

SUPREME COURT OF ALABAMA

Ex parte Bobby W. Little (In re Bobby W. Little v. Fred Lawton III);
Ex parte Bobby Little (In re Bobby Little v. Cindy L. Lewis); Ex
parte Bobby Wayne Little (In re Bobby Wayne Little v. Ted Hooks)

837 So. 2d 822 (Ala. 2002) · No. 1010797 through 1010799 · Decided June 7, 2002

SUMMARY

The Supreme Court of Alabama considered three consolidated petitions for writs of mandamus filed by Bobby Wayne Little. The Court directed the trial judge to vacate orders denying Little indigency status and to reconsider his applications, requiring written reasons for any renewed denial, but it denied Little's requests for judicial recusal. The Court held that the allegations did not establish actual bias or provide a reasonable basis to question the judge's impartiality.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Stuart, Justice; Moore, C.J.; Houston, J.; See, J.; Lyons, J.; Brown, J.; Johnstone, J.; Harwood, J.; Woodall, J.
JURISDICTION	Alabama
DECIDED	June 7, 2002
DOCKET	1010797 through 1010799
DISPOSITION	other
PROCEDURAL POSTURE	Little filed three petitions for writs of mandamus seeking to compel the circuit judge to vacate orders denying his affidavits of substantial hardship and to recuse himself. The Supreme Court of Alabama consolidated the petitions for decision.
STANDARD OF REVIEW	Mandamus is an extraordinary remedy available only upon a clear legal right, an imperative duty accompanied by refusal, lack of another adequate remedy, and properly invoked jurisdiction. Mandamus is also the proper method for reviewing whether judicial recusal is required.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential
PARTIES	Bobby W. Little, Bobby Little, Bobby Wayne Little v. Fred Lawton III, Cindy L. Lewis, Ted Hooks

TOPICS

writ of certiorari

appellate procedure

civil procedure

remedies

standard of review

PRACTICE AREAS

Civil procedure

Appellate procedure

Judicial disqualification

Indigency and waiver of court costs

Extraordinary writs

QUESTIONS PRESENTED

1. Whether Little established a clear legal right to have the orders denying his indigency applications vacated.
2. Whether the circuit judge was required to recuse himself based on the unexplained denial of indigency status and the identities or positions of the defendants.
3. Whether Little had an absolute right to indigency status or whether the circuit judge should reconsider the applications and provide written reasons for any denial.

HOLDINGS

1. Little established the requirements for mandamus relief concerning the orders denying indigency status, and the circuit judge must vacate those orders.
2. Little did not establish that the circuit judge's recusal was required because he failed to show actual personal bias or prejudice or circumstances causing the judge's impartiality reasonably to be questioned.
3. Little did not demonstrate an absolute right to indigency status; the circuit judge must reconsider the applications and state the reason in writing for any denial.

KEY QUOTATIONS

"A writ of mandamus is an extraordinary remedy, and it `will be issued only when there is: 1) a clear legal right in the petitioner to the order sought; 2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; 3) the lack of another adequate remedy; and 4) properly invoked jurisdiction of the court.'" (at 824)

"The burden is on the party seeking recusal to present evidence establishing the existence of bias or prejudice." (at 825)

"Only if this Court is advised of the reason for denial of indigency status can this Court adequately perform our responsibility of reviewing the denial." (at 826)

FACTUAL BACKGROUND

Little, a state prison inmate, filed three civil actions against Fred Lawton III, Cindy L. Lewis, and Ted Hooks. Each action included a signed and notarized affidavit of substantial hardship stating, according to Little, that he received approximately \$5 per month in gifts. The circuit judge denied indigency status without stating a reason

and struck through the form language stating that the affiant was not indigent. Little also sought recusal based on the denial and the defendants' relationships or positions in the court system.

PROCEDURAL HISTORY

Little filed three civil actions in the Calhoun Circuit Court, each accompanied by an affidavit of substantial hardship seeking indigency status and waiver of prepayment of court costs. Judge Richard Joel Laird denied the applications, Little moved for reconsideration, and the motions were denied. Little then petitioned the Supreme Court of Alabama for mandamus relief; the court granted the petitions in part, denied them in part, and issued writs directing reconsideration of the indigency applications.

DISPOSITION

other

REMAND INSTRUCTIONS

Judge Laird must vacate the orders denying Little indigency status and reconsider each application. If he denies indigency status, he must state the reason in writing and notify Little; if the reason is that Little is not indigent, checking the appropriate box on the affidavit form is sufficient.

CASES CITED

- State v. Cannon, 369 So. 2d 32, 33 (Ala. 1979)
- Ex parte Melof, 553 So. 2d 554, 557 (Ala. 1989)
- Ex parte United Serv. Stations, Inc., 628 So. 2d 501, 503 (Ala. 1993)
- Ex parte Butts, 775 So. 2d 173, 176 (Ala. 2000)
- Hartman v. Board of Trustees of the University of Alabama, 436 So. 2d 837 (Ala. 1983)