

SUPREME COURT OF OKLAHOMA

Walker v. Ferguson, 2004 OK 81

102 P.3d 144 (Okla. 2004) · No. No. 98,837 · Decided November 2, 2004

SUMMARY

The Supreme Court of Oklahoma held that attorney-fee sanctions imposed under a trial court's inherent authority cannot be sustained without a finding of bad faith or oppressive conduct by the sanctioned attorney. Because the record contained no such finding and the trial judge had indicated that counsel's conduct was not intentional, the sanctions award was reversed.

CASE DETAILS

COURT	Supreme Court of Oklahoma
WRITING FOR THE COURT	Hargrave, J.
JURISDICTION	Oklahoma
DECIDED	November 2, 2004
DOCKET	No. 98,837
DISPOSITION	reversed
PROCEDURAL POSTURE	Appeal from an order imposing attorney-fee sanctions against plaintiffs' counsel under the trial court's inherent authority following a mistrial.
STANDARD OF REVIEW	Abuse of discretion.
PRECEDENTIAL VALUE	Published Oklahoma Supreme Court opinion; precedential.
PARTIES	Howard K. Berry, III, Real Party in Interest, Appellant v. K & A Enterprises, Inc., an Oklahoma corporation d/b/a Henry Hudson's Pub, Defendant/Appellee

TOPICS

[sanctions](#)[attorney fees](#)[appellate procedure](#)[standard of review](#)[evidence](#)

PRACTICE AREAS

[civil procedure](#)[appellate procedure](#)[sanctions](#)[attorney fees](#)[evidence](#)

QUESTIONS PRESENTED

1. Whether a trial court may impose attorney-fee sanctions under its inherent authority without finding that the sanctioned party or counsel acted in bad faith or engaged in oppressive conduct.

HOLDINGS

1. An award of sanctions under a trial court's inherent authority cannot be sustained on appeal when the record does not reflect a finding of bad faith or oppressive conduct by the sanctioned party or counsel.

KEY QUOTATIONS

“We hold that an award of sanctions under the trial court's inherent authority cannot be sustained on appeal where the record fails to reflect a finding of bad faith or oppressive conduct on the part of the sanctioned party.” (102 P.3d at 145)

“The record before us does not contain the required finding of bad faith or oppressive conduct necessary for an Owens-based attorney fee awarded as sanctions.” (102 P.3d at 148)

FACTUAL BACKGROUND

Plaintiffs alleged that Ferguson negligently caused a 1999 automobile collision while impaired and that K & A Enterprises negligently sold intoxicating beverages to a noticeably intoxicated person. Before trial, plaintiffs obtained evidence concerning Ferguson's later DUI arrest and guilty plea. During opening statement, plaintiffs' counsel referred to the subsequent DUI, prompting the trial court to declare a mistrial because the information was inadmissible and prejudicial in the first stage of trial. The trial court later imposed \$5,062.50 in attorney-fee sanctions, but made no finding that counsel acted in bad faith or engaged in oppressive conduct.

PROCEDURAL HISTORY

Plaintiffs sued Ferguson and K & A Enterprises after an automobile collision. The trial court granted a mistrial after plaintiffs' counsel referred during opening statement to Ferguson's subsequent DUI guilty plea, then granted K & A's motion for sanctions and ordered plaintiffs' counsel to pay \$5,062.50 in attorney fees. The Oklahoma Supreme Court reviewed the sanctions order and reversed.

DISPOSITION

reversed

CASES CITED

- City National Bank & Trust Co. v. Owens, 1977 OK 86, 565 P.2d 4
- State ex rel. Tal v. City of Oklahoma City, 2002 OK 97, 61 P.3d 234
- First National Bank & Trust v. Kissee, 1993 OK 96, 859 P.2d 502
- Winters v. City of Oklahoma City, 1987 OK 63, 740 P.2d 724
- Roadway Express, Inc. v. Piper, 447 U.S. 752, 100 S. Ct. 2455, 65 L. Ed. 2d 488 (1980)
- Gibbs v. Easa, 1998 OK 55, 998 P.2d 583

