

SUPREME COURT OF MISSISSIPPI

George E. Trim v. Lisa Mosley Trim

33 So. 3d 471 (Miss. 2010) · No. 2007-CT-01648-SCT · Decided April 29, 2010

SUMMARY

The Mississippi Supreme Court held that intentionally filing a substantially false Uniform Chancery Court Rule 8.05 financial disclosure statement constitutes fraud upon the court. Because fraud upon the court is not subject to Rule 60(b)'s six-month limitation, the chancery court had authority to modify the final divorce judgment and property distribution. The court reversed the Court of Appeals and reinstated and affirmed the chancery court's judgment awarding Lisa Trim additional marital-property compensation, attorneys' fees, and costs.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Chandler, Justice; Waller, Chief Justice; Carlson, Presiding Justice; Graves, Presiding Justice; Dickinson, Justice; Randolph, Justice; Lamar, Justice; Kitchens, Justice; Pierce, Justice
JURISDICTION	Mississippi
DECIDED	April 29, 2010
DOCKET	2007-CT-01648-SCT
DISPOSITION	reversed
PROCEDURAL POSTURE	Lisa Trim sought certiorari review after the Mississippi Court of Appeals reversed and rendered the chancery court's order granting her petition to set aside or modify the divorce judgment and property settlement based on George Trim's fraudulent valuation of marital stock. The Mississippi Supreme Court granted certiorari, reversed the Court of Appeals, and reinstated and affirmed the chancery court's judgment.
STANDARD OF REVIEW	Domestic-relations judgments are reviewed under the substantial-evidence/manifest-error rule. The Supreme Court will not disturb a chancellor's findings unless they are manifestly wrong, clearly erroneous, or based on an incorrect legal standard. The decision to modify a prior order under Rule 60(b) is within the trial court's sound discretion.

PRECEDENTIAL VALUE	published and precedential
PARTIES	George E. Trim v. Lisa Mosley Trim

TOPICS

family law procedure divorce equitable distribution civil procedure appellate procedure

PRACTICE AREAS

family law civil procedure appellate procedure remedies

QUESTIONS PRESENTED

1. Whether an intentional filing of a substantially false Uniform Chancery Court Rule 8.05 financial disclosure statement constitutes fraud upon the court.
2. Whether a petition seeking relief from a divorce judgment based on such fraud is subject to Rule 60(b)(1)'s six-month limitation period.
3. Whether the Court of Appeals improperly reweighed the evidence and disturbed the chancellor's factual findings concerning fraud.

HOLDINGS

1. A party's intentional filing of a substantially false Rule 8.05 financial disclosure statement constitutes fraud upon the court.
2. No time limit constrained the chancery court's ability to remedy a fraud upon the court by modifying the divorce judgment.
3. The Court of Appeals improperly reweighed conflicting evidence that was capable of more than one reasonable interpretation; the chancellor's findings were supported by sufficient evidence and were within the chancellor's fact-finding discretion.
4. A property settlement agreement incorporated into a divorce judgment may be reformed or modified on the basis of fraud or inequitable conduct.

KEY QUOTATIONS

“We hold that a party's intentional filing of a substantially false Rule 8.05 financial statement constitutes a fraud on the court.” (477)

“Therefore, no time limit constrained the chancellor's ability to modify the divorce judgment to remedy the fraud on the court.” (477-78)

“Nonetheless, because the evidence was capable of more than one reasonable interpretation, the issue was for the chancellor as the finder of fact.” (479)

FACTUAL BACKGROUND

George and Lisa Trim divorced in 2000, and their property settlement allocated George's closely held corporate stock to him while valuing it at \$100,000. George repeated that valuation in his mandatory Uniform Chancery Court Rule 8.05 financial disclosure, although other financial statements and later litigation placed substantially higher values on the stock. After learning of the higher valuations, Lisa petitioned in 2004 to set aside or modify the divorce judgment, alleging that George intentionally had submitted a materially false financial disclosure. The chancery court found clear and convincing evidence of fraud and awarded Lisa an additional \$148,000, plus attorney fees and costs.

PROCEDURAL HISTORY

The Hinds County Chancery Court entered an irreconcilable-differences divorce judgment in 2000 incorporating the parties' property settlement agreement. In 2004, Lisa Trim petitioned to set aside or modify the judgment, alleging that George Trim had substantially undervalued corporate stock in his mandatory Rule 8.05 financial disclosure. The chancellor found fraud by clear and convincing evidence and awarded Lisa an additional share of the stock's value, plus attorney fees and costs. The Court of Appeals held the petition untimely under Mississippi Rule of Civil Procedure 60(b)(1) and reversed and rendered judgment for George. The Supreme Court granted certiorari and reversed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

The judgment of the Mississippi Court of Appeals was reversed, and the judgment of the Chancery Court of Hinds County was reinstated and affirmed.

CASES CITED

- *Ferguson v. Ferguson*, 639 So. 2d 921 (Miss. 1994)
- *Evans v. Evans*, 994 So. 2d 765, 768 (Miss. 2008)
- *Accredited Surety & Casualty Co. v. Bolles*, 535 So. 2d 56, 58 (Miss. 1988)
- *Tirouda v. State*, 919 So. 2d 211, 214 (Miss. Ct. App. 2005)
- *American States Insurance Co. v. Rogillio*, 10 So. 3d 463, 474 (Miss. 2009)
- *Wilson v. Johns-Manville Sales Corp.*, 873 F.2d 869, 872 (5th Cir. 1989)
- *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1338 (5th Cir. 1978)
- *Kerwit Medical Products, Inc. v. N & H Instruments, Inc.*, 616 F.2d 833, 836-37 & n.8 (5th Cir. 1980)
- *Brown v. Wesson*, 114 Miss. 216, 74 So. 831, 834 (1917)
- *Townsend v. Townsend*, 859 So. 2d 370, 376 (Miss. 2003)
- *Johnson v. Consolidated American Life Insurance Co.*, 244 So. 2d 400, 402 (Miss. 1971)
- *Norton v. Norton*, 742 So. 2d 126, 129 (Miss. 1999)
- *McCord v. Healthcare Recoveries, Inc.*, 960 So. 2d 399, 406 (Miss. 2007)
- *Chamblee v. Chamblee*, 637 So. 2d 850, 860 (Miss. 1994)

- Polk v. Polk, 559 So. 2d 1048, 1049 (Miss. 1990)

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