A Void Judgment Can Be Worth the Paper It Is Printed On

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The U.S. Supreme Court recently granted *certiorari* to consider a case in which the Sixth Circuit affirmed a bankruptcy court's denial of a Rule 60(b)(4) motion to vacate a purported void judgment. The Federal Rules of Bankruptcy Procedure, with a few exceptions and some modifications, adopt the Federal Rules of Civil Procedure in the bankruptcy case and adversary proceedings. The Sixth Circuit's application of these rules in *Coney Island Auto Parts Unlimited, Inc. v. Burton (In re Vista-Pro Automotive, LLC)*, 109 F.4th 438 (6th Cir. 2024), held that a purported void judgment could be enforced against a dilatory judgment debtor, and the U.S. Supreme Court will now consider this departure from the holdings of several other circuits. As debated below, the decision on this issue will have implications beyond the bankruptcy courts—and even into state courts—which practitioners should consider in advising their clients.

Majority Requires Timeliness

The court's ruling placed the emphasis where it belonged—on what the Federal Rules of Civil Procedure plainly say. Rule 60(c)(1) states that all motions under Rule 60(b) must be filed within a reasonable time and Appellant's motion under Rule 60(b)(4) was subject to that requirement. The Rule's unequivocal language precludes any other result.

The court found support in *United States v. Dailide*, 316 F.3d 611 (6th Cir. 2003), in which Dailide waited four years to move to vacate a judgment under Rule 60(b)(4). Dailide argued that the lower court had entered judgment without subject-matter jurisdiction, and so the judgment was void. The Sixth Circuit affirmed the district court's denial of his motion, holding that a Rule 60(b)(4) motion is only cognizable if brought within a reasonable time, and his delay made his motion untimely.

The appellant (and the dissent) attempted to distinguish *Dailide* because it concerned subject-matter jurisdiction, as opposed to personal jurisdiction, and argued that the latter implicates due-process rights. But the court correctly dispensed with appellant's due-process arguments. For one, the appellants did not challenge Rule 60 on constitutional grounds—it only argued that *Dailide*'s holding was limited to challenges to judgments void for lack of subject-matter jurisdiction. However, Rule 60(c)(1) places a timeliness requirement on *all* motions for relief from void judgments. Certainly, one cannot argue that a judgment entered without personal jurisdiction is more void than one entered with a lack of subject-matter jurisdiction. As the court noted, a void judgment is a void judgment, and Rule 60(c)(1) does not distinguish between types of void judgments. Moreover, personal jurisdiction, unlike subject-matter jurisdiction (as was the issue in *Dailide*), is waivable. And as a practical matter, due process was not implicated here because the appellant became aware of the judgment in 2016 and sat on its rights until 2022.

Because the court relied upon the plain language of the rule, a large portion of its analysis was targeted at the dissent's misapplication of inapposite case law. The dissent relied upon *Antonie v. Atlas Turner, Inc.*, 66 F.3d 105 (6th Cir. 1995), which also concerned a Rule 60(b)(4) motion. But the *Antonie* court never mentioned the timeliness issue, and it is improper to speculate as to a court's holding on issues it elects not to address. Likewise, the dissent's reliance on *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260 (2010), was misguided, as *Espinosa* also failed to address the timeliness issue.

Finally, the court noted that its decision comports with basis equitable principles. Not only do the rules and circuit precedent compel the result reached, so does common sense and equity. A judgment debtor sitting on its rights for years prejudices the judgment holder, undermines the finality of judgments and "upsets reliance interests." As the court said, "[i]t is not clear why Rule 60 should be given an atextual meaning to permit such results." And on the flip side, requiring timely motions for relief from void judgments does not leave a judgment debtor with no recourse. Ultimately, a court faced with this issue will look to the facts of the case, including the reason for the delay, in determining what constitutes an "unreasonable" delay.

In so holding for the appellees, the court refused to chase phantoms and provided the only outcome that is faithful to the rule's plain language. Indeed, if the drafters meant to prevent a district court from ever dismissing 60(b)(4) motions as untimely, mandating a reasonable-time limit for such motions was "an odd way to express it."

