

MISSISSIPPI SUPREME COURT DECISIONS – FEBRUARY 8, 2024**SUPREME COURT - CIVIL CASES****RICKLIN V. SHEFFIELD****CIVIL - WILLS, TRUSTS, & ESTATES**

WILLS, TRUSTS, & ESTATES - CHARACTER OF RECEIPTS - PARTIAL LIQUIDATION - Money received from an entity is deemed partial liquidation if either (1) the entity indicates it as such at or near the time of distribution or (2) the total amount of money and property received exceeds twenty percent of the entity's gross assets

WILLS, TRUSTS, & ESTATES - TENURE OF TRUSTEE - FIDUCIARY DUTY - A trustee who acts in reasonable reliance on the terms of the trust as expressed in the trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach resulted from the reliance

FACTS

The Crider Family Share Trust was formed in April 2021, with Haidee Oppie Sheffield appointed as the Trustee. Holding Muskegon Energy Co. common stock, the Trust received money distributions, which the Trustee allocated to the income beneficiary. Nathan Ricklin and Megan Woolwine, as remainder beneficiaries to the Trust, filed a Motion to Stay and Object to a Proposed Distribution to have the distribution allocated in partial liquidation to them instead of the income beneficiary pursuant to Miss. Code Ann. § 91-17-401. The lower court denied their motion, finding that the Trustee had adhered to the statute, Mississippi's trust laws, and the Trust. Ricklin and Woolwine appealed.

ISSUES

Whether (1) Muskegon's distribution was made in partial liquidation, thereby triggering Miss. Code Ann. § 91-17-401(c), and (2) Sheffield, as Trustee of the Crider Family Share Trust, breached her fiduciary duty owed to the remainder beneficiaries.

HOLDING

(1) Because Muskegon had not indicated that the distributions were partial liquidation and because the language of Miss. Code Ann. § 91-17-401 stated that taxes should be deducted at the outset to calculate whether the money received from an entity constituted partial liquidation or income, Muskegon's distributions were not made in partial liquidation and did not trigger the statute. (2) Because Sheffield reasonably relied on the terms of the Trust and was in compliance with Mississippi's Trust Code, Sheffield did not breach her fiduciary duty to the remainder beneficiaries. Therefore, the Supreme Court affirmed the judgment of the Jackson County Chancery Court.

Affirmed - 2022-CA-00191-SCT (Feb. 8, 2024)

Opinion by Justice Coleman

Hon. Mark Anthony Maples (Jackson County Chancery Court)

Henry Laird & Frederick T. Hoff Jr. for Appellants - Paul M. Newton Jr., Haidee Leah Oppie Sheffield, & James H. Heidelberg for Appellees

Consolidated with:**Affirmed - 2022-CA-01225-SCT (Feb. 8, 2024)**

Hon. Mark Anthony Maples (Jackson County Chancery Court)

Henry Laird & Frederick T. Hoff Jr. for Appellants - James H. Heidelberg, Paul M. Newton Jr., & Haidee Leah Oppie Sheffield for Appellees

Briefed by [Katie Shaw](#)

Edited by [Emilee Crocker](#) & [Mason Scioneaux](#)

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MISSISSIPPI COURT OF APPEALS DECISIONS – FEBRUARY 6, 2024

COURT OF APPEALS - CIVIL CASES

ELLIS V. TURNER-JOHNSON DODGE, INC.

CIVIL - CONTRACT

CONTRACT - ARBITRATION - MOTION TO COMPEL - In determining the validity of a motion to compel arbitration, courts generally consider (1) whether the parties agreed to arbitrate, (2) whether the parties' dispute is within the scope of arbitration, and (3) whether any defenses to the validity of the contract exist that would bar arbitration

ALTERNATE DISPUTE RESOLUTION - ARBITRATION - STANDARDS - In order to determine whether a dispute is subject to arbitration, the court must determine (1) whether the parties had a valid agreement in arbitration, and (2) whether the specific dispute falls within the substantive scope of that agreement

