

SUPREME COURT OF ARKANSAS

GGNSC Holdings, LLC v. Lamb ex rel. Williams

2016 Ark. 101 (2016) · No. CV-15-629 · Decided March 10, 2016

SUMMARY

The Supreme Court of Arkansas reviewed an appeal and cross-appeal concerning arbitration agreements signed on behalf of nursing-home residents. The court held that the guardian of Nellie Lamb had authority to enter the arbitration agreement, and that the agreement was not unenforceable based on impossibility of performance or unconscionability. The court reversed and remanded the circuit court's order denying GGNSC's motion to compel arbitration.

CASE DETAILS

COURT	Supreme Court of Arkansas
WRITING FOR THE COURT	Karen R. Baker; Danielson; Wynne
JURISDICTION	Arkansas
DECIDED	March 10, 2016
DOCKET	CV-15-629
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	GGNSC appealed from an amended order denying its motion to compel arbitration, and Lamb cross-appealed the circuit court's determination that Richard Williams had authority to bind Lamb to arbitration.
STANDARD OF REVIEW	The denial of a motion to compel arbitration is reviewed de novo on the record. Issues of statutory construction are also reviewed de novo.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	GGNSC Holdings, LLC, et al. v. Nellie R. Lamb, by and through Richard Williams, as guardian of the estate and person of Nellie R. Lamb, et al.

TOPICS

[contracts](#)[guardianship procedure](#)[unconscionability](#)[impossibility of performance](#)[interlocutory appeal](#)

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Richard Williams, as guardian of Lamb's person and estate, had authority under Arkansas law to bind Lamb to the arbitration agreement.
2. Whether the unavailability of the National Arbitration Forum rendered the arbitration agreements impossible to perform.
3. Whether the arbitration agreements were procedurally or substantively unconscionable or unconstitutional because of their form, negotiation circumstances, and arbitration costs.

HOLDINGS

1. A guardian of the person and estate, under the circumstances presented, possessed authority to enter an arbitration agreement on behalf of the ward when the legislature had not specifically limited that authority.
2. The arbitration agreements were not unenforceable on the ground that performance was impossible merely because the National Arbitration Forum was unavailable.
3. The residents failed to prove that the arbitration agreements were procedurally or substantively unconscionable, and the arbitration agreements were not unconstitutional on the asserted grounds.

KEY QUOTATIONS

“In deciding whether to grant a motion to compel arbitration, two threshold questions must be answered. First, is there a valid agreement to arbitrate between the parties? Second, if such an agreement exists, does the dispute fall within its scope.” (at 6-7)

“Pursuant to our recent holding in Arnold, and based on the reasons discussed in that case, we also hold that the arbitration agreement here is not impossible to perform.” (at 12)

“Based on our recent decision in Courtyard Gardens Health & Rehab., LLC v. Arnold, 2016 Ark. 62, and in light of our established public policy in favor of arbitration, we hold that the circuit court erred in denying GGNSC’s motion to compel arbitration based on the defenses of impossibility of performance and unconscionability.” (at 17)

FACTUAL BACKGROUND

Five former nursing-home residents had arbitration agreements entered at or near admission, including agreements signed by guardians or other representatives. Nellie Lamb's agreement was signed by Richard Williams, who was guardian of her person and estate; Leon Robinson signed his own agreement. The agreements required disputes relating to the admission agreement or health-care services to be resolved under the National Arbitration Forum Code of Procedure and were governed by the Federal Arbitration Act. The National Arbitration Forum was unavailable to conduct the arbitration, and the residents argued that this made the agreements impossible to perform and unconscionable.

PROCEDURAL HISTORY

Lamb and other former nursing-home residents or their representatives filed a class-action complaint against GGNSC and related entities. GGNSC moved to compel arbitration, but the circuit court denied the motions. In a prior appeal, the Arkansas Supreme Court reversed and remanded because the circuit court had addressed impossibility of performance without first determining whether valid arbitration agreements existed. On remand, the circuit court found Lamb's and Robinson's agreements valid but unenforceable based on impossibility of performance and unconscionability. The Supreme Court affirmed on the cross-appeal regarding Williams's authority, reversed on the direct appeal, and remanded for an order compelling arbitration.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The circuit court was directed to enter an order compelling arbitration of the claims at issue. The cross-appeal concerning Williams's authority was affirmed.

CASES CITED

- GGNSC Holdings, LLC v. Chappel, 2014 Ark. 545, 453 S.W.3d 645
- Courtyard Gardens Health & Rehabilitation, LLC v. Arnold, 2016 Ark. 62
- Bank of the Ozarks, Inc. v. Walker, 2014 Ark. 223, 434 S.W.3d 357
- Asset Acceptance, LLC v. Newburn, 2014 Ark. 246
- Searcy Healthcare Center, LLC v. Murphy, 2013 Ark. 463
- HPD, LLC v. TETRA Technologies, Inc., 2012 Ark. 408, 424 S.W.3d 304
- Hart v. McChristian, 344 Ark. 656, 42 S.W.3d 552 (2001)
- Alltel Corp. v. Sumner, 360 Ark. 573, 203 S.W.3d 77 (2005)
- Courtyard Gardens Health & Rehabilitation, LLC v. Quarles, 2013 Ark. 228, 428 S.W.3d 437
- Pledger v. Troll Book Clubs, Inc., 316 Ark. 195, 871 S.W.2d 389 (1994)
- Burch v. Griffe, 342 Ark. 559, 29 S.W.3d 722 (2000)
- McCoy v. Walker, 317 Ark. 86, 876 S.W.2d 252 (1994)
- Mountain Home School District v. T.M.J. Builders, Inc., 313 Ark. 661, 858 S.W.2d 74 (1993)
- Stephens v. Arkansas School for the Blind, 341 Ark. 939, 20 S.W.3d 397 (2000)
- Short v. State, 349 Ark. 492, 79 S.W.3d 313 (2002)
- Burnette v. State, 354 Ark. 584, 127 S.W.3d 479 (2003)
- Carmody v. Raymond James Financial Services, Inc., 373 Ark. 79, 281 S.W.3d 721 (2008)
- LegalZoom.com, Inc. v. McIlwain, 2013 Ark. 370, 429 S.W.3d 261
- Poff v. Brown, 374 Ark. 453, 288 S.W.3d 620 (2008)
- Jordan v. Diamond Equipment & Supply Co., 362 Ark. 142, 207 S.W.3d 525 (2005)

- Associated Press v. Southern Arkansas Radio Co., 34 Ark. App. 211, 809 S.W.2d 695 (1991)
- Leep v. St. Louis, I.M. & S. Ry. Co., 58 Ark. 407, 25 S.W. 75 (1894)
- Alltel Corp. v. Rosenow, 2014 Ark. 375
- AT&T Mobility LLC v. Concepcion, AT&T Mobility LLC v. Concepcion, 563 U.S. 333 (2011)
- BDO Seidman, LLP v. SSW Holding Co., Inc., 2012 Ark. 1, 386 S.W.3d 361
- Doctor's Associates, Inc. v. Casarotto, 517 U.S. 681 (1996)
- Regional Care of Jacksonville, LLC v. Henry, 2014 Ark. 361, 444 S.W.3d 356
- Prima Paint Corp. v. Flood & Conklin Manufacturing Co., 388 U.S. 395 (1967)
- Moses H. Cone Memorial Hospital v. Mercury Construction Corp., 460 U.S. 1 (1983)
- Scherk v. Alberto-Culver Co., 417 U.S. 506 (1974)

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