

Number 2006-CP-01789

SUPREME COURT OF MISSISSIPPI
COURT OF APPEALS OF THE STATE OF MISSISSIPPI

2006

Bonnie Harvey,

Appellant,

Versus

Stone County School District,

Appellee

On appeal from the lower court's denial
of Bonnie Harvey's motion to vacate

IN THE CIRCUIT COURT OF STONE COUNTY, MISSISSIPPI
Case number No. 2001—0060

Appellant's reply brief

Bonnie Harvey
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May 18th 2007

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Appellant’s rebuttal of the appellee’s “Statement of issues”

Counsel purporting to represent the appellee attempts to mislead this Court regarding the issues of this instant case. Appellee’s counsel inveigles this Court with an attempt to re-litigate the claim in the lower court. The record shows that Bonnie Harvey was deprived of due process of law by a judge who made inferences regarding the facts sans trial and ruled on a record where the same court absolutely refused to enforce Bonnie Harvey’s right reciprocal discovery. The only issue before this Court is did the lower ***grossly abuse discretion*** by refusing to vacate a facially void judgment?

Summary of the argument

The trial court, in rendering summary judgment after allegedly doing a thorough fact-find, violated Bonnie Harvey’s due process rights by invading the province of the jury. The lower court, presented with a motion

to vacate for lack of subject matter jurisdiction, breached a *non-discretionary duty* to vacate the void summary judgment. Clearly, the lower court, in refusing to vacate the void judgment engaged in a wrongful exercise of judicial discretion. Mr. McRaney, attacking both the intelligence and the integrity of this Court, imposes on this Court with an abundance of off-point, irrelevant nonsense intended to divert this Court from its appointed task – to eradicate a void judgment as an *injustice which cannot be allowed to stand*.

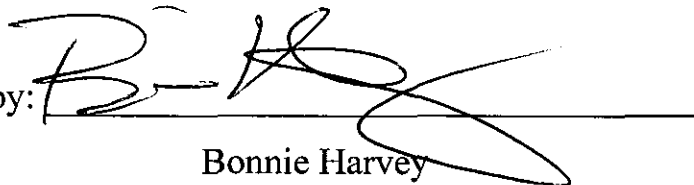
Argument

Determination by this Court that the record made in the lower court verifies that the lower court used a summary judgment motion to determine conflicting facts, then refused to vacate its own order, bears on this Court the non-discretionary duty to vacate the summary judgment lying against Bonnie Harvey and remand to the lower court with instruction to go forward on Bonnie Harvey's claims.

Conclusion

The rule of law should prevail in this appeal.

Prepared and submitted by:

A handwritten signature in black ink, appearing to be 'B. Harvey', is written over a horizontal line. The signature is stylized with large, sweeping loops.

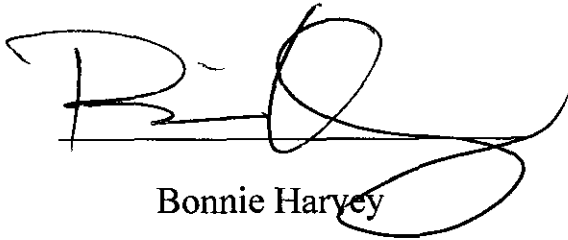
Bonnie Harvey

CERTIFICATE OF SERVICE

I, Bonnie Harvey, certify that May 18th 2007, I mailed a true and correct copy of the above and foregoing appellant's reply brief via first class mail to:

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Judge Steve Simpson
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Bonnie Harvey