

Rel: April 2, 2021

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# SUPREME COURT OF ALABAMA

OCTOBER TERM, 2020-2021

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1190918

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**Ex parte Alexandra Grace Miller**

**PETITION FOR WRIT OF MANDAMUS**

**(In re: Ralph Mitchell**

**v.**

**Alexandra Grace Miller, a minor, and State Farm Mutual  
Automobile Insurance Company)**

**(Madison Circuit Court, CV-18-900074)**

SHAW, Justice.

1190918

Alexandra Grace Miller, a defendant in this personal-injury action, petitions this Court for a writ of mandamus directing the Madison Circuit Court to vacate its order purporting to grant the postjudgment motion of the plaintiff, Ralph Mitchell, seeking a new trial. We grant the petition and issue the writ.

### Facts and Procedural History

Miller and Mitchell were involved in a motor-vehicle accident in May 2017. Mitchell subsequently sued Miller in the Madison Circuit Court, where the matter proceeded to a jury trial in January 2020.<sup>1</sup> At the conclusion of the trial, the trial court granted Mitchell's motion for a judgment as a matter of law on the issue of liability; the jury subsequently returned a verdict awarding Mitchell damages totaling \$22,368 -- the exact amount of medical expenses that Mitchell alleged at trial. The trial court entered a judgment on the jury's verdict on January 31, 2020. On

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<sup>1</sup>Mitchell also named State Farm Mutual Automobile Insurance Company, his own automobile-insurance carrier, as a defendant and sought to recover uninsured/underinsured-motorist benefits under his policy. See generally Lowe v. Nationwide Ins. Co., 521 So. 2d 1309, 1310 (Ala. 1988).

1190918

February 10, 2020, Mitchell filed a timely postjudgment motion seeking a new trial on the ground that the jury's verdict allegedly erroneously failed to also include an award for "physical pain and suffering."<sup>2</sup> The trial court scheduled Mitchell's postjudgment motion for a hearing to be held on March 17, 2020.

On March 13, 2020, this Court, in response to the COVID-19 pandemic, issued an "Administrative Order Suspending All In-Person Court Proceedings for the Next Thirty Days," i.e., from March 16, 2020, through April 16, 2020, in "[t]he local and state courts of the State of Alabama." Among other things, the order provided:

"This order expressly does not prohibit court proceedings by telephone, video, teleconferencing, or other means that do not involve in-person contact. This order does not affect courts' consideration of matters that can be resolved without in-person proceedings.

"Any deadlines that are set by or subject to regulation by this Court that are set to expire between March 16, 2020 and April 16, 2020, are hereby extended to April 20, 2020. This

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<sup>2</sup>Although Mitchell's motion did not reference any particular Rule of Civil Procedure, it specifically requested a new trial and was, therefore, presumably filed pursuant to Rule 59, Ala. R. Civ. P., which applies to "new trials" and to "amendment of judgments."

1190918

Court cannot extend any statutory period of repose or statute of limitations period."

(Emphasis added.) The trial court, on that same date, despite this Court's suspension of in-person court proceedings through April 16, continued the scheduled hearing on Mitchell's postjudgment motion until April 14, 2020.<sup>3</sup>

On March 15, 2020, this Court issued a follow-up administrative order clarifying that "[t]he March 13, 2020, order is limited to in-person courtroom proceedings." On March 17, 2020, this Court issued "Administrative Order No. 3 Pertaining to the Briefing and Filing Deadlines in the Appellate Courts." In that order, this Court, as indicated, clarified deadlines for filings to our appellate courts and further explained that the March 13, 2020, administrative order "shall not be interpreted as extending any statutory period of repose, any statute of limitations, or jurisdictional limitations provided for by statute or rule."

(Emphasis added.) A subsequent administrative order issued by this

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<sup>3</sup>The trial court's order specifically provided that, if either party believed that the matter was "too urgent to wait until the April setting," an earlier telephone hearing could be arranged.

1190918

Court further extended the suspension of in-person court proceedings until April 30, 2020, but again encouraged the use of telephone and videoconferencing technologies.

On April 6, 2020, the trial court entered a new order continuing "all hearings" in the case until May 12, 2020. Pursuant to Rule 59.1, Ala. R. Civ. P., however, Mitchell's postjudgment motion was deemed denied by operation of law on May 11, 2020.<sup>4</sup> There is nothing in the materials before us suggesting either that the parties expressly consented to an extension of the 90-day deadline established by Rule 59.1 or that Mitchell objected to the rescheduled hearing dates on the ground that the continued hearing was set to occur more than 90 days after he filed his postjudgment motion.

