

COPY

IN THE SUPREME COURT OF MISSISSIPPI

NO.2006-CC-01979

FILED

MAR 05 2007

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Tom Cerrato

v.

Mississippi Employment Security

BRIEF OF THE APPELLANT

DATE:

02/14/2007

PERSON OF INTREST:

TOM CERRATO

COURT FROM WHICH APPEALED:

**CASE NO 2006-TS-01979 in the
WASHINGTON COUNTY CIRCUIT
COURT CASE CI-2006-132**

ATTORNEYS FOR APPELLANT:

TOM CERRATO

NATURE OF THE CASE:

**CIVIL: LACK OF DUE PROCESS
DIRECT APPEAL**

A. TABLE OF CONTENTS

	Page
A. TABLE OF CONTENTS	ii
B. STATEMENT OF ISSUE.iii
C. STATEMENT OF THE CASEiii
1. Chronological Statement of Facts.	iii
1. Loss of Job.iii
2. Had to Move Out of Residence.	iii
3. Left For Florida The 28 th Of February.	iv
4. New 911 Laws on P.O. Boxes.	iv
5. Called Employment Office March 24th	iv
6. Unjustified Employment Security Decision.	v
7. Caused Great Pain & Suffering.	v,vi
D. SUMMARY OF ARGUMENTvi
E. ARGUMENT.	vi,vii
F. CONCLUSION. ..	.vii

B. STATEMENT OF ISSUE

The Denial of Unemployment benefits on time related matters

C. STATEMENT OF THE CASE

Due to consequences beyond my control, the Mississippi Employment Security Commission, denied me the right to any benefits based solely on a 14 calendar day time restriction imposed for filing an appeal, yet the original denial was not received until April 5th, 2006, which was too late for appealing. The original letter states that if you show good cause, then special consideration will be given, but this never was granted. I can show good cause and have many facts that show that the Mississippi Employment Security Commission ignored my efforts. I tried to explain by phone, letter, and facsimile even before I received the original letter, yet was never given credence to any other circumstances, pleas, requests, impositions, or requirements that I had met.

I wish to point out and describe to the court, all relevant facts by chronologically outlining my case stated below.

I plead to the mercy of the Mississippi Supreme Court to rectify my dilemma by awarding me all the rights of due process that I would have had otherwise been given, as well as all monetary compensation, based on continued needs that are still present and all benefits that were denied during the last months of poverty, loss of health, automobile, property, unpaid housing, child-support, and my dignity and belief in the present system. If it pleases the court to honor me this right, then, I will consider this decision as final and just.

1. Chronological Statement of Facts

1. Loss of Job

I was wrongfully discharged on February 3rd, 2006

2. Had to Move Out of Residence

I gave my Landlord notice that I would be relocating to Florida. I wanted to further my career in management and have the benefits that the state unemployment security offers all who are seeking new work after losing their jobs.

I was store manager in Greenville, Mississippi for Radioshack and created much more revenue for the company than other manager. At that time, I felt that the likelihood of me finding the same kind of job here was not promising. I decided my career might be better off in Tampa, Florida where I always wanted to move and later retire. I left for Florida the morning of February 28, 2006. Employment Security still had not sent me a letter by the end of February and I asked my Landlord to stay another month, but he denied me. They had another tenant who applied and was ready to move into my apartment. So I had to be out February 28th, 2006.

3. Left For Florida The 28th Of February

I left for Florida the morning of February 28, 2006. Come to find out later that I just missed that letter of denial that was postmarked February 27, 2006, which was mailed from Jackson, MS. I was counting on receiving unemployment checks when I got to Florida as soon as they were forwarded help me survive and pay living expenses. I surely did not think I was even denied for benefits. That never even crossed my mind. My employer Radioshack asked me to resign and I said I would not because I'm not guilty of anything and that would be saying I'm guilty.

