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# ALABAMA COURT OF CIVIL APPEALS

OCTOBER TERM, 2020-2021

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**Karene Stricklin, as conservator and guardian for  
John Gray, an incapacitated person**

v.

**Alabama Cast Iron Pipe Company**

**Appeal from Jefferson Circuit Court  
(CV-19-902322)**

EDWARDS, Judge.

In June 2014, John Gray was employed by Alabama Cast Iron Pipe Company ("ACIPCO"). While acting in the line and scope of his

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employment, Gray suffered a serious head injury. In May 2016, Gray participated in a benefit-review conference before an ombudsman, see Ala. Code 1975, § 25-5-292, at which he executed a benefit-review agreement ("the 2016 benefit-review agreement") releasing ACIPCO of responsibility for providing all future workers' compensation benefits arising out of his work-related injury in exchange for ACIPCO's releasing its substantial subrogation interest in Gray's third-party action against L.B. Foster Company, Inc. Neither ACIPCO nor Gray sought in the circuit court, within 60 days of the 2016 benefit-review agreement, either court approval of that agreement, see Ala. Code 1975, § 25-5-290(f)(2), or to be relieved from the effect of that agreement. See Ala. Code 1975, § 25-5-292(b).

In May 2019, Karene Stricklin, Gray's conservator and guardian, filed in the Jefferson Circuit Court ("the trial court") a complaint seeking workers' compensation benefits on behalf of Gray. In her complaint, Stricklin acknowledged the existence of the 2016 benefit-review agreement. However, she averred that "Gray lacked the mental capacity to understand and/or make an informed decision concerning said

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agreement because of the brain injur[y] he suffered" as a result of the work-related accident, in essence challenging the validity of the 2016 benefit-review agreement.

ACIPCO filed a motion to dismiss Stricklin's action, arguing that the trial court lacked "jurisdiction" to set aside the 2016 benefit-review agreement because, it contended, Stricklin's request had come too late, i.e., more than 60 days after the execution of that agreement.<sup>1</sup> In support

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<sup>1</sup>ACIPCO also challenged whether Stricklin had "standing" to bring an action on Gray's behalf, because, it alleged, she had not been appointed Gray's conservator until after she filed the complaint. Stricklin provided proof that she had been appointed Gray's conservator before the institution of the workers' compensation action, and the trial court did not address the "standing" issue in its judgment. In their respective briefs before this court, neither party addresses that issue, which, we note, is not an issue of standing but, instead, challenges whether Stricklin was the real party in interest or whether she lacked capacity to act on behalf of Gray, neither of which is a matter of subject-matter jurisdiction. See Jakeman v. Lawrence Grp. Mgmt. Co., 151 So. 3d 1083, 1088 (Ala. 2014) (quoting Ex parte BAC Home Loans Servicing, LP, 159 So. 3d 31, 44-45 (Ala. 2013), quoting in turn 13A Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 3531 (3d ed.2008)) (explaining that the concept of "standing" has no role in private-law cases and stating that "in private-law cases such questions as whether 'the present plaintiff is ... entitled to a remedy' is 'better addressed through private-law concepts' such as 'cause-of-action, real-party-in-interest, capacity, intervention, and like concepts'"). Therefore, we will not consider that issue in this opinion.

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of its motion to dismiss, ACIPCO relied on § 25-5-290(f)(2), which provides that, if neither party seeks court approval of the benefit-review agreement entered at the benefit-review conference within 60 days, the agreement "shall be final and irrevocable," and caselaw applying §§ 25-5-290 and 25-5-292, including Ex parte Ford, 782 So. 2d 185 (Ala. 2000). ACIPCO attached to its motion the 2016 benefit-review agreement, the benefit-review-conference affidavit executed by Gray, and an acknowledgment of satisfaction executed by Gray.<sup>2</sup>

Stricklin filed a response in opposition to the motion to dismiss. Citing McAlister v. Deatherage, 523 So. 2d 387, 388 (Ala. 1988), she argued that the 2016 benefit-review agreement was void ab initio because, she said, Gray had lacked the capacity to enter into it because of his inability to understand the contents of that agreement. See Ala. Code 1975, § 8-1-170 (providing that, subject to certain exceptions, "all contracts of an insane person are void"); see also Lloyd v. Jordan, 544 So. 2d 957,

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<sup>2</sup>As noted in note 1, supra, ACIPCO challenged Stricklin's status as Gray's conservator at the time she instituted the workers' compensation action. ACIPCO attached documents relevant to that issue to its motion to dismiss, as well, but they have no bearing on the issues on appeal.

