

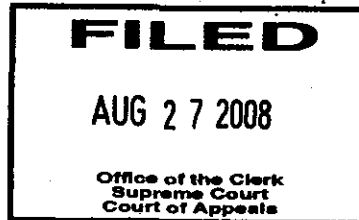
COPY

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

AMANDA WOODHAM

V.

RICHARD WOODHAM



APPELLANT

NO. 2007-<sup>CA</sup>~~98~~-01940-COA

APPELLEE

REPLY BRIEF OF APPELLANT

ROBERT M. LOGAN  
THE LOGAN LAW FIRM, P.A.  
P. O. BOX 218  
NEWTON, MS 39345  
601-683-7888

## **TABLE OF CONTENTS**

Table of Contents .....	2
Table of Cases, Statutes and Other Authorities .....	3
Facts .....	4
Argument .....	5
Conclusion .....	8
Certificate of Service .....	9

**TABLE OF CASES, STATUTES, AND OTHER AUTHORITIES**

<b><u>CASES</u></b>	<b><u>Page</u></b>
<i>Mabus v. Mabus</i> , 890 So.2d 806, 817 (Miss. 2009)	5
<i>Webb v. Webb</i> , 974 So.2d 274, 279 (Ms. App. 2008)	7

**IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI**

**AMANDA WOODHAM**

**APPELLANT**

**V.**

**NO. 2007-TS-01940**

**RICHARD WOODHAM**

**APPELLEE**

**FACTS**

In his Reply Brief Richie has, in several instances, mischaracterized evidence. For instance, Richie says Mrs. Ruth Woodham kept Rachel every weekday until 4:00 p.m. Amanda's testimony is that she picked Rachel up every day after work at 2:30 or 3:00 (Tr. 434).

Richie stated he "has devoted practically all of his free time to Rachel." The record reflects he was referring to the time of the temporary custody order. In his testimony Richie admitted he had neglected both his wife and child prior to the separation (Tr. 113). The record also includes a photograph of Richie's yard, made in September 2006, when Richie claims to have been spending all of his free time with Rachel, showing Rachel's sand box and toys covered with pine straw and apparently out of use (Tr. 377, 378, Exh. D3). A neighbor living across the street, who is a friend of both parties, said she frequently saw Amanda playing outside with Rachel before the separation, but never saw Richie playing with her (Tr. 248-250).

Richie's mother, Lottie, stated that she kept Rachel so Amanda could have a six-pack and a bubble bath. This was firmly denied by Amanda (Tr. 389). There were several instances where the testimony of Lottie was unreliable. Lottie testified she found Amanda at home breastfeeding Rachel with a beer in her hand in September 2003, which was long after the baby had stopped breastfeeding (Tr. 389), and Amanda firmly denied the incident.

Particularly egregious is the Chancellor's findings with regard to the home, school and community record of the child. Most Chancellors, we submit, would not bother to address the factor of a home, school and community record for a child four years old, *Webb v. Webb*, 974 So.2d 274, 279 (Miss. App. 2008). Not only has the Chancellor done so in the case, but for some reason takes a shot at Amanda by saying the following:

Amanda plans to remove the child from everything that is familiar to her, and Richard does not. If Amanda is awarded custody, Rachel would be forced to adapt, to new child care, new friends and a new environment (R.E. 363).

That has nothing to do with the home, school and community record of the child, and is not supported in the record. If Amanda has custody of Rachel, the child will wake up each day in her mother's home, rather than her grandmother's home, be taken to the same prekindergarten Richie has planned to enroll her in (Tr. 382-83), and be picked up in the afternoons by her mother and taken to the same apartment she has been in over the past 24 months, will see the same family members she has always seen, and have the same friends she now has (Tr. 385). Amanda never announced any intention to put Rachel in a different kindergarten, to move away from Newton or to cut her off from any family member. It is Richie who will not be present to take his child to school and pick her up in the afternoons.

The Chancellor was ingenious in dividing the factor of stability of home environment and employment of each parent into two segments and calling it a tie because the stability of employment is a huge negative factor for Riche and very positive for Amanda. However, strictly because Richie will remain in the marital home (with the bathroom mold that comes with it), the Chancellor says the home environment would be uninterrupted. She fails to even note that over the 15 to 18 months preceding trial Rachel spent more time in Amanda's apartment than she has in the "marital home." Nor does she make any note of the fact that under Richie's working conditions, he would not be able to take Rachel to school in the mornings and would have to rely

on different people to take her to school and pick her up in the afternoons. That does not sound like a stable home environment.

The only other factor that might seem to distinguish between the two parents is Amanda's use of a low dose of a prescription drug called Lexapro. She has occasionally consumed alcohol while taking the Lexapro. Richie put on no proof of any kind that there is a harmful effect from this combination, and Amanda testified she had never been warned of any expected harmful effect (Tr. 370). Nevertheless, the Chancellor hangs on to this as evidence of "bad judgment" by Amanda. On the other hand, it was not "bad judgment" for Richie to drink and drive or to allow mold to grow in the bathroom at the marital home to the point that it grew through the ceiling and developed a hole the size of the kitchen sink (Tr. 373).

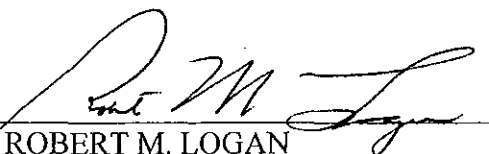
Amanda is the daughter of well-respected, stable and loving parents, and is a loving and devoted mother and steady employee of a major company in the Newton community. You would never know this from reading the Court's opinion. On the contrary, you would expect she had been a child abuser, a drug addict or the convict of a felony.

### **CONCLUSION**

We respectfully request that this Court review the record and reverse the decision, order that the parties have joint legal custody and that Amanda have primary physical custody, subject to a visitation schedule to be drafted by the Court upon rehearing.

Respectfully submitted,

AMANDA WOODHAM  
Appellant

BY:   
ROBERT M. LOGAN  
Attorney for Appellant

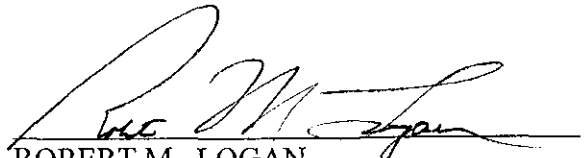
**CERTIFICATE OF SERVICE**

I, ROBERT M. LOGAN, attorney for Plaintiff/Appellants, do hereby certify that I have this date caused to be delivered, via U. S. Mail, a true and correct copy of the above and foregoing *Reply Brief of Appellant* to the following:

Honorable Thomas Tullos  
P. O. Box 567  
Bay Springs, MS 39422.

Honorable Janace Harvey-Goree  
Special Chancellor 11th District  
P.O. Box 39  
Lexington, MS 390095-0039

THIS the 27<sup>th</sup> day of August, 2008.

  
ROBERT M. LOGAN