4. New 911 Laws on P.O. Boxes

As soon as I arrived in Tampa Bay, Florida on February 5th, 2006, I went to the nearest Post Office to get a P.O. Box. I was turned down on the spot because the New 911 laws prohibited me a box because I was not a resident of the state yet. I had to have a Florida drivers license first. Without an exact Florida address or utility bill in my name showing proof to obtain a driver's license, I could not obtain a P.O. Box. This put me in a real dilemma which was beyond my control to remedy. I was attempting to prepare myself to receive what I thought would be 4 weeks of unemployment checks. I needed those checks to help with my deposit. With this problem I had to get a roommate. I finally found a place later that I split the rent with another however it was not what I had expected.

5. Called Employment Office March 24th

I still had not received any unemployment checks the day of March 24, 2006. I called the Mississippi Employment Security and talked to ANNA at 601-321-6420 on March 24th, 2006. I called to ask the office where my checks were. She then told me that I had been denied my unemployment and that I had 14 days to appeal the decision, however, the 14 days had elapsed and but that I still needed to respond and appeal because she had told me that I had good cause to believe that, under the circumstances, I had good cause for reconsideration based on the aforementioned circumstances which were beyond my control. I faxed my appeal statement with explanation over that same day and called back for verification of receipt. My mail should have been forwarded as was told by the United States Postal Service to me during and before the time that I should have received any letters of denial, but I didn't receive any pertinent mail from the Mississippi Employment Security Office until April 5th, 2006. This letter was not postmarked for forwarding until March 30th, 2006. This evidence was sent to the supreme court as well. I gave ANNA, at the office, my new address as well as my telephone number in order to remedy any problems.

6. Unjustified Employment Security Decision

I will explain. A lady named Gloria was my assistant manager and we had a good work relationship, but that was always just a professional coworker relationship. Gloria had a real boyfriend and that I had been told by 2 different employees that the night before the incident, that Gloria and her boyfriend were in the back room of

the store for 2 hours. This may not have been against any regulations, yet, as a store manager, I felt very concerned about his presence around large amounts of money knowing that the boyfriend had just been released from incarceration for armed robbery of a Domino's Pizza. When I had heard of this, I approached Gloria with the situation which she denied the length of time, yet Gloria became angered against the 2 employees and threatened harm to one of these 2 female employees. I advised her of her wrongful threats to fight with her, yet an argument ensued off the premises which called for the police to show to stop the argument.

Since this was untrue I wished to explain my fact, yet also, the facts about my dismissal as was originally explained to me do not even match what they told me were the reasons and this was the first time I knew they said these statements against me which may have been detrimental to my case. I only became aware of this fabrication of truth when I saw the paper sent to me from Employment Security on all the records they had. I saw that these statements on me were incorrect and in error about the facts of my dismissal which makes this case more bizarre and hard to even stomach when your employer fabricates information against you just so that they will not be penalized and have people actually collect their unemployment. First it was her boyfriend in my back room with up to thousands of dollars that sits in the cabinets to take the bank later in the day. Gloria's boyfriend just got out of jail about 3 weeks prior and my employees said Gloria and her boyfriend were in the back room for 2 hours. I confronted her with this and she knew which employee told on her and she said she was "going to beat the crap out of her". I told her she couldn't do that. Gloria said why not, I can do anything after hours. I said you can't do that, because your an assistant manager now and you can't behave in that manner. She left work and the mother of the girl employee called me the next morning and explained to me that Gloria got her boyfriend and confronted her daughter and her family members at a restaurant in the mall. It was stated a fight was on the premises. They made it sound like it all happened at the same time Gloria and I talked about her boyfriend being in the back room and then Gloria confronted the employee in the store and had a fight on the premises. I had called what happened to my District manager of the incident, because the mother was wanting Gloria fired because Gloria and her boyfriend threatened her daughter and her and was afraid of her daughters safety.

Loss Prevention came in and took statements from all of us, and decided to let Gloria go that day. Case closed, somehow 4-6 weeks later I was let go.