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959 (Ala. 1989) (quoting 17 C.J.S. Contracts § 133(1), at 855-57 (1963)) ("There is no contract where one of the parties was, by reason of physical debility, age, mental aberration, or otherwise, incapable of understanding and appreciating the nature, force, and effect of the agreement he is alleged to have made, as where he was unable to do so because insane, or mentally infirm, or because of incapacity resulting from lunacy, idiocy, senile dementia or imbecility, or any other defect or disease of the mind, whatever the cause ....' "); and Dougherty v. Powe, 127 Ala. 577, 579, 30 So. 524, 525 (1900) ("One of the essential elements to the validity of a contract is the concurring assent of two minds. If one of the parties to a contract is insane at the time of its execution, this essential element is wanting."). Stricklin contended that the 60-day restriction on seeking to set aside a benefit-review agreement set out in § 25-5-292(b) would apply to an otherwise valid agreement, but cannot properly be applied to a purported agreement that is void ab initio. See Mason v. Acceptance Loan Co., 850 So. 2d 289, 295 (Ala. 2002) (stating that a challenge based on § 8-1-170 is "a challenge to the very existence of the contract"). Stricklin attached to her response the affidavit of Gray's wife, Neisa Gray, who

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stated that Gray had difficulty understanding and following written instructions after his head injury, and the affidavit of Dr. Diane Counce, who opined that, based on her examination of Gray and her review of Gray's medical records, Gray "lacked the mental capacity to understand and appreciate the effect" of the 2016 benefit-review agreement at the time he signed it.<sup>3</sup>

After a hearing, the trial court entered a judgment dismissing Stricklin's complaint based on its determination that it lacked subject-matter jurisdiction over her action based on the 60-day limit set out in § 25-5-292(b) and the analysis of that Code section in Ex parte Ford. After her postjudgment motion was denied by operation of law, Stricklin timely appealed the trial court's judgment to this court.<sup>4</sup>

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<sup>3</sup>Like ACIPCO, Stricklin also appended to her response to ACIPCO's motion to dismiss documents relating to her appointment as Gray's conservator. Those documents have no bearing on the issues in this appeal.

<sup>4</sup>The trial court purported to deny Stricklin's postjudgment motion by an order entered on February 11, 2020; however, Stricklin's postjudgment motion, which was filed on November 4, 2019, had been denied by operation of law on February 3, 2020. See Rule 59.1, Ala. R. Civ. P.; Rule 6(a), Ala. R. Civ. P.; Williamson v. Fourth Ave. Supermarket, Inc., 12 So. 3d 1200, 1204 (Ala. 2009) (explaining that, if the last day of

The trial court characterized ACIPCO's motion as having been filed pursuant to Rule 12(b)(1), Ala. R. Civ. P., which addresses the dismissal of an action on the ground that the trial court lacks subject-matter jurisdiction. We note that the fact that ACIPCO supported that portion of its motion to dismiss with matters outside the pleadings does not convert the motion into a summary-judgment motion. "Unlike a motion pursuant to subsection (6) of Rule 12(b), a motion under subsection (1) of that rule is a 'speaking' motion that may be supported or opposed by materials outside the complaint, i.e., '[e]videntiary matters may be freely submitted on a motion to dismiss that attacks jurisdiction.'" Hutchinson v. Miller, 962 So. 2d 884, 886 n.2 (Ala. Civ. App. 2007) (quoting Williams v. Skysite Commc'ns Corp., 781 So. 2d 241, 245 (Ala. Civ. App. 2000)). Thus, we will review the trial court's judgment under the standard applicable to motions to dismiss for lack of subject-matter jurisdiction.

"Because the trial court's judgment grants a motion to dismiss for lack of subject-matter jurisdiction, rather than for

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the 90-day period provided in Rule 59.1 falls on a weekend day or a holiday, Rule 6(a) applies to extend the expiration of the 90-day period to the next business day after that weekend or holiday).

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failure to state a claim, we will review the judgment de novo, with no presumption of correctness, in accordance with Hutchinson v. Miller, 962 So. 2d 884, 887 (Ala. Civ. App. 2007), and State Dep't of Revenue v. Arnold, 909 So. 2d 192, 193 (Ala. 2005)."

Hill v. Hill, 89 So. 3d 116, 117-18 (Ala. Civ. App. 2010).

We cannot agree with the trial court that it lacked subject-matter jurisdiction to consider the workers' compensation action filed on Gray's behalf if the 2016 benefit-review agreement was void ab initio based on Gray's alleged incompetence or insanity. As our supreme court has explained:

"Jurisdiction is '[a] court's power to decide a case or issue a decree.' Black's Law Dictionary 867 (8th ed. 2004). Subject-matter jurisdiction concerns a court's power to decide certain types of cases. Woolf v. McGaugh, 175 Ala. 299, 303, 57 So. 754, 755 (1911) ('By jurisdiction over the subject-matter is meant the nature of the cause of action and of the relief sought.'" (quoting Cooper v. Reynolds, 77 U.S. (10 Wall.) 308, 316, 19 L. Ed. 931 (1870))). That power is derived from the Alabama Constitution and the Alabama Code. See United States v. Cotton, 535 U.S. 625, 630-31, 122 S. Ct. 1781, 152 L. Ed. 2d 860 (2002)(subject-matter jurisdiction refers to a court's 'statutory or constitutional power' to adjudicate a case)."

