

SUPREME COURT OF ALABAMA

Ankor Energy, LLC v. Kelly

271 So. 3d 798 (Ala. 2018) · No. 1151269; 1160476 · Decided August 24, 2018

SUMMARY

The Alabama Supreme Court reviewed a trial court's order granting the Kellys a new trial after a jury verdict for Ankor in an oil-and-gas drainage and waste dispute. The court held that the juror's handwritten statement was not a properly sworn affidavit and therefore should have been stricken; without it, the record did not establish juror misconduct or prejudice warranting a new trial. The opinion addresses the extraneous-information exception to Alabama Rule of Evidence 606(b) and standards for presumed or actual prejudice from juror misconduct.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Justice Bolin; Parker; Main; Wise; Bryan; Sellers; Mendheim; Shaw
JURISDICTION	Alabama
DECIDED	August 24, 2018
DOCKET	1151269; 1160476
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Ankor appealed the circuit court's order granting the Kellys a new trial after a jury verdict for Ankor. The Kellys cross-appealed the denial of their alternative grounds for a new trial.
STANDARD OF REVIEW	Evidentiary rulings are reviewed for abuse of discretion. An order granting or denying a new trial is generally reviewed for abuse of discretion, with a presumption of correctness; denial of a new trial based on the great weight of the evidence will not be reversed unless the evidence is so contrary to the verdict that the appellate court is clearly convinced the verdict is wrong and unjust.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Ankor Energy, LLC, Ankor E&P Holdings Corporation v. Jerry M. Kelly, Sr., Kandace Kelly McDaniel, Kelly Properties, LLP, K&L Resources, LLP

TOPICS

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QUESTIONS PRESENTED

1. Whether the juror's handwritten statement was a valid sworn affidavit and admissible under Rule 606(b), Ala. R. Evid., to support a motion for a new trial based on extraneous juror information.
2. Whether the evidence established actual prejudice or prejudice as a matter of law from the juror's independent online research.
3. Whether the circuit court abused its discretion by allowing Ankor's expert to provide an opinion concerning recoverable oil in 2010 when the opinion had not been disclosed in precisely that temporal formulation.
4. Whether the jury's verdict on the Kellys' waste and contract claims was against the great weight of the evidence.

HOLDINGS

1. A juror affidavit may fall within Rule 606(b)'s exception for extraneous prejudicial information, but the handwritten statement was not a valid sworn affidavit because the juror was not placed under oath or otherwise informed before signing that she was swearing to its contents.
2. The circuit court abused its discretion by granting a new trial based on juror misconduct because, after the handwritten statement was stricken, the record did not show actual prejudice or prejudice as a matter of law.
3. The circuit court acted within its discretion in allowing Ankor's expert to answer a question concerning whether recoverable oil existed under the Kellys' property in 2010.
4. The Kellys were not entitled to a new trial on the ground that the verdict on their waste and contract claims was against the great weight of the evidence.

KEY QUOTATIONS

"It is well settled that juror affidavits generally are inadmissible to impeach a jury's verdict. However, an affidavit showing that extraneous facts influenced the jury's deliberations is admissible." (806)

"Juror misconduct involving the introduction of extraneous materials warrants a new trial when one of two requirements is met: 1) the jury verdict is shown to have been actually prejudiced by the extraneous material; or 2) the extraneous material is of such a nature as to constitute prejudice as a matter of law." (808)

"We will not presume prejudice where, as in this case, there is nothing to indicate that the jury's deliberations as a whole or the juror's individual decision was tainted by the misconduct." (809)

FACTUAL BACKGROUND

The Kellys leased Escambia County property near two oil wells drilled by Renaissance Petroleum and later operated by Ankor. The Kellys alleged that Ankor improperly excluded their property from production units and thereby drained or impaired their oil and gas interests, asserting contract, waste, and tort claims. During the two-week trial, experts presented highly technical testimony concerning oil migration, reservoirs, and the Smackover rock formation. After the jury found for Ankor, one juror stated that she had independently researched technical terms online despite repeated instructions not to do so, but a later sworn affidavit stated that she obtained little information and that the research did not influence her verdict.

