UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Delgrosso v. Spang & Co.

903 F.2d 234 (3d Cir. 1990) · No. Nos. 89-3573, 89-3677 · Decided May 17, 1990

SUMMARY

The United States Court of Appeals for the Third Circuit held that the district court's order administratively closing the case was not a final, appealable decision because it contemplated possible future proceedings. The court granted the participants' petition for a writ of mandamus, concluding that the district court had not fully implemented the appellate mandate concerning pension-plan reformation, appointment of an administrator, and allocation of surplus assets. The court directed the district court to reopen the case and resolve issues involving the Chicago assets and employees consistently with the prior appellate decision.

CASE DETAILS

COURT	United States Court of Appeals for the Third Circuit
WRITING FOR THE COURT	Scirica, Circuit Judge; Greenberg; Scirica; Seitz
JURISDICTION	Federal
DECIDED	May 17, 1990
DOCKET	Nos. 89-3573, 89-3677
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Participants appealed from a district court order administratively closing the case and separately petitioned for a writ of mandamus compelling compliance with the Third Circuit's prior judgment.
STANDARD OF REVIEW	De novo review of finality and appellate jurisdiction under 28 U.S.C. § 1291; mandamus is committed largely to the court's discretion and requires a clear and indisputable right, exceptional circumstances, and no other adequate means of relief.
PRECEDENTIAL VALUE	Published precedential opinion of the United States Court of Appeals for the Third Circuit.
PARTIES	Vested participants, Nonvested participants from the Lorain plant, Participants v. Spang & Co.

TOPICS

writ of certiorari · final judgment rule · appellate jurisdiction · appellate procedure · employee benefits

PRACTICE AREAS

appellate procedure · civil procedure · employment law · employee benefits · remedies

QUESTIONS PRESENTED

1. Whether the district court's July 18, 1989 order closing the case while permitting future proceedings was a final, appealable decision under 28 U.S.C. § 1291.
2. Whether mandamus should issue to compel the district court to implement the Third Circuit's prior judgment.
3. Whether the prior judgment applied to surplus assets attributable to both the Lorain and Chicago facilities.
4. Whether the district court had authority to resolve issues not expressly or implicitly decided by the prior appellate judgment, including the status of the Chicago assets and employees.

HOLDINGS

1. An order that marks a case closed but permits reinstatement and contemplates future proceedings does not end the litigation on the merits and is not a final, appealable decision under 28 U.S.C. § 1291.
2. Mandamus is appropriate where a district court has failed to adhere to an appellate court's mandate and the petitioner has a clear and indisputable right to relief with no other adequate means of obtaining it.
3. When an appellate court directs a district court to act consistently with the appellate opinion, the district court must implement both the letter and spirit of the mandate and may decide issues not expressly or implicitly disposed of by the appellate decision, so long as its orders are not inconsistent with that decision.
4. The prior judgment in Delgrosso v. Spang & Co., 769 F.2d 928 (3d Cir. 1985), applied to surplus assets attributable to both the Lorain and Chicago facilities, and Spang could not properly construe the judgment as limited to the Lorain surplus.

KEY QUOTATIONS

> *“The decision to issue a writ of mandamus is largely committed to the discretion of the issuing court.”* (237)

> *“A party seeking the writ has the burden of demonstrating that its right to the writ is “ ‘clear and indisputable.’ ””* (237)

> *“We believe that the district court has adopted too narrow a view of its authority on remand.”* (239-240)

> *“a trial court must implement both “the letter and the spirit of the mandate, taking into account the appellate court’s opinion and the circumstances it embraces.””* (240)

> *“Under the circumstances, therefore, we hold that the judgment in Spang applies to the surplus assets of both the Lorain and Chicago facilities.”* (242)

FACTUAL BACKGROUND

Spang maintained pension plans connected to its Chicago and Lorain ferro slag plants, which closed in 1979 and 1982. After payment of vested benefits, surplus pension assets remained, and nonvested Lorain participants alleged that Spang's refusal to allocate the surplus violated ERISA and the LMRA. The prior Third Circuit judgment barred reversion of surplus assets to Spang and required plan reform, appointment of a vested-participant representative, and appointment of an independent administrator. On remand, the district court did not complete the plan reform, did not secure an administrator, and declined to decide whether Chicago assets and employees were included in the fund.

