

**IN THE SUPREME COURT OF MISSISSIPPI**

**NO. 2018-IA-01720-SCT**

***CASEY WEIR***

**v.**

***RENAULTA MAYZE, MARKHAIL MAYZE AND  
TYDARIUS SAGO***

DATE OF JUDGMENT: 11/29/2018  
TRIAL JUDGE: HON. LARITA M. COOPER-STOKES  
TRIAL COURT ATTORNEYS: DESHUN TERRELL MARTIN  
MICHAEL J. TARLETON  
COURT FROM WHICH APPEALED: HINDS COUNTY COUNTY COURT  
ATTORNEY FOR APPELLANT: MICHAEL J. TARLETON  
ATTORNEYS FOR APPELLEES: SAMAC S. RICHARDSON  
VATERIA McQUITTER MARTIN  
DESHUN TERRELL MARTIN  
NATURE OF THE CASE: CIVIL - PERSONAL INJURY  
DISPOSITION: REVERSED AND REMANDED - 01/16/2020  
MOTION FOR REHEARING FILED:  
MANDATE ISSUED:

**BEFORE KITCHENS, P.J., BEAM AND ISHEE, JJ.**

**ISHEE, JUSTICE, FOR THE COURT:**

¶1. In this personal-injury case, we consider whether the trial court erred by denying Casey Weir’s motion to transfer venue. On March 17, 2018, Renaulta Mayze, Markhail Mayze, and Tydarius Sago (“Mayze”) were involved in a vehicle collision with Casey Weir. Mayze filed suit in Hinds County County Court, alleging that the collision had occurred in Hinds County. Weir filed a motion to dismiss or, in the alternative, to transfer venue, alleging that the collision had occurred in Madison County. After review, we find that the

trial judge abused her discretion in denying the motion to transfer venue. We reverse the trial court's decision and remand the case to the Hinds County County Court to be transferred to the Madison County County Court.

## **FACTS**

¶2. On March 17, 2018, Renaulta Mayze, Markhail Mayze, and Tydarius Sago were traveling southbound on I-220 when they were rear-ended by Weir. I-220 is an interstate highway in the Jackson metropolitan area that traverses both Hinds and Madison Counties. Mayze filed suit against Weir in the Hinds County County Court, alleging that the accident occurred in Hinds County. Weir filed a Mississippi Rule of Civil Procedure 12(b)(3) motion to dismiss or, in the alternative, to transfer venue, arguing that venue was not proper in Hinds County because he was not a resident of Hinds County and the accident did not occur in Hinds County. Weir alleged that the accident occurred in Madison County.

¶3. Mayze filed a response to Weir's motion and attached an affidavit stating that the accident occurred in "North Jackson, Mississippi," but he did not submit any further proof. Weir then filed his own affidavit that gave a detailed explanation of where the accident had occurred and included pictures and a copy of the accident report, which stated that the accident had occurred in Ridgeland near mile marker 11. The Ridgeland police officer who responded to the accident was subpoenaed and was present at the hearing, but the judge did not allow the police officer to testify because "[the officer's] police report speaks for itself." The county court heard Weir's motion and denied it. Weir then filed a petition for

interlocutory appeal, which this Court granted.

### STANDARD OF REVIEW

¶4. This Court reviews “a trial court’s grant or denial of a motion for change of venue for an abuse of discretion . . . .” *Wilkerson v. Goss*, 113 So. 3d 544, 547 (Miss. 2013) (internal quotation mark omitted) (quoting *Laurel Ford Lincoln-Mercury, Inc. v. Blakeney*, 81 So. 3d 1123, 1125 (Miss. 2012)). When reviewing fact-based findings, this Court “will only examine whether the trial court abused its discretion and whether there was substantial evidence supporting the determination.” *Johnson v. Rao*, 952 So. 2d 151, 154 (Miss. 2007) (internal quotation mark omitted) (quoting *Triple “C” Transp., Inc. v. Dickens*, 870 So. 2d 1195, 1197-98 (Miss. 2004)). Determination of a factual issue by the trial court is considered “a discretionary ruling” and is “entitled to deferential review . . . .” *Rains v. Gardner*, 731 So. 2d 1192, 1197 (Miss. 1999).

### DISCUSSION

¶5. Mississippi Code Section 11-9-3 (Rev. 2019) provides in relevant part that “[t]he venue of actions, suits and proceedings in the county court shall be the same as that now generally provided, or which may hereafter be provided with respect to the particular action, suit or proceedings.” Mississippi’s general venue statute, Section 11-11-3, states that “[c]ivil actions of which the circuit court has original jurisdiction shall be commenced in the county where the defendant resides . . . or in the county where a substantial alleged act or omission occurred or where a substantial event that caused the injury occurred.” Miss. Code Ann. §

11-11-3(1)(a)(i) (Rev. 2019). Venue is appropriate where Weir resides or where the accident occurred. Weir resides in Rankin County. Mayze chose to file in Hinds County, where she contends the accident occurred. Weir contends the accident actually happened in Madison County.

¶6. At issue here is the trial court’s fact determination regarding the location of the accident. This Court has stated that the plaintiff’s choice of venue must be given the benefit of reasonable doubt and “must be sustained unless in the end there is no credible evidence supporting the factual basis for the claim of venue.” *Flight Line, Inc. v. Tanksley*, 608 So. 2d 1149, 1155 (Miss. 1992); *see also Earwood v. Reeves*, 798 So. 2d 508, 513 (Miss. 2001); *Pisharodi v. Golden Triangle Reg’l Med. Ctr.*, 735 So. 2d 353, 354 (Miss. 1999). “[C]ourts begin with the well-pleaded allegations of the complaint,” which may be “supplemented—and contested—by affidavits or other evidence in cognizable form.” *Tanksley*, 608 So. 2d at 1155; *see also Park on Lakeland Drive, Inc. v. Spence*, 941 So. 2d 203, 207 (Miss. 2006). But if the “plaintiff wishes to defeat a motion to transfer venue, it follows that he or she should be prepared to present some *credible evidence* supporting his or her choice of forum.” *Wilkerson v. Goss*, 113 So. 3d 544, 557 (Miss. 2013).

¶7. Mayze’s complaint alleged that the accident occurred in Jackson in Hinds County, Mississippi. The only evidence Mayze presented is an affidavit, which was not included in the record, that states only that the accident occurred in “North Jackson, Mississippi.” Weir countered with an affidavit that included a detailed explanation of where the accident had

occurred in Madison County, which was consistent with the official accident report of the Ridgeland Police Department. The accident report was attached both to the complaint and to Weir's affidavit stating the accident happened in Ridgeland, in Madison County, Mississippi.

¶8. Weir proffered, in addition to his own affidavit, pictures showing the accident location and an official accident report, which Mayze herself had attached to the complaint. Mayze failed to produce any credible evidence to oppose the motion for change of venue.

### **CONCLUSION**

¶9. Mayze did not meet the burden of presenting credible evidence that venue was proper in Hinds County. The trial court abused its discretion by denying Weir's motion to transfer venue. We reverse the trial court's order and remand this case to the Hinds County County Court to be transferred to the Madison County County Court, the appropriate venue under the general venue statute.

¶10. **REVERSED AND REMANDED.**

**RANDOLPH, C.J., KITCHENS AND KING, P.JJ., COLEMAN, MAXWELL, BEAM, CHAMBERLIN AND GRIFFIS, JJ., CONCUR.**