

STATE OF TENNESSEE

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Opinion No. 04-090

Authority of General Sessions Judge to Correct a Judgment: Revision

QUESTION

What power does a general sessions court have to correct its judgments and/or orders?

OPINION

Under Tenn. Code Ann. § 16-15-727, a general sessions court may correct opinions for clerical errors to the same extent as circuit and chancery courts under Rule 60.01 of the Tennessee Rules of Civil Procedure. But the Court of Appeals for the Western Section has recently held that the statute does not authorize a general sessions court to “relieve a party or the party’s legal representative” from a final judgment to the same extent as circuit and chancery courts under Rule 60.02 of the Tennessee Rules of Civil Procedure. Further, we think a court would conclude that the statute does not authorize a general sessions court to “alter or amend” its judgment to the same extent as chancery and circuit courts under Rule 59 of the Tennessee Rules of Civil Procedure.

ANALYSIS

This opinion concerns the power of a general sessions judge to correct his or her judgments and/or orders. Under Tenn. Code Ann. § 27-5-108, a party may appeal a general sessions court decision to the circuit court within ten days. The appeal is heard *de novo* in circuit court. If no appeal is taken within that time, execution may issue. General sessions courts are created and operate under Tenn. Code Ann. §§ 16-15-101, *et seq.* Jurisdiction of courts of general sessions is addressed in Tenn. Code Ann. §§ 16-15-501, *et seq.* Tenn. Code Ann. § 16-15-727 provides as follows:

General sessions courts have the same power to correct the judgments rendered by them that courts of record have. The party asking the correction shall give the adverse party five (5) days’ notice of the time and place of the intended application to correct the judgment, and from which judgment, so corrected, either party may appeal, or stay it, as in cases of original judgments before general sessions courts.

The request includes a copy of House Bill 2742 and a proposed amendment No. 1. The bill adds a new subsection (b) to Tenn. Code Ann. § 16-15-727 and designates the existing language as

subsection (a). Under the new subsection (b), a general sessions court is authorized to “relieve a party or the party’s legal representative from a final judgment, order or proceeding” for several reasons, including mistake, fraud, or the fact that the judgment is void or has been satisfied. The motion must be made within a reasonable time, but not more than one year after the judgment, order, or proceeding was entered or taken. Amendment 1 rewrites the bill. The amendment deletes Tenn. Code Ann. § 16-15-727 and substitutes the following language:

The provisions of Rule 60 of the Tennessee rules of civil procedure relative to correction of judgments shall apply to all courts of general sessions. The judge of such a court shall have the same authority to correct judgments and may do so under the same circumstances and time limits and in the same manner as is provided in rule 60.

Rule 60 of the Tennessee Rules of Civil Procedure contains two sections. Under Section 60.01, chancery and circuit courts may correct clerical mistakes in judgments, orders, or other parts of the record, and errors arising from oversight or omissions.¹ Under Section 60.02, on motion and upon such terms as are just, chancery and circuit courts may relieve a party or the party’s legal representative from a final judgment, order, or proceeding for several reasons, including mistake, fraud, or the fact that the judgment is void or has been satisfied.

The request also includes a copy of an unreported opinion of the Tennessee Court of Appeals. *Schein v. Watts*, E1999-02128-COA-R3-CV (M.S. Tenn. Ct. App. February 28, 2000). Although this case is relevant to the question, more recent authority directly addresses this issue. The Court of Appeals for the Western Section has concluded that a general sessions court does not have the authority to set aside its judgment under Rule 60.02 of the Tennessee Rules of Civil Procedure. *Caldwell v. Wood*, W2003-00303-COA-R3-CV (February 27, 2004). A copy of that opinion is attached. No application for permission to appeal this case has been filed. Either House Bill 2742 or Amendment 1 to the bill would explicitly extend the power of general sessions courts to include the authority under Rule 60.02 of the Tennessee Rules of Civil Procedure.

Rule 59 of the Tennessee Rules of Civil Procedure authorizes a chancery or circuit court to “alter or amend” a judgment upon a motion or on its own incentive within thirty days after entry of judgment. We think a court would conclude that Tenn. Code Ann. § 16-15-727 does not give general sessions courts this authority. This conclusion is based on two reasons. First, by its terms, the statute only gives a general sessions court the authority to “correct” a judgment. Second, Rule 59 authorizes trial courts to alter or amend a judgment within thirty days of entry. But a general sessions order must be appealed within ten days of entry. Tenn. Code Ann. § 16-15-727, therefore,

¹ Tenn. Code Ann. § 16-15-727, by its terms, gives general sessions courts the same power to correct their judgments as “courts of record.” Presumably, this term includes criminal courts governed by the Tennessee Rules of Criminal Procedure. Under Rule 36 of the Tennessee Rules of Criminal Procedure, courts of record have authority to correct clerical errors similar to that accorded chancery and circuit courts under Rule 60.01 of the Tennessee Rules of Civil Procedure.

does not authorize a general sessions court to “alter or amend” its judgment to the same extent as trial courts under Rule 59 of the Tennessee Rules of Civil Procedure.

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