

SUPREME COURT OF SOUTH CAROLINA

Cape Romain Contractors, Inc. v. Wando E., LLC

405 S.C. 115 (2013) · Decided August 14, 2013

SUMMARY

The South Carolina Supreme Court held that a marina construction transaction involving out-of-state materials, navigable waterways, barges, and related interstate activities sufficiently affected interstate commerce for the Federal Arbitration Act to apply. The court held that the subcontractor's mechanics' lien and related claims were subject to the contract's arbitration clause, and that the property owner could be joined in the arbitration under the contract's joinder provisions. The court reversed and remanded, directing that the trial court proceedings be stayed pending arbitration.

CASE DETAILS

COURT	Supreme Court of South Carolina
WRITING FOR THE COURT	Justice Kittredge; Chief Justice Toal; Justice Beatty; Justice Hearn; Acting Justice James E. Moore
JURISDICTION	South Carolina
DECIDED	August 14, 2013
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order refusing to dismiss the action and compel arbitration under the Federal Arbitration Act; the case was certified to the Supreme Court of South Carolina pursuant to Rule 204(b), SCACR.
STANDARD OF REVIEW	The court reviewed de novo the legal questions concerning the applicability and enforceability of the arbitration agreement and whether the claims fell within its scope.
PRECEDENTIAL VALUE	Published opinion; precedential decision of the Supreme Court of South Carolina.
PARTIES	Sean Barnes, Wando E., LLC v. Cape Romain Contractors, Inc.

TOPICS

[arbitration](#)[construction law](#)[contracts](#)[appellate jurisdiction](#)[commercial litigation](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the marina construction transaction involved interstate commerce sufficient to bring the arbitration agreement within the Federal Arbitration Act.
2. Whether the breach-of-contract and mechanics' lien claims fell within the scope of the parties' arbitration agreement.
3. Whether Wando E., LLC, a nonsignatory to the contract, could participate in the arbitration through the contract's joinder provision.
4. Whether the order denying the motion to compel arbitration was immediately appealable.

HOLDINGS

1. The marina construction transaction involved interstate commerce and therefore fell within the Federal Arbitration Act.
2. The contract's arbitration provision was enforceable according to its terms and encompassed the claims arising from the construction dispute.
3. The mechanics' lien claim was subject to arbitration because it arose directly from and was dependent on the underlying construction-contract dispute.
4. Although Wando E. was a nonsignatory and may lack independent standing to compel arbitration, it could be joined in the arbitration under the unambiguous contractual joinder provision because it was substantially involved in common questions of law or fact and its presence was required for complete relief.
5. The order denying the motion to compel arbitration was immediately appealable.

KEY QUOTATIONS

“This was error, for the proper analysis involves consideration of all three broad categories of activity within the purview of Congress’s commerce power — use of the channels of interstate commerce; regulation of persons, things or instrumentalities in interstate commerce; and regulation of activities having a substantial relation to interstate commerce.” (405 S.C. at 123)

“Thus, we are able to determine “with positive assurance” that the mechanics’ lien claim arises directly from the Contract and, therefore, is encompassed by the arbitration agreement.” (405 S.C. at 127)

“Therefore, we conclude the trial court erred in denying the motion to compel arbitration. Because arbitration will proceed, the trial court proceedings shall be stayed pending the outcome of arbitration.” (405 S.C. at 128)

FACTUAL BACKGROUND

Wando E., LLC retained Sean Barnes as general contractor to construct a marina, and Barnes subcontracted with Cape Romain Contractors, Inc. under an AIA form contract containing an arbitration clause and expressly

invoking the Federal Arbitration Act. During construction, the project engineer refused to certify further payments because of concerns about angled pilings and misaligned dock sections. Cape Romain claimed the work was properly performed, demanded \$158,413.14, filed a mechanics' lien, and sued Barnes and Wando.

PROCEDURAL HISTORY

Cape Romain sued Sean Barnes for breach of contract and Wando E., LLC to foreclose a mechanics' lien, also alleging quantum meruit in the alternative. Barnes and Wando moved to dismiss and compel arbitration. The trial court refused to compel arbitration, concluding that the construction transaction did not sufficiently affect interstate commerce and that Wando, as a nonsignatory, could not enforce the arbitration agreement. The Supreme Court of South Carolina reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must compel arbitration, permit Wando E. to be joined in the arbitration under the contract's joinder provision, and stay the trial court proceedings pending the outcome of arbitration.

