

SUPREME COURT OF ALABAMA

Collins v. Norwood Clinic, Inc.

860 So. 2d 877 (Ala. 2003) · Decided April 11, 2003

SUMMARY

The Alabama Supreme Court considered a petition for a writ of mandamus challenging the trial court’s order setting aside a summary judgment and reinstating a medical-malpractice action. The court held that the record did not show a clear abuse of discretion in granting the plaintiff’s Rule 59(e) motion and denied the petition.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Houston, Justice; Moore, C.J.; See, J.; Lyons, J.; Brown, J.; Johnstone, J.; Harwood, J.; Stuart, J.
JURISDICTION	Alabama
DECIDED	April 11, 2003
DISPOSITION	writ_denied
PROCEDURAL POSTURE	The defendants petitioned the Supreme Court of Alabama for a writ of mandamus directing the trial court to vacate its order granting Collins's Rule 59(e) motion, setting aside a summary judgment and dismissal, and reinstating the medical-malpractice action.
STANDARD OF REVIEW	Mandamus issues only upon a showing that the trial court abused its discretion. An abuse of discretion in granting a Rule 59(e) motion exists only when a legal right was abused and the record plainly and palpably shows that the trial court erred. Where the trial court makes no specific findings, the appellate court assumes the findings necessary to support the judgment unless they are clearly erroneous.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	John Owen, M.D., Norwood Clinic, Inc. v. William Brian Collins

TOPICS

- summary judgment
- motion for reconsideration
- standard of review
- writ of certiorari
- medical malpractice

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by granting Collins's Rule 59(e) motion to set aside the summary judgment and dismissal and reinstate the case.
2. Whether oral testimony presented at the hearing could support a Rule 59(e) motion when the written motion did not include affidavits or other evidence establishing excusable neglect.
3. Whether the absence of specific factual findings and a transcript of the Rule 59(e) hearing required issuance of a writ of mandamus.

HOLDINGS

1. A party seeking to set aside a summary judgment under Rule 59(e) based on excusable delay may establish the circumstances supporting excusable neglect through oral testimony at the motion hearing; affidavits or other evidence submitted with the written motion are not required.
2. The trial court did not exceed its discretion in granting Collins's Rule 59(e) motion to set aside the dismissal and reinstate the case, and mandamus was therefore denied.

KEY QUOTATIONS

“Because mandamus is an extraordinary remedy, it will be issued only upon a showing that the trial court abused its discretion.” (860 So. 2d at 879)

“There is no rule, however, that requires those circumstances to be demonstrated through affidavits or other evidence submitted with the written motion; it is sufficient if the trial court considers oral testimony to support a Rule 59(e) motion to alter, amend, or vacate a judgment.” (860 So. 2d at 880)

FACTUAL BACKGROUND

Collins brought a medical-malpractice action based on corrective laser eye surgery performed by Owen and Norwood Clinic at a Carraway facility. The trial court ordered Collins to identify his expert witnesses, but he failed to do so. After granting summary judgment to the remaining defendants and dismissing the case, the trial court granted Collins's motion to set aside the dismissal and reinstate the action based on asserted excusable neglect, following a hearing at which Collins presented evidence.

PROCEDURAL HISTORY

Collins filed a medical-malpractice action arising from corrective laser eye surgery. After Collins failed to identify expert witnesses by the court-ordered deadline, the trial court entered summary judgments for certain defendants and later for Owen and Norwood Clinic, dismissing the case. Collins moved to set aside the dismissal and reinstate the action; the trial court granted the motion for good cause shown. The Supreme Court of Alabama denied the defendants' mandamus petition.

DISPOSITION

writ_denied

CASES CITED

- Ex parte Cassidy, 772 So. 2d 445, 447 (Ala. 2000)
- Lockhart v. Phenix City Investment Co., 488 So. 2d 1353, 1354 (Ala. 1986)
- Coker v. Farmers Mutual Exchange, 425 So. 2d 489 (Ala. Civ. App. 1983)
- McDowell v. Burford, 646 So. 2d 1327, 1328 (Ala. 1994)
- Wiggins v. Tuscaloosa Warehouse Groceries, Inc., 396 So. 2d 91, 92 (Ala. 1981)
- Molton v. State, 651 So. 2d 663, 670 n. 6 (Ala. Crim. App. 1994)
- Holloway v. Arkansas, 435 U.S. 475, 486 (1978)
- Sanders v. Sanders, 342 So. 2d 380, 382 (Ala. Civ. App. 1977)
- Casey v. Manning, 571 So. 2d 1024, 1025 (Ala. 1990)
- Williams v. Williams, 628 So. 2d 752 (Ala. Civ. App. 1993)
- Osborn v. Roche, 813 So. 2d 811, 814 (Ala. 2001)
- City of Birmingham v. City of Fairfield, 396 So. 2d 692, 696 (Ala. 1981)

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