempt-penalty issues.
STANDARD OF REVIEW	Denial of a Rule 59 motion is reviewed for abuse of discretion. Civil-contempt orders are reviewed for manifest error, while contempt matters generally are subject to the chancellor's discretion.
PRECEDENTIAL VALUE	published, precedential Mississippi Supreme Court opinion
PARTIES	Shirley Ann James Hanshaw v. Larry Hanshaw

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial court had jurisdiction to enter a contempt order against Shirley when she was not served with process consistent with Mississippi Rule of Civil Procedure 81.
2. Whether the trial court erred by assessing a \$500-per-hour contempt penalty against Shirley and imposing a \$12,000 sanction without findings regarding the injured party's damages, expenses, and attorney's fees.

HOLDINGS

1. Because contempt proceedings are distinct actions, Shirley was entitled to notice and personal service of a Mississippi Rule of Civil Procedure 81 summons before the contempt proceeding. Her counsel's appearance did not cure the absence of proper notice, and the contempt finding and denial of her Rule 59 motion had to be reversed.
2. The Court of Appeals erred by rendering judgment in Shirley's favor. Because Shirley had failed to comply with at least two valid, unambiguous orders requiring her to vacate the marital home, the proper disposition was remand for contempt proceedings properly noticed under Rule 81(d)(2), rather than judgment eliminating the possibility of contempt.
3. The sanction was intended as civil contempt because it prospectively sought to compel compliance with the property-division judgment and was payable to Larry. A civil-contempt sanction must be supported by a finding of the injured party's damages, expenses, and attorney's fees and may not exceed those amounts. The chancellor committed manifest error by imposing the sanction without making those findings.
4. Shirley did not purge a potential civil-contempt finding merely because the deadline for performance had passed. On remand, any civil sanction had to be measured by Larry's damages and attorney's fees; any constructive criminal-contempt proceeding had to include the required procedural safeguards, with the amount of any criminal-contempt penalty left to the chancellor's discretion.

KEY QUOTATIONS

"Because contempt proceedings are distinct actions, they require notice consistent with Mississippi Rule of Civil Procedure 81(d)." (§9)

"Because Shirley did not receive proper notice or an opportunity to defend against the charges in a contempt hearing, we reverse the chancellor's contempt finding and subsequent denial of Shirley's motion to reconsider." (§10)

"But because civil contempt vindicates a private party's rights, the imposed sanction should not exceed the injured party's damages and expenses." (§13)

“Therefore, we find that the chancellor committed manifest error in not making this necessary finding for a civil-contempt citation.” (§17)

FACTUAL BACKGROUND

In a contentious divorce, the chancery court ordered the Hanshaws' marital home sold and required Shirley to vacate it by specified deadlines. Shirley canceled a moving company's services shortly before the scheduled closing and did not leave the home by the court-ordered deadline. The chancellor imposed a \$12,000 fine payable to Larry without determining Larry's damages, expenses, or attorney's fees, and Shirley paid it from her share of the sale proceeds.

PROCEDURAL HISTORY

The Lafayette County Chancery Court ordered Shirley to vacate the marital home and imposed a \$12,000 contempt fine after she failed to do so. The chancellor denied her Mississippi Rule of Civil Procedure 59 motion to reconsider. The Court of Appeals reversed and rendered judgment in Shirley's favor. The Supreme Court vacated the Court of Appeals' decision, reversed the contempt finding and denial of reconsideration, and remanded for properly noticed contempt proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Lafayette County Chancery Court for contempt proceedings consistent with the opinion and properly noticed under Mississippi Rule of Civil Procedure 81(d)(2). Any civil-contempt sanction must appropriately measure Larry's damages, expenses, and attorney's fees. Any constructive criminal-contempt proceeding must include the required procedural safeguards.

CASES CITED

- Brooks v. Roberts, 882 So. 2d 229, 233 (Miss. 2004)
- Shavers v. Shavers, 982 So. 2d 397, 402 (Miss. 2008)
- Isom v. Jernigan, 840 So. 2d 104, 106 (Miss. 2003)
- Dennis v. Dennis, 824 So. 2d 604, 608 (Miss. 2002)
- Vincent v. Griffin, 872 So. 2d 676, 677, 679 (Miss. 2004)
- Weeks v. Weeks, 556 So. 2d 348, 350 (Miss. 1990)
- Purvis v. Purvis, 657 So. 2d 794, 796-97 (Miss. 1995)
- Matthews v. Matthews, 86 So. 2d 462 (Miss. 1956)
- Wyssbrod v. Wittjen, 798 So. 2d 352, 368 (Miss. 2001)
- Ladner v. Logan, 857 So. 2d 764, 773 (Miss. 2003)
- Corporate Mgmt., Inc. v. Greene County, 23 So. 3d 454, 466 (Miss. 2009)

- Moulds v. Bradley, 791 So. 2d 220, 224-25 (Miss. 2001)
- In re Williamson, 838 So. 2d 226, 237-38 (Miss. 2002)
- Common Cause of Mississippi v. Smith, 548 So. 2d 412, 415-16 (Miss. 1989)
- Hoops v. State, 681 So. 2d 521, 535 (Miss. 1996)
- Hanshaw v. Hanshaw, 2009 WL 4807649 (Miss. Ct. App. Dec. 15, 2009)

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