Dissent Requires Due Process

Judge McKeague's dissenting opinion provides a well-reasoned counterargument to the Sixth Circuit's decision categorically barring a Rule 60(b) motion to vacate on the basis of untimeliness alone. The dissent provides an arguably more common sense interpretation of the federal rule at issue, and, relying on binding Supreme Court precedents, gives the appropriate weight to due process.

Rule 60(b)(4) provides that "[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding" where "the judgment is void." Rule 60(c)(1) provides that a "motion under Rule 60(b) must be made within a reasonable time." The majority interpreted this term "reasonable" to mean that equity permits a court to enforce a default judgment against a party if that party takes too long to protest the court's authority, even if that party never received proper service—a constitutional prerequisite for a valid suit—because acknowledging a violation of due process or jurisdictional error "does not tell us what to

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do about a void judgment."

Judge McKeague thought that acknowledging a jurisdictional defect does tell us what to do: *set aside the judgment. Id.* at 452. "A federal rule cannot alter a constitutional requirement." *Mahon v. Ticor Title Ins. Co.*, 683 F.3d 59, 64 (2d Cir. 2012). Nor should it be interpreted to do so. See, generally, *St. Martin Evangelical Lutheran Church v. S. Dakota*, 451 U.S. 772, 780, 101 S. Ct. 2142, 2147, 68 L. Ed. 2d 612 (1981) ("[a] statute, of course, is to be construed, if such a construction is fairly possible, to avoid raising doubts of its constitutionality"). The dissent offers a practicable and straightforward alternative reading: *any time* in seeking to set aside a judgment which lacks jurisdiction could be a "reasonable" time. This does not require the fairness based, "fact-specific inquiry" which the majority embraces, and thereby prevents the curious emersion of a simultaneously void but enforceable judgment.

The majority relied on *United States v. Dailide*, 316 F.3d 611, 618-19 (2003), a prior Sixth Circuit decision in which a four-year delay in moving to set aside a citizenship revocation, entered pursuant to a federal statute, was deemed to be an unreasonably long time. However, the dissent points out *United Student Aid Funds, Inc. v. Espinosa,* which cites with approval 11 Fed. Prac. & Proc. Civ. § 2862 (3d ed.), an authority stating that time alone does not render a void judgment valid. Besides that, the dissent further emphasizes that personal jurisdiction is an "essential element" of a court's jurisdiction, "without which the court is 'powerless to proceed to an adjudication.'" This requirement of personal jurisdiction "represents a 'restriction on judicial power' and is framed as a 'matter of individual liberty.'" Whereas subject matter jurisdiction is often a statutory matter, personal jurisdiction is a requirement "rooted in fundamental due process principles, ensuring that parties to a suit are legitimately subject to a court's lawful authority before the court adjudicates their rights."

So yes, despite the absence of a carve-out in the reasoning in *Dailide* for decisions lacking personal jurisdiction, "a judgment obtained without personal jurisdiction" is arguably "more void than one obtained without subject-matter jurisdiction." Assuming *Dailide* is not undermined by these Supreme Court authorities, it can be distinguished from the instant case, wherein there was an allegedly unconstitutional defect in due process.

For these reasons, the dissent offers a potentially more sound alternative reading to Federal Rule 60(b)-(c) to the one proposed by the majority and warrants the Supreme Court's consideration on cert.

The Choice with a Void Judgment

The U.S. Supreme Court has stated that a defendant who contests jurisdiction has a choice: (1) Submit to the jurisdiction of the court for the limited purpose of challenging jurisdiction and agree to abide by the court's determination, subject to appeal; or (2) Ignore the judicial proceedings, risk a default judgment and then challenge that judgment on jurisdictional grounds in a collateral proceeding. An assumption underlying this case was that the judgment was in fact void. Rather than having a registered agent, the entity had identified itself as its own registered agent. While the U.S. Supreme Court may hold that "any time" is a reasonable time for a Rule 60(b)(4) motion, the bankruptcy court may decide service was valid on remand. Ignoring proceedings—even if not subject to jurisdiction—comes with inherent risks, which should be considered in advising clients both in and outside of bankruptcy.

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