

David DAVISON v. The Honorable Andre McNEIL
Chancery Judge, Searcy County, Arkansas, 20th Judicial
District

90-280

804 S.W.2d 369

Supreme Court of Arkansas
Opinion delivered March 11, 1991.

PROHIBITION — TEMPORARY WRIT VALID ONLY AS LONG AS CASE REMOVED TO FEDERAL COURT — ONCE CASE REMANDED TO STATE COURT, TEMPORARY WRIT DISSOLVED — AMENDED PETITION AND EMERGENCY MOTION FOR CONTEMPT MOOT. — Where the supreme court had previously prohibited the chancellor from hearing Marilyn Davison v. David Davison as long as the case was removed to federal district court, and where the district court remanded the case to state court and denied reconsideration and an appeal was dismissed, petitioner's amended petition for a writ of prohibition and emergency motion for contempt, alleging that the respondent was proceeding irrespective of the temporary stay issued by the supreme court, were denied as moot and the temporary writ against the chancery court was dissolved.

Temporary Writ of Prohibition dissolved.

David Davison, pro se.

Karen J. Swogger, for appellee.

[1] PER CURIAM. On February 7, 1991, David Davison filed an amended petition for a writ of prohibition to the Searcy Chancery Court enjoining that court from proceeding with a February 7, 1991, hearing. The petition alleges that this court had previously prohibited the chancellor from hearing a case styled Marilyn Davison (now Mason) v. David Davison as long as the case was removed to the United States District Court for the Western District of Arkansas. The amended petition alleged that the respondent chancery judge of Searcy County was proceeding irrespective of the temporary stay issued by this Court.

Exhibits to the response of Marilyn Davison Mason, filed February 19, 1991, reflect that by order of July 27, 1990, the United States District Court remanded the case to state court upon the failure of David Davison to amend his notice of removal

within the eleven days allowed, noting that he failed to supply information as to whether the removal to federal court was timely. On August 28, 1990, a motion for reconsideration by David Davison was denied and on February 11, 1991, the United States Court of Appeals for the Eighth Circuit dismissed Davison's appeal as frivolous.

For the reasons stated, the amended petition for writ of prohibition and emergency Motion for Contempt are denied as moot and the temporary writ of prohibition is dissolved. Respondent's prayer for sanctions pursuant to A.R.C.P. Rule 11 is denied.
