

IN THE COURT

DR. BRYCE DALLAS

VS.

STATE OF MISSISSIPPI

APPELLANT

Comes Now, Dr. Bryce Dallas,

1. This is a Rule 60 appeal and not a "Conviction" appeal.
2. Nowhere does the appellee cite one statute and one case law in Perry V. State 759 So. 2d 1269 act. Perry and Statute 99-37-7 h
3. The bold, underlined are insert JUDGEMENT OR ORDER and err demonstrates;
 - a. "...relief from judgments, or
 - b. "This rule does not limit the
 - c. "...obtaining any relief from independent action..."
 - d. "this device was for review

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

COPY

DR. BRYCE DALLAS

APPELLANT

FILED

FEB 22 2008

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

VS.


NO. 2007-CP-1339

STATE OF MISSISSIPPI

APPELLEE

APPELLANT'S RESPONSE TO APPELLEE'S BRIEF

APPELLANT DOES REQUEST ORAL ARGUMENT


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- e. "This bill was available as an original action for vacating judgments.."
- f. " This device did not require leave of court for filing,.."
- g. "...nor was it limited to two years..."
- h. "Adoption of Mississippi Rules of Civil Procedure alters prior practice and gives trial courts authority, in certain specified circumstances, to correct judgments..."
- i. "The "any other reason" language of subsection (b)(6) refers to any other reason..."
- j. "...emotional distress."
- k. "...Rule 60(b) (6) because a manifest injustice..."

4. The language of Rule 60 is free from special permissions as the aforesaid quotes will illustrate and can be found bolded and underlined in the following Rule 60 Statue language and "foot notes", as follows:

Rule 60 (b) specifies certain limited grounds upon which final judgments may be attacked, **even after the normal procedures of motion for new trial and appeal are no longer available.** The rule simplifies and amalgamates the procedural devices available in prior practice. Prior to MRCP 60(b), Mississippi recognized the following procedural devices for **relief from judgments, other than by appeal.**

Any other reason justifying relief from the judgment. **This rule does not limit the power of a court** to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram nobis, audita querela, and bills of review, and bills in the nature of a bill of review, are abolished. **The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action** and not otherwise.

Writ of Error Coram Nobis. Generally, this device was for review of errors of fact, not of law, which substantially affected the validity of the judgment but which were not discovered until after rendition of the judgment. See *Petition of Broom*, 251 Miss. 25, 168 So.2d 44 (1964). It was instituted as an independent action.

Bill in the Nature of a Bill of Review. This bill was available as an original action for vacating judgments tainted by fraud, surprise, accident, or mistake as to facts, not to law. See *Corinth State Bank v. Nixon*, 144 Miss. 674 110 So. 430 (1926); *City of Starkville b. Thompson*, 243 So.2d 54 (Miss. 1971); *V. Griffith, supra* § 642. This device did not require leave of court for filing, nor was it limited to two years' availability. Cf. Bill of Review for Error Apparent and Bill of Review Based on Newly Discovered Evidence, *supra*.

"Adoption of Mississippi Rules of Civil Procedure alters prior practice and gives trial courts authority, in certain specified circumstances, to correct judgments...", *Ward v. Foster*, 517 So. 2d 513 (Miss. 1987).

There existed a special situation in which relief was justified under Rule 60(b) (6) because a manifest injustice would result if the father was required to continue making child support payments for a child which unquestionably was not his. *M.A.S. v. Miss. Dept of Human Servs.*, 842 So. 2d 527 (Miss. 2003).

The "any other reason" language of subsection (b)(6) refers to any other reason than those contained in the five enumerated grounds on which a court may grant a Rule 60(b) motion. *Briney v. United States Fid. & Guar. Co.*, 714 So. 2d 962 (Miss 1998).

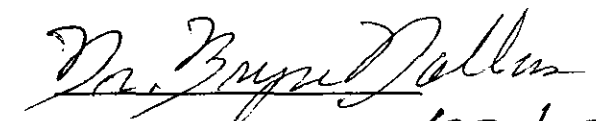
Chancellor did not err by granting the father's motion to modify a child custody agreement, based on a change of circumstances since the mother interfered with the father's visitation rights and caused the child emotional distress. The mother was not entitled to relief from the judgment granting custody to the father. Thornhill v. Van Dan, - So. 2d , 2005 Miss.App. LEXIS 171 (Miss. Ct. App. Mar. 8, 2005.)

5. There exists a four (4) feet stack of paper, which I state as the TRUTH, no bull, and would be glad to show if needed of internet defamation surrounding this wrongful conviction. This defamation causes over 100 students, 49 instructors, Dr. Dallas, and all the families involved **emotional distress** that **Rule 60 (b) (6)** empowers the court to address.

6. Not hearing this cause with 100 exhibits (including exhibits from the victim and perpetrator)exonerating Dr. Dallas is a **manifest injustice** that **Rule 60 (b) (6)** allows the court to address.

7. Appellant never was allowed bond and his exposure to this information came after his conviction. Appellant's original "post-conviction" was actually dismissed as moot by the Federal District Court in a finding that appellant was no longer in custody after appellant was released from parole. The finding was made on the ground put forth by the State Attorney General's Office.

Wherefore, appellant prays the court will grant the requested relief that the court deems fit and honorable.


Dr. Bryce Dallas
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Whitleyville. Tn. 38588
7/22/07

CERTIFICATE OF SERVICE

I, Dr. Bryce Dallas, do hereby certify that I have this day mailed, postage paid, a true and correct copy of the above and foregoing APPELLANT'S RESPONSE TO APPELLEE'S BRIEF to the following:

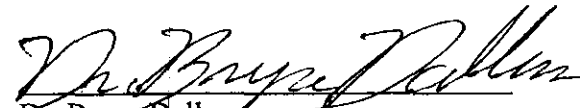
Honorable Lamar Pickard
Circuit Court Judge
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Honorable Alexander C. Martin
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Supreme Court of Mississippi
Court of Appeals
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Respectfully submitted this the 22 day of February 2008


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