

COURT OF APPEALS OF MARYLAND

Beyond Systems, Inc. v. Realtime Gaming Holding Co., LLC, 388 Md. 1

878 A.2d 567 (2005) · No. No. 119, September Term, 2004 · Decided June 22, 2005

SUMMARY

The Maryland Court of Appeals held that the Circuit Court for Montgomery County lacked personal jurisdiction over Realtime Gaming Holding Company, LLC and KDMS International, LLC in an action under Maryland's commercial electronic mail statute. The court concluded that the plaintiff failed to make a prima facie showing of minimum contacts and that the trial court did not abuse its discretion by denying jurisdictional discovery or striking the amended complaint.

CASE DETAILS

COURT	Court of Appeals of Maryland
WRITING FOR THE COURT	Battaglia; Bell, C.J.; Raker, J.; Wilner, J.; Cathell, J.; Harrell, J.; Battaglia, J.; Greene, J.
JURISDICTION	Maryland
DECIDED	June 22, 2005
DOCKET	No. 119, September Term, 2004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from dismissal of a complaint for lack of personal jurisdiction, denial of jurisdictional discovery, denial of reconsideration, and striking of an amended complaint; the Court of Appeals granted certiorari before proceedings in the Court of Special Appeals.
STANDARD OF REVIEW	Personal jurisdiction was reviewed based on whether BSI made a prima facie showing by a preponderance of the evidence. Denial of jurisdictional discovery and denial of reconsideration and amendment were reviewed for abuse of discretion; factual determinations concerning website interactivity were reviewed for clear error.
PRECEDENTIAL VALUE	Published Maryland Court of Appeals opinion; precedential.
PARTIES	Beyond Systems, Inc. v. Realtime Gaming Holding Company, LLC, KDMS International, LLC

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QUESTIONS PRESENTED

1. Whether Maryland could exercise general or specific personal jurisdiction over Realtime Gaming and KDMS based on their alleged Internet, software, and affiliate-related contacts with Maryland.
2. Whether the circuit court abused its discretion by denying BSI discovery concerning jurisdictional facts.
3. Whether the circuit court abused its discretion by denying reconsideration and striking BSI's amended complaint.

HOLDINGS

1. The existence of a website, without evidence of substantial, continuous, and systematic contacts with Maryland, is insufficient to establish general personal jurisdiction over a foreign defendant.
2. BSI failed to make a prima facie showing that Realtime Gaming and KDMS purposefully availed themselves of conducting business in Maryland or that an agency or contractual relationship connected them to windowcasino.com and the e-mail campaign.
3. The circuit court did not abuse its discretion by denying BSI's request for discovery concerning personal jurisdiction.
4. The circuit court did not abuse its discretion by denying reconsideration and striking the amended complaint because BSI introduced no new facts curing its failure to establish prima facie personal jurisdiction.

KEY QUOTATIONS

"Though the maintenance of a website is, conceivably, a continuous presence everywhere, the existence of a website alone is not sufficient to establish general jurisdiction in Maryland over Realtime Gaming and KDMS." (388 Md. at 24, 878 A.2d at 582)

"A mere link with no more compelling evidence is insufficient to create the necessary nexus between Realtime Gaming and KDMS, and windowcasino.com and Thom." (388 Md. at 28, 878 A.2d at 583)

FACTUAL BACKGROUND

KDMS, a Delaware LLC headquartered in Georgia, developed online-gaming software, and Realtime Gaming, a Georgia LLC headquartered in Georgia, served as KDMS's holding company. Realtime Gaming licensed the software through a Panamanian company to windowcasino.com, which used the software in an online casino and helped an affiliate create a website and bulk e-mail campaign. Employees of Beyond Systems received 240 unsolicited e-mails advertising the affiliate's casino, and BSI alleged that Realtime Gaming and KDMS were connected to the transmission through a server and IP address registered to them.

PROCEDURAL HISTORY

Beyond Systems filed suit in the Circuit Court for Montgomery County under Maryland's Commercial Electronic Mail Act based on unsolicited e-mails advertising an online casino. The circuit court dismissed the complaint for lack of personal jurisdiction over Realtime Gaming and KDMS, denied reconsideration, and struck an amended complaint. The Court of Appeals granted certiorari and affirmed.

DISPOSITION

affirmed

CASES CITED

- Beyond Systems, Inc. v. Realtime Gaming Holding Company, LLC, 384 Md. 448, 863 A.2d 997 (2004)
- Lamprecht v. Piper Aircraft Corp., 262 Md. 126, 277 A.2d 272 (1971)
- Carefirst of Maryland, Inc. v. Carefirst Pregnancy Centers, Inc., 334 F.3d 390 (4th Cir. 2003)
- Christian Science Board of Directors of the First Church of Christ v. Nolan, 259 F.3d 209 (4th Cir. 2001)
- Mohamed v. Michael, 279 Md. 653, 370 A.2d 551 (1977)
- Geelhoed v. Jensen, 277 Md. 220, 352 A.2d 818 (1976)
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310 (1945)
- Zippo Manufacturing Co. v. Zippo Dot Com, Inc., 952 F. Supp. 1119 (W.D. Pa. 1997)
- Revell v. Lidov, 317 F.3d 467 (5th Cir. 2002)
- Bancroft & Masters, Inc. v. Augusta National Inc., 223 F.3d 1082 (9th Cir. 2000)
- Insurance Company of North America v. Miller, 362 Md. 361, 765 A.2d 587 (2001)
- Green v. H & R Block, Inc., 355 Md. 488, 735 A.2d 1039 (1999)
- Lohmuller Building Co. v. Gamble, 160 Md. 534, 154 A. 41 (1931)
- Howard Cleaners v. Perman, 227 Md. 291, 176 A.2d 235 (1961)
- United Capitol Insurance Co. v. Kapiloff, 155 F.3d 488 (4th Cir. 1998)
- Androustos v. Fairfax Hospital, 323 Md. 634, 594 A.2d 574 (1991)
- Wilson v. Crane, 385 Md. 185, 867 A.2d 1077 (2005)
- In re Adoption/Guardianship No. 3598, 347 Md. 295, 701 A.2d 110 (1997)
- Williams v. Snyder, 221 Md. 262, 157 A.2d 265 (1960)
- State ex rel. Lennon v. Strazzella, 331 Md. 270, 627 A.2d 1055 (1993)
- Reno v. American Civil Liberties Union, 521 U.S. 844 (1997)

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