7. Caused Great Pain & Suffering

During the time that I would have received my Unemployment Benefits which would aid and assist me in finding new employment, I continued to seek employment and turn in my job prospects to the Mississippi Unemployment Hot-Line (MITS) system . Presently, I am still unemployed and have lost my

automobile. I had to move in with an old friend who presently is counting on being paid for back rent and utilities as well. The stress of this situation, along with child-support, loss of my job, moving to somewhere else and having to move back to Arkansas where I previously lived just to survive has taken its toll on my mental and physical health and have had to seek treatment. I've developed severe diabetes and my blood sugar levels had reach a dangerous level of around 600 which is close to comatose. Without medications which I now must take, I would probably be severely impaired. I had to put all my belongings which I had taken to Florida, in a storage unit and am close to losing all that as well soon, since I have no income to pursue my best interests.

D. SUMMARY OF ARGUMENT

I am a U.S. Citizen of the United States of America, and I have to the best of my ability, worked all my life. I have owned and operated my own business and I know the principles of good business and fairness. I believe in the court systems as far as fairness and equity is concerned, and trust that your decision on my behalf will allow me to further my life and career. If I could show you without a shadow of a doubt, that I have been unfairly denied a benefit that would have allowed me the convenience of continuing my life and career, which I hope I have, then I feel that I should be allowed the monetary benefits that would have been paid to me. My belief is founded in your footing of the Notice of Non-monetary decision by showing "Good cause, a circumstance beyond your control, may be granted for filing after 14 days. One law should not override another law, regulation or requirment when it related to the importance of time and, in this case, a very short period of time. I am referring to the new 911 law. How would like it if you moved out of state and could not even get a P.O. Box that was needed on a time related matter. To be honest, this new 911 laws should make your 14 days to be extended to 45 days. You have seen how I have tried to get my checks and took over 38 days to receive my original letter.

E. ARGUMENT

First and foremost, I wish the court to know I was wrongfully discharged and the facts about my dismissal where fabricated against me anyway. In the statement that Radioshack had given to the Employment Security about on my denial, they fabricated a lie that stated somehow, that I was supposedly telling my assistant manager Gloria, who they claimed as being my girlfriend, totally untrue. The majority of all the pertinent information about my dismissal was twisted to arrange for a reason for dismissal which was totally untrue.

My status with Radioshack at the time of the dismissal from my job had been good and was considered better than excellent. I was named manager of the month 5 times during 2005. Received over 25 monthly performance awards and was going to receive top award for best Manager in the Dallas Region. I was going to receive a championship ring worth 1,000 and all expense paid trip to Cancun , Mexico. I was to be on stage in Dallas during "Peak of Performance " award ceremony In March or April, 2006. I was let go before I could receive these awards and I felt they still owe me my awards I never received. I earned these awards for 2005 and prior to my wrongful discharge.

If these were the facts that Radioshack thought were the facts that were indeed the wrong facts, no wonder they might have let me go on a fight in our store. This was totally untrue and now totally unjust.

F. CONCLUSION

I wish that the court will find in my favor for the full 26 weeks totally benefits of \$5,460. If the court wishes to extend any additional benefits with the law or extra money for pain and suffering at the hands of the system, I will very much benefit from this as well. I would ask that the courts consider an additional \$3,000 in order for me to recoup some of my losses and retrieve my possessions from storage I left in Florida

Tom Cerrato

4419 Lakeview Road
North Little Rock, AR 72116

March 7, 2007

FILED

MAR 10 2007

Supreme Court of Mississippi
Court of Appeals of the State of Mississippi
P.O. Box 249
Jackson, Mississippi 39205-0249
(601)359-3694 (601)359-2407 fax

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Dear Sir or Madam:

This is to inform the Supreme court of my Certification of Service. Serving a copy of my Brief of Appellant to the following parties, at the addresses listed below.

Richard A Smith
Washington County Circuit Court Judge
P. O. Box 1276
Greenville, MS 38702-1276

Mississippi Department of Employment Security
P.O. Box 23088
Jackson, MS 39225-3088

Sincerely,



Tom Cerrato

Date: 3/7/07