PROCEDURAL HISTORY

Participants originally sued Spang under ERISA and the LMRA concerning surplus assets in a pension plan. The district court initially granted summary judgment to Spang, but the Third Circuit reversed in part and remanded with four directives, including reforming the plan to bar reversion, appointing a representative for vested participants, and appointing an independent plan administrator. After several status conferences, the district court entered an order stating that the case should be marked closed while expressly permitting future proceedings. The Third Circuit dismissed the appeal as taken from a nonfinal order but granted mandamus because the district court had not fully implemented the prior mandate or resolved issues necessary to do so.

DISPOSITION

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writ_granted
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REMAND INSTRUCTIONS

The district court was directed to reopen the case, carry out each directive in the prior judgment, issue appropriate orders concerning each directive, and resolve all issues not expressly or implicitly disposed of by the Third Circuit as necessary to effectuate the judgment consistently with both opinions. The court was specifically directed to address issues involving the Chicago employees and whether Spang had appropriated any part of the surplus. The separate appeal from the July 18, 1989 order was dismissed as nonfinal.

CASES CITED

- Delgrosso v. Spang & Co., 769 F.2d 928, 929-39 (3d Cir. 1985), cert. denied, 476 U.S. 1140 (1986)
- Demenus v. Tinton 35 Inc., 873 F.2d 50, 52 (3d Cir. 1989)
- Van Cauwenberghe v. Biard, 486 U.S. 517, 521 (1988)
- Catlin v. United States, 324 U.S. 229, 233 (1945)
- Dickinson v. Petroleum Conversion Corp., 338 U.S. 507, 511 (1950)
- Patten Securities Corp. v. Diamond Greyhound & Genetics, Inc., 819 F.2d 400, 403-05 (3d Cir. 1987)
- Citibank, N.A. v. Fullam, 580 F.2d 82, 86-90 (3d Cir. 1978)
- Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 276, 287, 289 (1988)
- Bankers Life & Casualty Co. v. Holland, 346 U.S. 379, 384 (1953)
- Helstoski v. Meanor, 442 U.S. 500, 505 (1979)

- Kerr v. United States District Court, 426 U.S. 394, 402-03 (1976)
- Bankers Trust Co. v. Bethlehem Steel Corp., 761 F.2d 943, 948-50 (3d Cir. 1985)
- Noel v. United Aircraft Corp., 359 F.2d 671, 674 (3d Cir. 1966)
- In re Sanford Fork & Tool Co., 160 U.S. 247, 256 (1895)
- Hartford Accident & Indemnity Co. v. Gulf Insurance Co., 837 F.2d 767, 774 (7th Cir. 1988)
- Oneida Motor Freight, Inc. v. United Jersey Bank, 848 F.2d 414, 419 (3d Cir. 1988), cert. denied, 109 S. Ct. 495 (1988)
- Lewandowski v. National Railroad Passenger Corp. (Amtrak), 882 F.2d 815, 819 (3d Cir. 1989)
- Murray v. Silberstein, 882 F.2d 61, 66 (3d Cir. 1989)
- Scarano v. Central R. Co., 203 F.2d 510, 513 (3d Cir. 1953)
- Stretch v. Watson, 6 N.J. Super. 456, 469, 69 A.2d 596, 603 (1949), rev'd in part on other grounds, 5 N.J. 268, 74 A.2d 597 (1950)
- Coopers & Lybrand v. Livesay, 437 U.S. 463, 468 (1978)
- Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 287 (1988)