FACTS

In November 2020, Oliver Ellis filed a complaint in the Smith County Circuit Court against Turner-Johnson Dodge, Inc. ("TJD"). Ellis alleged that in June 2017, Ellis purchased a vehicle from TJD and financed his purchase with Total Finance, Inc. ("Total Finance"). In January 2019, Ellis traded in the vehicle to purchase a new vehicle from TJD. Ellis claimed that TJD assured him that the balance of his loan for the first vehicle with Total Finance would be paid for by TJD. In July 2020, Total Finance initiated legal proceedings against Ellis for breach of contract and judicial foreclosure. After receiving Ellis's November 2020 complaint, TJD filed a motion to compel arbitration and to stay proceedings, to change venue, for a more definite statement, and to dismiss Ellis' claim. Attached to TJD's motion were two arbitration agreements that were executed between Ellis and Johnson Dodge-Chrysler-Jeep-Kia, Inc. ("JDCJK") in June 2017 and January 2019. In response, Ellis argued that JDCJK signed the arbitration agreements and not TJD, and therefore a valid arbitration agreement did not exist between the parties. Additionally, Ellis claimed that the dispute was outside the scope of the arbitration agreement. TJD provided documentation from the Mississippi Secretary of State's Office showing that JDCJK and TJD were the same entity. In October 2021, the venue was transferred to the Lauderdale County Circuit Court. TJD refiled its motion to compel arbitration and to stay the proceedings. Ellis filed a response. In October 2022, the circuit court granted TJD's motion, finding the parties entered into a valid, binding arbitration agreement, and that the dispute was within the scope of the agreements. Additionally, the circuit court found no evidence of procedural or substantial unconscionability preventing the enforcement of the arbitration agreements. Ellis appealed.

ISSUE

Whether the circuit court erred in granting TJD's motion to compel arbitration.

HOLDING

Because documentation showed that TJD and JDCJK were the same entity, because Ellis failed to show that the dispute fell outside the scope of the arbitration agreement, and because Ellis failed to prove that any defenses to the validity of the contract existed, the circuit court did not err in granting TJD's motion to compel arbitration. Therefore, the Court of Appeals affirmed the judgment of the Lauderdale County Circuit Court.

Affirmed - 2022-CA-01126-COA (Feb. 6, 2024)

Opinion by Judge Greenlee

Hon. Robert Thomas Bailey (Lauderdale County Circuit Court)

Raymond Patrick Tullos for Appellant - Paul Pacific Blake for Appellee

Briefed by [Jack Furla](#)

Edited by [Doug Reynolds](#) & [Mason Scioneaux](#)

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PORTER V. STATE

CIVIL - OTHER

CRIMINAL LAW - SENTENCING - HABITUAL OFFENDER STATUS - Absent both an indictment charging an individual as a habitual offender and proof at sentencing of two prior convictions, a trial court is without authority to declare the individual a habitual offender

CIVIL PROCEDURE - JURISDICTION - APPEAL OF ADMINISTRATIVE REMEDY PROGRAM DECISION - An appeal of an Administrative Remedy Program decision must be filed in the county where the prisoner is incarcerated, not in the prisoner's county of conviction

FACTS

In 1997, Michael Porter was convicted of armed robbery. Although the grand jury did not indict Porter as a habitual offender, the trial court found him to be a habitual offender in its sentencing order. On appeal, the Court of Appeals found that the trial court incorrectly used this terminology but did not sentence Porter as a habitual offender, upholding his sentence. In 2022, Porter filed a motion for post-conviction relief ("PCR") with the Supreme Court. He argued that, since his sentencing order used incorrect terminology, his Mississippi Department of Corrections ("MDOC") timesheet incorrectly classified him as a habitual offender. The Supreme Court issued an order that recharacterized the nature of Porter's filing as an appeal from a decision by MDOC's Administrative Remedy Program ("ARP"). The Court dismissed the motion without prejudice so that it could be filed in the county of his incarceration. Within five days of the order, Porter filed his lawsuit in the Lauderdale County Circuit Court – his court of conviction. Despite the Supreme Court's recharacterization of the filing as an appeal of an ARP, Porter retained his prior verbiage and invoked the PCR statutes. The trial court used precedent and terminology relating to PCRs to find that Porter's petition was time-barred and dismissed the lawsuit. Despite the dismissal, the trial court addressed the claim on the merits, finding that Porter's classification as a habitual offender by MDOC did not affect the legal sentence given to him by the trial court and affirmed by the Court of Appeals. Thus, the trial court dismissed Porter's claims. Porter appealed.