PROCEDURAL HISTORY

The Kellys sued Ankor and others concerning alleged drainage and waste of oil and gas and asserted contract and tort claims. After the jury returned a verdict for Ankor on the submitted claims, the Kellys moved for a new trial, relying principally on a juror's handwritten statement that she had conducted Internet research into technical oil-and-gas terms. The circuit court denied Ankor's motion to strike the statement and granted a new trial based on juror misconduct, while rejecting the Kellys' other grounds. The Supreme Court of Alabama reversed the new-trial order and remanded with directions to reinstate the jury verdict; it affirmed the denial of the alternative grounds raised in the cross-appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the order granting a new trial based on juror misconduct and remand with directions to reinstate the original judgment entered on the jury's verdict for Ankor. The denial of the Kellys' alternative grounds for a new trial is affirmed.

CASES CITED

- HealthTrust, Inc. v. Cantrell, 689 So. 2d 822 (Ala. 1997)
- Sweeney v. Purvis, 665 So. 2d 926, 930 (Ala. 1995)
- Bama's Best Party Sales, Inc. v. Tupperware, U.S., Inc., 723 So. 2d 29, 32 (Ala. 1998)
- Preferred Risk Mutual Insurance Co. v. Ryan, 589 So. 2d 165 (Ala. 1991)
- Bowers v. Wal-Mart Stores, Inc., 827 So. 2d 63, 71 (Ala. 2001)
- Hyde v. Adams, 80 Ala. 111 (1885)
- Sellers v. State, 162 Ala. 35, 50 So. 340 (1909)
- Whitten v. Allstate Insurance Co., 447 So. 2d 655, 658 (Ala. 1984)
- Ex parte Apicella, 809 So. 2d 865, 870-72 (Ala. 2001)
- Pearson v. Fomby, 688 So. 2d 239, 242-45 (Ala. 1997)
- Nowogorski v. Ford Motor Co., 579 So. 2d 586, 590 (Ala. 1991)
- Ex parte Arthur, 835 So. 2d 981, 983-85 (Ala. 2002)
- Beauchamp v. Coastal Boat Storage, LLC, 4 So. 3d 443, 450 (Ala. 2008)

- Kane v. Edward J. Woerner & Sons, Inc., 543 So. 2d 693, 694 (Ala. 1989)
- Hill v. Sherwood, 488 So. 2d 1357, 1359 (Ala. 1986)
- Lloyd Noland Hospital v. Durham, 906 So. 2d 157, 168-69 (Ala. 2005)
- Christiansen v. Hall, 567 So. 2d 1338, 1341 (Ala. 1990)
- Med Plus Properties v. Colcock Construction Group, Inc., 628 So. 2d 370, 374 (Ala. 1993)
- Deal v. Johnson, 362 So. 2d 214, 218 (Ala. 1978)
- Vaughan v. Oliver, 822 So. 2d 1163, 1170 (Ala. 2001)
- Colbert County-Northwest Alabama Healthcare Authority v. Nix, 678 So. 2d 719, 722 (Ala. 1995)
- City of Birmingham v. Business Realty Investment Co., 722 So. 2d 747, 752 (Ala. 1998)
- Kennedy v. Boles Investments, Inc., 53 So. 3d 60, 74 (Ala. 2010)
- Edwards v. Valentine, 926 So. 2d 315, 327 (Ala. 2005)
- Phillips Petroleum v. Stryker, 723 So. 2d 585 (Ala. 1998)
- Alabama Power Co. v. Turner, 575 So. 2d 551, 556-57 (Ala. 1991)
- Reed v. State, 547 So. 2d 596, 597 (Ala. 1989)
- Ex parte Secretary of Veterans Affairs, 92 So. 3d 771, 777 (Ala. 2012)

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