

SUPREME COURT OF MISSOURI, EN BANC

Moore ex rel. Moore v. Bi-State Development Agency

132 S.W.3d 241 (Mo. banc 2004) · No. SC 85649 · Decided April 27, 2004

SUMMARY

The Missouri Supreme Court held that Bryant Moore was entitled to post-judgment interest under section 408.040.1 because his attempted cross-appeal was never validly filed when he failed to timely pay the required docket fee. The court reversed the trial court’s denial of interest and remanded the case, without deciding whether a valid cross-appeal would bar post-judgment interest.

CASE DETAILS

COURT	Supreme Court of Missouri, En Banc
WRITING FOR THE COURT	Michael A. Wolff
JURISDICTION	Missouri
DECIDED	April 27, 2004
DOCKET	SC 85649
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Moore appealed the trial court's denial of post-judgment interest after the court concluded that his attempted cross-appeal forfeited his right to interest. The Supreme Court of Missouri granted transfer after the court of appeals affirmed the underlying judgment and held that no valid cross-appeal had been filed.
STANDARD OF REVIEW	For a court-tried case, the judgment is reviewed to determine whether it erroneously declares or applies the law. Legal issues are reviewed independently and without deference to the trial court's conclusions.
PRECEDENTIAL VALUE	Published Missouri Supreme Court en banc opinion; precedential within Missouri.
PARTIES	Bryant Moore, Jr., by his next friend and father, Bryant Moore, Sr., et al. v. Bi-State Development Agency

TOPICS

- appellate procedure
- standard of review
- remedies
- statutory interpretation
- civil procedure

PRACTICE AREAS

appellate procedure

civil procedure

judgment enforcement

post-judgment interest

QUESTIONS PRESENTED

1. Whether Moore's timely notice of cross-appeal, without payment of the required docket fee, constituted a valid cross-appeal.
2. Whether Moore was entitled to post-judgment interest under section 408.040.1 when no valid cross-appeal had been filed.

HOLDINGS

1. Because Moore did not timely pay the required docket fee, his notice of cross-appeal did not create a valid cross-appeal; the later notice accompanied by payment was untimely and did not cure the defect.
2. Moore was entitled to post-judgment interest because he had not filed a valid cross-appeal.

KEY QUOTATIONS

“Moore was entitled to post-judgment interest.” (243)

“Even though the court received Moore's timely notice of cross-appeal and accepted his brief that contained both his response to Bi-State's appeal and the argument of his cross-appeal issue, without the docket fee, no valid cross-appeal was ever filed.” (243)

FACTUAL BACKGROUND

Moore obtained a \$7.75 million jury verdict against Bi-State, which the trial court reduced to \$3.89 million. Bi-State appealed, and Moore attempted to cross-appeal but did not pay the required docket fee with his timely notice. Moore later paid the fee with a second notice, but that notice was untimely. After Bi-State paid the reduced judgment, Moore sought post-judgment interest under section 408.040.1.

PROCEDURAL HISTORY

A jury awarded Moore \$7.75 million in a personal injury action, and the trial court reduced the judgment to \$3.89 million. Bi-State appealed, while Moore delivered a purported notice of cross-appeal without paying the required docket fee; a later notice accompanied by the fee was untimely. The court of appeals affirmed the judgment, struck Moore's cross-appeal argument, and did not consider its merits. After Bi-State paid the reduced judgment, the trial court denied Moore post-judgment interest, and the Supreme Court reversed that ruling and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for entry of relief recognizing Moore's entitlement to post-judgment interest under section 408.040.1.

CASES CITED

- Murphy v. Carron, 536 S.W.2d 30, 30 (Mo. banc 1976)
- ITT Commercial Finance Corp. v. Mid-America Marine Supply Corp., 854 S.W.2d 371, 376 (Mo. banc 1993)
- Moore by Moore v. Bi-State Development Agency, 87 S.W.3d 279, 294, 296 (Mo. App. 2002)
- State ex rel. Southern Real Estate & Financial Co. v. City of St. Louis, 234 Mo. App. 209, 115 S.W.2d 513, 515 (1938)
- Land Clearance Authority v. Kansas University, 831 S.W.2d 649 (Mo. App. 1992)
- Investors Title Co. v. Chicago Title Ins., 18 S.W.3d 70 (Mo. App. 2000)
- Kattering v. Franz, 360 Mo. 854, 231 S.W.2d 148, 150 (1950)
- Scullin Steel Co. v. PACCAR, Inc., 748 S.W.2d 910 (Mo. App. 1988)
- Ohlendorf v. Feinstein, 670 S.W.2d 930 (Mo. App. 1984)

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