ISSUES

Whether the trial court (1) was without authority to declare Porter a habitual offender in its sentencing order; and (2) had jurisdiction to hear the lawsuit.

HOLDING

(1) Because the indictment did not charge Porter as a habitual offender and because there was no proof at sentencing of two prior convictions, the trial court was without authority to declare Porter a habitual offender in its sentencing order. (2) Because the Supreme Court ordered that Porter's claims be treated as an ARP appeal and because Porter filed his lawsuit in his place of his conviction instead of his county of incarceration, the trial court did not have jurisdiction to hear the lawsuit. Therefore, the Court of Appeals vacated and remanded the judgment of the Lauderdale County Circuit Court, with instructions to transfer the case to Yazoo County Circuit Court.

Vacated & Remanded - 2023-CP-00091-COA (Feb. 6, 2024)

Opinion by Judge McCarty

Hon. Robert Thomas Bailey (Lauderdale County Circuit Court)

Pro se for Appellant - Scott Stuart (Att'y Gen. Office) for Appellee

Briefed by [Emily Phillips](#)

Edited by [Nivory Gordon](#) & [Mason Scioneaux](#)

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COURT OF APPEALS - POST-CONVICTION RELIEF

GILMORE V. STATE

CIVIL - POST-CONVICTION RELIEF

POST-CONVICTION RELIEF - STATUTE OF LIMITATIONS - EXCEPTIONS - Miss. Code Ann. § 99-39-5(2) includes the following exceptions to the three-year statute of limitations on motions for post-conviction relief: cases where (1) the Supreme Court or the United States Supreme Court has rendered an intervening decision that would adversely affect the outcome of the conviction or sentence; (2) the defendant presents evidence not reasonably discoverable at trial that would have been practically conclusive at that time to cause a different result in conviction or sentencing; and (3) the defendant's sentence has expired or his probation, parole, or conditional release has been unlawfully revoked

POST-CONVICTION RELIEF - PROCEDURAL BARS - EXCEPTIONS - The denial of a post-conviction relief motion is a final judgment and bars subsequent requests for post-conviction relief unless (1) there are issues with the defendant's supervening insanity before the execution of a death sentence; (2) there has been an intervening decision of the United States Supreme Court or of the Mississippi Supreme Court, which would require a different outcome or sentence; (3) there is newly discovered evidence, which was not previously discoverable, that would have been practically conclusive if it were available at trial; or (4) the defendant claims that his sentence has expired, or his probation, parole, or conditional release has been unlawfully revoked

FACTS

In 2018, Dexter Gilmore pled guilty and was sentenced to serve twenty-five years for burglary and twenty years for aggravated assault, with the terms set to run consecutively. Four years later, Gilmore filed a motion for post-conviction relief ("PCR"), which the circuit court dismissed as untimely and not subject to any exceptions to the statutory time bar. Gilmore appealed.

ISSUE

Whether the circuit court erred in dismissing Gilmore's PCR motion.

HOLDING

Because Gilmore did not prove that a statutory exception applied to his claims, and because the claims were filed after the running of the three-year statute of limitations, the circuit court properly dismissed Gilmore's PCR motion. Therefore, the Court of Appeals affirmed the judgment of the Madison County Circuit Court.

Affirmed - 2023-CP-00527-COA (Feb. 6, 2024)

Opinion by Judge McCarty

Hon. M. Bradley Mills (Madison County Circuit Court)

Pro se for Appellant - Ashley Lauren Sulser (Att'y Gen. Office) for Appellee

Briefed by [Hunter Seidler](#)

Edited by [Kara Edwards](#) & [Ashley House](#)

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COURT OF APPEALS - CRIMINAL CASES

MOATES V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - MOTION TO SEVER - FACTORS - In deciding a motion for severance, a trial court should evaluate whether the time between the occurrences is insignificant, whether the evidence proving each count would be admissible to prove each of the other counts, and whether the crimes are interwoven