Ex parte Seymour, 946 So. 2d 536, 538 (Ala. 2006). The circuit court is undoubtedly the proper court in which to bring a workers' compensation



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action or to challenge an allegedly void agreement settling workers' compensation claims. See Ala. Code 1975, § 25-5-88. Even if § 25-5-292(b) prevents a circuit court from exercising its power to set aside a benefit-review agreement on the grounds of "fraud, newly discovered evidence, or other good cause" after the expiration of the 60-day period, Stricklin's argument is not that the 2016 benefit-review agreement should be set aside for "other good cause"; instead, Stricklin's argument is that the 2016 benefit-review agreement did not and does not exist as a legal matter because Gray lacked the requisite capacity to form mutual assent and therefore to enter a contract in the first place. See, e.g., Lloyd, 544 So. 2d at 959; Daugherty, 127 Ala. at 579, 30 So. at 525. Thus, the trial court has subject-matter jurisdiction to consider Stricklin's challenge to the validity of the 2016 benefit-review agreement based on her argument that Gray's insanity or incapacity prevented him from entering that agreement and that the agreement was therefore void ab initio.

Because the trial court granted ACIPCO's motion to dismiss on the express ground that it lacked subject-matter jurisdiction, it did not consider Stricklin's argument regarding the validity of the 2016 benefit-

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review agreement. However, ACIPCO argues in its brief on appeal that Stricklin's reliance on § 8-1-170 is misplaced and that § 8-1-170 does not "supersede the specific provisions" of Ala. Code 1975, § 25-5-290 et seq., which created the workers' compensation ombudsman program. As Stricklin contends, Alabama law provides that any contract is void if it was entered into by a person who lacked the requisite mental capacity;<sup>5</sup> this legal principle is a long-standing one in Alabama and was part of the common law before the enactment of Ala. Code 1907, § 3348, a predecessor statute to § 8-1-170. See, e.g., Lloyd, 544 So. 2d at 959; McAlister, 523 So. 2d at 386 (quoting Weaver v. Carothers, 228 Ala. 157, 160, 143 So. 201, 202 (1934), and explaining the long-standing test regarding the proof of insanity necessary to void a contract); Walker v. Winn, 142 Ala. 560, 564, 39 So. 12, 13 (1905) ("Whatever may be the rulings by the courts of other

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<sup>5</sup>The legislature has created three exceptions to this general rule, none of which is relevant in the present case. See § 8-1-170 (excepting from the general rule "contracts of fire and tornado insurance wherein the insane person is the beneficiary"), Ala. Code 1975, § 8-1-171 (providing that a real-estate sales contract entered in good faith and without knowledge of the insanity is valid), and Ala Code 1975, § 8-1-172 (providing that a mortgage contract entered in good faith and without knowledge of the insanity is valid).

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jurisdictions upon the question, this court is fully committed to the doctrine that the contract of an insane person is absolutely void."); and Dougherty, 127 Ala. at 579, 30 So. at 525. Although they have not always been successful, some challenges to workers' compensation settlements, albeit not benefit-review agreements, have been premised on this principle. Williams v. City of Northport, 557 So 2d 1272, (Ala. Civ. App. 1989) (affirming the denial of a Rule 60(b), Ala. R. Civ. P., motion seeking to set aside a court-approved settlement of a workers' compensation claim on the basis of incompetence because the trial court had rejected the evidence indicating that the employee was incompetent and not because incompetence was not a legal basis for setting aside the settlement); Brown v. Murray Sec. Guard Co., 404 So. 2d 79, 80 (Ala. Civ. App. 1981) (reversing the denial of a Rule 60(b) motion based on proof of the incompetency of the employee). Although they provide that a benefit-review agreement is irrevocable after 60 days and prevent a court from setting aside a benefit-review agreement after the expiration of that 60-day period, neither § 25-5-290(f)(2) nor § 25-5-292(b) addresses the validity of a benefit-review agreement entered into by an incompetent or

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insane employee; thus, those statutes do not, as ACIPCO suggests, prevent the application of the general law declaring contracts entered into by insane or incompetent persons void. See, e.g., Baldwin Cnty. v. Jenkins, 494 So. 2d 584, 588 (Ala. 1986) (explaining that, "[w]here two statutes are related to the same subject and embrace the same matter, a specific or particular provision is controlling over a general provision" (emphasis added)); Murphy v. City of Mobile, 504 So. 2d 243, 244 (Ala. 1987) ("There is a rule of statutory construction that specific provisions relating to specific subjects are understood as exceptions to general provisions relating to general subjects."). We therefore reverse the judgment of the trial court dismissing Stricklin's action, and we remand the cause for the trial court to consider Stricklin's claim that the 2016 benefit-review agreement was void ab initio based on Gray's alleged insanity or incompetency at the time of its execution, and, if so, to entertain Stricklin's workers' compensation claim filed on behalf of Gray.

REVERSED AND REMANDED WITH INSTRUCTIONS.

Thompson, P.J., and Donaldson and Hanson, JJ., concur.

Moore, J., concurs in the result, without writing.