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What Happens on Appeal When Trial Court Dismisses Case Without Deciding All Issues: Competing Fields of Thought?

Today, the Indiana Court of Appeals handed down a decision that touched upon an interesting, but technical procedural issue that I've seen addressed in two different ways in the span of just over two weeks: What happens on appeal when the trial court dismisses a case in its entirety but fails to address all claims or all parties? Today's decision from the Court of Appeals of Indiana—*Lockett v. Planned Parenthood of Indiana, Inc.*—addresses that very issue.

In *Lockett*, the trial court dismissed the case against Planned Parenthood, reasoning that the case was covered by Indiana's Medical Malpractice Act. Thus, because the plaintiff did not first file her proposed complaint with the Indiana Department of Insurance—a prerequisite to filing suit—the trial court was obliged to dismiss the action for lack of subject matter jurisdiction. Where things get squirrely, is that the case was also filed against an individual defendant who was not an employee or otherwise associated with Planned Parenthood. Nevertheless, “[t]he [trial] court also purportedly dismissed the[] complaint in its entirety and entered ‘Judgment for Defendants[.]’” Finding that the trial court had been

“premature” in dismissing the complaint against the individual defendant, the court of appeals remanded the case for further proceedings.

Earlier this month, the Seventh Circuit addressed a similar issue but indicated an entirely different approach to resolving it. On April 1st, the court heard argument in *Bell v. Taylor*—the decision has not yet been issued. At issue there, the district court determined that Bell had proven all elements of his copyright infringement action but had failed to prove his entitlement to damages. As a result, the district court entered summary judgment in favor of defendants and entered final judgment. The problem arises because Bell had also pleaded a claim for declaratory judgment, which does not require proof of damages. On appeal, Bell relied on the Second Circuit’s decision in *On Davis v. The Gap, Inc.* There, the court addressed the issue thusly:

Davis contends that it was improper for the district court to grant summary judgment on his copyright claims without first determining whether the defendant infringed his copyright. The complaint expressly sought “a declaratory judgment in favor of Mr. Davis against GAP, declaring” that the Gap had infringed Davis’s copyright by its reproduction of his eyewear in its advertisement. The district court granted the defendant’s motion for summary judgment on the basis of a variety of theories that had no bearing on the demand for declaratory relief. No doubt because of the confusing and prolix nature of the complaint, this aspect of the relief sought was overlooked. The existence of damages suffered is not an essential element of a claim for copyright infringement. The owner of a copyright is thus entitled to prevail in a claim for declaratory judgment of infringement without showing entitlement to monetary relief. Insofar as the judgment dismissed the claim for declaratory relief without discussion, we are obliged to vacate the judgment and remand for consideration of that claim.

During the oral argument in *Bell*, Chief Judge Diane Wood indicated her view that one of two scenarios can be deemed to have occurred: (1) the district court actually decided that issue—a highly unlikely scenario in light of the district court explicitly finding all of the necessary elements for a declaratory judgment in favor of Bell—or (2) that the district court’s final judgment order was issued in error and there was, in fact, no final judgment in the case. If the latter scenario is the case, Chief Judge Wood indicated, that the appellate court would then lack jurisdiction to hear the appeal because the case had not yet reached a final judgment. Consequently, if the latter scenario is correct, the Seventh Circuit would have no choice but to remand the case to the district court to enter a final judgment.

Thus, we are left with two competing approaches. There is *Lockett* and *On Davis* which acknowledge the oversight by the trial court and remand the case for further proceedings to address the oversight, while at the same time providing a determination on the other issues of the appeal. On the other hand, there is *Bell* where, assuming the court's ultimate decision tracks the indications from Chief Judge Wood, the appellate court can do no more than declare that it lacks subject matter jurisdiction and send the case back to the trial court to address the overlooked issue. It is unclear which, if either, approach is preferable. On a technical level, the *Bell* approach makes sense—certainly the appellate court cannot exercise jurisdiction where jurisdiction is otherwise lacking. That said, on a functional level, the *Lockett* approach prevents the case from being dragged out in the trial court only to be re-argued on the exact same issues on a subsequent appeal.

Join us again next time for further discussion of developments in the law.

Sources

- *Lockett v. Planned Parenthood of Ind., Inc.*, --- N.E.2d ---, No. 45A05-1407-CT-340 (Ind. Ct. App. Apr. 17, 2015) (Bailey, J.).
- Oral Argument, *Richard Bell v. Cameron Taylor*, No. 14-3099 (7th Cir. Apr. 1, 2015).
- *Bell v. Taylor*, No. 1:13-CV-00798-TWP-DK, 2014 WL 4250110, at *7 (S.D. Ind. Aug. 26, 2014).
- *On Davis v. The Gap, Inc.*, 246 F.3d 152 (2d Cir. 2001), *as amended* (May 15, 2001)/
- Indiana Medical Malpractice Act, codified at Ind. Code art. 34-18.

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