EVIDENCE - PRIOR BAD ACTS EVIDENCE - ADMISSIBILITY - Evidence of a crime, wrong, or other act is not admissible to prove a person's character to show that on a particular occasion, the person acted in accordance with the character; such evidence may be admissible for another reason, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident

CRIMINAL LAW - SIMPLE DOMESTIC VIOLENCE - STANDARD - A person is guilty of simple domestic violence who attempts by physical menace to put the person's spouse in fear of imminent serious bodily harm; physical menace does not require physical contact with a victim

EVIDENCE - SUFFICIENCY OF THE EVIDENCE - STANDARD - Sufficiency of evidence is evaluated according to whether, viewing the evidence in the light most favorable to the State and giving the State the benefit of all favorable inferences reasonably drawn from the evidence, any rational juror could have found the essential elements of the crime beyond a reasonable doubt

EVIDENCE - PREJUDICE - NEW TRIAL - If the defendant can show that he suffered clear and compelling prejudice as a result of the evidence introduced to support the vacated count, he is entitled to a new trial on the remaining count(s)

FACTS

Richard Moates was indicted for first-degree murder, burglary of a dwelling, and simple domestic violence stemming from the murder of his estranged wife's romantic partner. Richard Moates and Courtney Moates were married for approximately four years and had two children together. In April 2020, Courtney and the children moved into Courtney's mother's home after Courtney separated from Moates. Courtney testified she planned to divorce Moates but he did not want a divorce. In December 2020, Moates made plans to take Courtney and the children to dinner. After dinner, Moates texted Courtney asking her to confirm when she arrived home, which she did. Later that night, Moates texted Courtney saying their children had told him about Tyler McLeod, Courtney's romantic partner. Moates threatened to kill Tyler in the texts and asked where Tyler was. Courtney eventually blocked Moates's number. Tyler then arrived at Courtney's home to wrap Christmas presents. After Courtney fell asleep, Tyler woke her up and showed messages from Moates on Facebook threatening to kill him. Courtney heard a loud noise and saw Moates and Tyler at her bedroom door, with Moates holding Tyler. Moates then shot Tyler before leaving in his truck with the children. Police later arrested Moates after stopping his truck. Tyler died at the hospital from gunshot wounds. Courtney's best friend, Brittany Tanksley, testified at trial that Moates had previously threatened to kill both Tanksley and Courtney. Moates was convicted on all counts and sentenced to life imprisonment with a fine of \$10,000 for the murder conviction, to twenty-five years, with fifteen years suspended and ten years to serve, followed by five years of post-release supervision for his home invasion conviction; and to six month to serve for his simple domestic violence conviction. Moates appealed.

ISSUES

Whether (1) the trial court erred in denying Moates's motion to sever the murder charge from the other two charges in the indictment; (2) the trial court erred in allowing the State to introduce prior-bad-acts evidence against Moates; (3) the evidence was insufficient to sustain a conviction for simple domestic violence; and (4) the doctrine of retroactive misjoinder required the reversal of Moates's convictions for murder and burglary of a dwelling.

HOLDING

(1) Because each crime occurred within a short window of time and arose out of a common nucleus of operative facts, the trial court did not err in denying Moates's motion to sever the murder charge from the other two charges in the indictment. (2) Because the prior-bad-acts evidence admitted was probative of Moates's state of mind, its admission did not constitute an abuse of discretion. (3) Because there was evidence presented that Moates acted with the intent to put Courtney in fear of serious bodily harm and took steps to do so by threatening her and breaking into her home at night, there was sufficient evidence to allow a reasonable juror to find that Moates committed simple domestic violence. (4) Because sufficient evidence supported Moates's domestic violence conviction, and because Moates was unable to show he suffered clear and compelling prejudice as a result of the evidence introduced, the doctrine of retroactive misjoinder did not apply. Therefore, the Court of Appeals affirmed the judgment of the Lincoln County Circuit Court.

Affirmed - 2022-KA-01062-COA (Feb. 6, 2024)

Opinion by Presiding Judge Carlton

Hon. Michael M. Taylor (Lincoln County Circuit Court)

Mollie M. McMillin (Pub. Def. Office) for Appellant - Barbara Wakeland Byrd (Att'y Gen. Office) for Appellee

Briefed by [Madeline Crane](#)

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