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<sup>4</sup>Generally, Rule 59.1 provides for the denial by operation of law of any postjudgment motion filed pursuant to Rules 50, 52, 55, or 59, Ala. R. Civ. P., that has remained pending in the trial court for 90 days. However, the 90th day following February 10, 2020, was Sunday, May 10, 2020; therefore, Mitchell's postjudgment motion was deemed denied on Monday, May 11. See Williamson v. Fourth Ave. Supermarket, Inc., 12 So. 3d 1200, 1204 (Ala. 2009); Rule 6(a), Ala. R. Civ. P.

1190918

Thereafter, an additional administrative order issued by this Court further extended the deadline suspending in-person court proceedings until May 15, 2020. The scheduled hearing on Mitchell's motion was again continued until June 16, 2020. Miller filed, on June 11, 2020, a response in opposition to Mitchell's postjudgment motion.

Subsequent to the scheduled hearing, which allegedly occurred on the trial court's first docket after in-person court proceedings resumed, the trial court, on June 18, 2020, entered an order purporting to grant Mitchell's postjudgment motion seeking a new trial. Thereafter, Miller filed a "Motion to Vacate" in which she argued that Mitchell's postjudgment motion had actually previously been denied by operation of law and that the trial court's order purporting to grant that motion was entered well after the 90-day deadline to rule on such a motion, which, she argued, had not been extended by the administrative orders issued by this Court.<sup>5</sup> Accordingly, Miller argued that the trial court's order purporting

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<sup>5</sup>Miller further noted that, even assuming that this Court's administrative orders could have been interpreted as extending the deadline provided in Rule 59.1, "the deadline would have only been extended at most to May 15, 2020."

1190918

to grant Mitchell's postjudgment motion was void because, she said, the trial court lacked jurisdiction to enter it. The trial court did not rule on Miller's motion to vacate but set it for a hearing on August 11, 2020, which was more than 42 days after the entry of the June 18, 2020, order purporting to grant Mitchell's postjudgment motion. See Rule 21(a)(3) and Rule 4(a)(1), Ala. R. App. P. Miller then filed this mandamus petition;<sup>6</sup> we subsequently ordered answers and briefs.

#### Standard of Review

"Mandamus is a drastic and extraordinary writ, to be issued only where there is (1) a clear legal right in the petitioner to the order sought; (2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; (3) the lack of another adequate remedy; (4) properly invoked jurisdiction of the court."

Ex parte Integon Corp., 672 So. 2d 497, 499 (Ala. 1995).

"A petition for a writ of mandamus is the proper method for obtaining review of a trial court's authority to rule on a posttrial motion beyond the time period set forth in Rule 59.1, Ala. R. Civ. P. See Ex parte Chamblee, 899 So. 2d 244, 244-45 (Ala. 2004) (granting petitions for the writ of mandamus that

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<sup>6</sup>Miller originally filed her petition with the Alabama Court of Civil Appeals, which transferred the petition to this Court pursuant to § 12-3-15, Ala. Code 1975.

1190918

'implicate[d] the authority of the trial judge under Rule 59.1....'). See also Ex parte Davidson, 782 So. 2d 237 (Ala. 2000), in which this Court issued the writ of mandamus setting aside the trial court's order, entered after posttrial motions had been denied by operation of law pursuant to Rule 59.1, as void."

Ex parte Jackson Hosp. & Clinic, Inc., 49 So. 3d 1210, 1211 (Ala. 2010).

### Discussion

It is undisputed that more than 90 days had elapsed between the time Mitchell filed his postjudgment motion and the date the trial court entered its order purporting to grant that motion. Further, as noted above, there is nothing indicating that the 90-day period provided for in Rule 59.1 was extended by express consent of all the parties before its expiration. In her mandamus petition, Miller renews her argument that the trial court lacked jurisdiction to grant Mitchell's postjudgment motion because, she says, it had already been denied by operation of law.

At all times relevant to this case, Rule 59.1 provided:

"No postjudgment motion filed pursuant to Rules 50, 52, 55, or 59[, Ala. R. Civ. P.,] shall remain pending in the trial court for more than ninety (90) days, unless with the express consent of all the parties, which consent shall appear of record, or unless extended by the appellate court to which an appeal of the judgment would lie, and such time may be further

1190918

extended for good cause shown. A failure by the trial court to render an order disposing of any pending postjudgment motion within the time permitted hereunder, or any extension thereof, shall constitute a denial of such motion as of the date of the expiration of the period."<sup>7</sup>

