

Rel: March 27, 2020

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SUPREME COURT OF ALABAMA

OCTOBER TERM, 2019-2020

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Lawler Manufacturing Co., Inc.

v.

Delmas D. Lawler and Sandra Lawler

Appeal from Talladega Circuit Court
(CV-19-900054)

BOLIN, Justice.

Lawler Manufacturing Co., Inc., appeals from an order requiring Chris Lawler, president of Lawler Manufacturing, among other things, to authorize and give his consent to a pending shipment of goods from China and to refrain from

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engaging in conduct that is contrary to the best interest of Lawler Manufacturing. Because the trial court was without jurisdiction to enter the order, we dismiss the appeal.

On February 5, 2019, Lawler Manufacturing sued Delmas D. Lawler, a shareholder, vice president, and alleged former employee of Lawler Manufacturing, and Sandra Lawler, an alleged former employee, alleging breach of fiduciary duty, theft, and conspiracy. The circuit clerk assigned the case to Presiding Circuit Judge Chad E. Woodruff. On February 6, 2019, Presiding Judge Woodruff, realizing that he had a conflict of interest, entered an order recusing himself from consideration of the case and entered a separate order appointing Jeb S. Fannin, a district-court judge, to hear the case as an ex officio circuit judge.

On July 2, 2019, Delmas moved the court to order Lawler Manufacturing and Chris, as president of Lawler Manufacturing, to continue the business operations of Lawler Manufacturing in the usual and customary manner in which business affairs had been conducted before the litigation was commenced, which would include authorizing the shipment of an order from China that had been placed earlier. Judge Fannin granted the motion

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and ordered Chris to act in the best interest of Lawler Manufacturing, to authorize and consent to the shipment from China, to refrain from engaging in any conduct contrary to the best interest of the company, and to conduct the business affairs of the company in the usual and customary manner the day-to-day operations of the company had been conducted before the filing of the litigation. Lawler Manufacturing moved to dissolve the order. On July 18, 2019, Judge Fannin denied Lawler Manufacturing's motion. Lawler Manufacturing appeals.

Initially, we must consider whether the appointment of Judge Fannin to hear this case was valid and vested him with jurisdiction to preside over this case and, as a corollary, vested this Court with jurisdiction to adjudicate this appeal. In Ex parte K.R., 210 So. 3d 1106 (Ala. 2016), this Court observed that, although the objection to the validity, in that case, of the probate-court judge's appointment to preside over the case was untimely, the objection placed the probate court's jurisdiction at issue, and the Court notices jurisdictional matters ex mero motu. 210 So. 3d at 1112, citing Bush v. State, 171 So. 3d 679 (Ala. Crim. App. 2014) (holding void any orders entered by a judge whose

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appointment is not valid as being entered by a judge who lacks authority to enter the orders).

Rule 13, Ala. R. Jud. Admin., authorizes the presiding circuit judge of a judicial circuit to temporarily assign circuit- or district-court judges to serve in the courts of that circuit, if such an assignment is deemed necessary to assist in the administration of justice. In Ex parte Jim Walter Homes, Inc., 776 So. 2d 76 (Ala. 2000), this Court considered whether a presiding judge, who had recused himself pursuant to the Canons of Judicial Ethics from presiding over a case, had the authority to appoint his successor. We held that a presiding judge who recuses himself from a case does not have authority to appoint his successor, stating:

"[I]n order to avoid the appearance of impropriety, we hold that after a judge presiding in a particular case has been disqualified from hearing that case, under the Canons of Judicial Ethics, either voluntarily or by objection, he or she can take no further action in that case, not even the action of reassigning the case under Rule 13, Ala. R. Jud. Admin. For such a judge to make the reassignment would be contrary to Canon 3(C), because the impartiality of the reassignment might reasonably be questioned."

776 So. 2d at 80.

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Additionally, this Court provided the following directions with regard to how a presiding judge who is disqualified should proceed with regard to the appointment of a successor:

"[O]nce the presiding judge of a judicial circuit has been disqualified from a case under the Canons of Judicial Ethics, either voluntarily or by objection, the appropriate procedure for initiating a reassignment of the case is as follows: In a circuit with more than one circuit judge, the presiding judge shall enter an order notifying the next senior judge within that circuit of the presiding judge's disqualification. A circuit judge who is so notified but who is also disqualified shall enter an order notifying the next senior judge within that circuit of that judge's disqualification. A circuit judge who is so notified and who is not disqualified shall become the judge to whom the case is assigned, unless that judge assigns the case to another judge within the circuit who agrees to take the case. In a circuit with only one circuit judge, if the district judge within the county in which the action is pending has been temporarily assigned by the presiding circuit judge to serve in circuit court pursuant to Rule 13, Ala. R. Jud. Admin., the circuit judge shall notify that district judge of the circuit judge's disqualification. If no judge with authority to hear the case is available in the county in which the action is pending, the case shall be referred to the [Administrative Office of Courts] for assignment of a judge."

Ex parte Jim Walter Homes, Inc., 776 So. 2d at 80. Because the judge in Ex parte Jim Walter Homes had been appointed by a presiding judge who did not have the authority to appoint

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his successor, this Court held that the judicial appointment of the successor was not valid, vacated the presiding judge's orders transferring the case to his successor, and vacated the successor judge's orders in the case.

In accordance with Ex parte Jim Walter Homes, when Presiding Judge Woodruff disqualified himself from this case, he no longer had authority to appoint his successor or to enter the order appointing Judge Fannin.¹ Therefore, Presiding Judge Woodruff's appointment of Judge Fannin was not a valid judicial appointment, and that order is vacated. Ex parte K.R., 210 So.3d at 1113. Additionally, because Judge Fannin never had jurisdiction over this case, any orders entered by Judge Fannin are void. Id. Furthermore, because a void judgment will not support an appeal, Tidwell v. State Ethics Comm'n, 599 So. 2d 12, 12 (Ala. 1992), this appeal is dismissed with directions for Presiding Judge Woodruff to

¹The propriety of Presiding Judge Woodruff's recusal is not before us.

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comply with the procedure set forth in Ex parte Jim Walter Homes for securing a valid judicial appointment to hear this case.

TRANSFER ORDER VACATED; APPEAL DISMISSED WITH DIRECTIONS.

Parker, C.J., and Wise, Sellers, and Stewart, JJ.,
concur.