CASES CITED

- Landers v. Fed. Deposit Ins. Corp., 402 S.C. 100, 108, 739 S.E.2d 209, 213 (2013)
- Circuit City Stores, Inc. v. Adams, 532 U.S. 105, 121 (2001)
- Allied-Bruce Terminix Cos. v. Dobson, 513 U.S. 265, 274, 277-78 (1995)
- Perry v. Thomas, 482 U.S. 483, 490 (1987)
- Episcopal Hous. Corp. v. Fed. Ins. Co., 269 S.C. 631, 637, 239 S.E.2d 647, 650 (1977)
- United States v. Gould, 568 F.3d 459, 470 (4th Cir. 2009)
- United States v. Ballinger, 395 F.3d 1218, 1225-26 (11th Cir. 2005)
- United States v. Morrison, 529 U.S. 598, 609, 613 n.5 (2000)
- Zabinski v. Bright Acres Assocs., 346 S.C. 580, 591, 594-95, 597, 553 S.E.2d 110, 115, 117-18 (2001)
- Blanton v. Stathos, 351 S.C. 534, 540, 570 S.E.2d 565, 568 (Ct. App. 2002)
- United States v. Rands, 389 U.S. 121, 122-23 (1967)
- United States v. Deaton, 332 F.3d 698, 706 (4th Cir. 2003)
- Citizens Bank v. Alafabco, Inc., 539 U.S. 52, 56-57 (2003)
- Mandeville Island Farms, Inc. v. American Crystal Sugar Co., 334 U.S. 219, 236 (1948)
- Thomson-CSF, S.A. v. Am. Arbitration Ass'n, 64 F.3d 773, 776 (2d Cir. 1995)
- Towles v. United Healthcare Corp., 338 S.C. 29, 37, 41, 524 S.E.2d 839, 843-46 (Ct. App. 1999)
- Bradley v. Brentwood Homes, Inc., 398 S.C. 447, 455, 730 S.E.2d 312, 316 (2012)
- KPMG, LLP v. Cocchi, 565 U.S. 18, 20-21 (2011)
- Dean Witter Reynolds Inc. v. Byrd, 470 U.S. 213, 217, 221 (1985)

- American Express Co. v. Italian Colors Restaurant, 570 U.S. 228, 233 (2013)
- Sea Pines Co. v. Kiawah Island Co., 268 S.C. 153, 159, 232 S.E.2d 501, 503 (1977)
- Glidden Coatings & Resins v. Suitt Constr. Co., 290 S.C. 240, 244, 349 S.E.2d 89, 91 (Ct. App. 1986)
- Blackwell v. Blackwell, 289 S.C. 470, 472-73, 346 S.E.2d 731, 732-33 (Ct. App. 1986)
- Shelley Constr. Co., Inc. v. Sea Garden Homes, Inc., 287 S.C. 24, 26, 336 S.E.2d 488, 489 (Ct. App. 1985)
- Auto-Owners Ins. Co. v. Carl Brazell Builders, Inc., 356 S.C. 156, 162, 588 S.E.2d 112, 115 (2003)
- B.L.G. Enters. v. First Fin. Ins. Co., 334 S.C. 529, 535, 514 S.E.2d 327, 330 (1999)
- C.A.N. Enters. v. S.C. Health & Human Servs. Fin. Comm'n, 296 S.C. 373, 378, 373 S.E.2d 584, 587 (1988)
- Adkins v. Labor Ready, Inc., 303 F.3d 496, 500 (4th Cir. 2002)
- Stedor Enters., Ltd. v. Anntex, Inc., 947 F.2d 727, 730 (4th Cir. 1991)
- Rota-McLarty v. Santander Consumer USA, Inc., 700 F.3d 690, 698 (4th Cir. 2012)
- Wheeling Hosp., Inc. v. Health Plan of the Upper Ohio Valley, Inc., 683 F.3d 577, 586 (4th Cir. 2012)
- Timms v. Greene, 310 S.C. 469, 427 S.E.2d 642 (1993)
- Mathews v. Fluor Corp., 312 S.C. 404, 440 S.E.2d 880 (1994)
- Muñoz v. Green Tree Fin. Corp., 343 S.C. 531, 539 n.3, 542 S.E.2d 360, 363 n.3 (2001)