At the expiration of the 90-day period provided by the rule, the trial court loses jurisdiction to rule on the postjudgment motion. See Ex parte Jackson Hosp. & Clinic, Inc., 49 So. 3d at 1212 (explaining that the trial court's order purporting to rule on a postjudgment motion "was void because [the trial court] lost jurisdiction after the running of the 90-day period prescribed by Rule 59.1"), Ex parte Davidson, 782 So. 2d 237, 241 (Ala. 2000) ("If a trial judge allows a postjudgment motion to remain pending and not ruled upon for 90 days, then the motion is denied by operation of law at the end of the 90th day and the trial judge then loses jurisdiction to rule on the motion."), Ex parte Caterpillar, Inc., 708 So. 2d 142, 143 (Ala. 1997) ("If a trial court does not rule on a post-judgment motion within 90 days, it loses jurisdiction to rule on the motion."), and Ex parte Hornsby, 663 So. 2d 966, 967 (Ala. 1995). Mitchell responds to

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<sup>7</sup>Rule 59.1 was amended effective October 1, 2020, but that amendment is not applicable in this case.

1190918

Miller's mandamus petition by arguing that this Court's March 13, 2020, administrative order, in addition to suspending in-person court proceedings, also "suspended" any and all applicable deadlines -- "including postjudgment deadlines" -- and thus permitted the trial court to retain jurisdiction beyond the 90-day period provided for in Rule 59.1. We disagree.

This Court's March 13, 2020, order, by its terms, clearly applied to suspend only in-person court proceedings. It further encouraged the resolution of matters, when possible, by alternate means and extended deadlines subject to this Court's regulation. However, the March 13, 2020, order operated to extend only deadlines "set to expire between March 16, 2020 and April 16, 2020" -- an extension that had no effect on any deadline applicable to Mitchell's postjudgment motion.

Our subsequent order, dated March 15, 2020, reiterated that any suspension was "limited to in-person courtroom proceedings." In addition, our March 17, 2020, order further clarified that the March 13, 2020, order specifically did not operate to extend any "jurisdictional limitations provided for by statute or rule." In sum, none of this Court's

1190918

administrative orders issued in March 2020 may be read as extending jurisdictional deadlines, such as the 90-day deadline to rule on a postjudgment motion.

Thus, contrary to Mitchell's claims, there is nothing suggesting that any administrative order of this Court operated to suspend the jurisdictional deadline applicable to a ruling on Mitchell's postjudgment motion under Rule 59.1. Instead, our orders explained that they were not intended to affect established "jurisdictional limitations provided for by statute or rule." Nothing before us indicates that Mitchell could not have obtained the consent of Miller to an extension of the deadline provided in Rule 59.1 before its expiration or, alternatively, have insisted upon a hearing by telephone, videoconferencing, teleconferencing, or other means that did not involve in-person contact before to the denial of his postjudgment motion by operation of law. Finally, no argument has been presented as to why a hearing was needed in this case.

As Miller argues, Mitchell's postjudgment motion seeking a new trial had already been denied by operation of law when the trial court entered its June 18, 2020, order purporting to grant that motion. Because the

1190918

trial court lost jurisdiction after the expiration of the 90-day period prescribed by Rule 59.1, its order is void. See, e.g., Ex parte Jackson Hosp. & Clinic, Inc., 49 So. 3d at 1212, Ex parte Davidson, 782 So. 2d at 241, Ex parte Caterpillar, Inc., 708 So. 2d at 143, and Ex parte Hornsby, 663 So. 2d at 967. That jurisdictional deadline applies even if the trial court's failure to rule within 90 days is inadvertent rather than deliberate. See Howard v. McMillian, 480 So. 2d 1251, 1252 (Ala. Civ. App. 1985) ("Rule 59.1 makes no distinction between an inadvertent failure, a deliberate failure, and any other type of failure by the trial court to dispose of a pending postjudgment motion within the prescribed ninety day period. Any type of failure to rule upon such a motion during such period of time is adequate to bring rule 59.1 into operation."). See also Ex parte Limerick, 66 So. 3d 755, 757 (Ala. 2011).

### Conclusion

Miller has demonstrated both that the trial court lacked jurisdiction to enter the order purporting to grant Mitchell's postjudgment motion seeking a new trial and a corresponding clear legal right to the requested relief. We therefore grant the petition and issue the writ directing the

1190918

Madison Circuit Court to vacate its order purporting to grant, after the expiration of the 90-day period provided in Rule 59.1, Mitchell's postjudgment motion seeking a new trial.

PETITION GRANTED; WRIT ISSUED.

Bolin, Wise, Bryan, Sellers, Stewart, and Mitchell, JJ., concur.

Parker, C.J., concurs in the result.