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

JOSEPH W. BLACKSTON, M.D.,J.D. APPELLANT

VS. CASE NO. 2009-CA-00824

CHRISTOPHER B. EPPS, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, AND KENTRELL M. LIDDELL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY , AND MISSISSIPPI DEPARTMENT OF CORRECTIONS APPELLEES

On Appeal from the Circuit Court of the
First Judicial District of Hinds County, Mississippi

BRIEF OF APPELLEES

ORAL ARGUMENT NOT REQUESTED

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CERTIFICATE OF INTERESTED PERSONS

The undersigned attorney of record for the Appellees, Christopher B. Epps, Kentrell Liddell and Mississippi Department of Corrections certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the Court may evaluate possible disqualification or recusal. The persons are as follows:

1. Joseph W. Blackston, Appellant
   1900 Petit Bois
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2. Louis H. Watson, Jr. Attorney for Appellant
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3. Nick Norris, Attorney for Appellant
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4. Christopher B. Epps, Appellee
   930 North President Street
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6. Mississippi Department of Corrections

7. James T. Metz, Attorney for Appellees
Post Office Box 2659
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8. Michael E. D'Antonio, Jr., Attorney for Appellees
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9. Honorable William F. Coleman, Circuit Court Judge
1843 Springdale Drive
Jackson, MS 39211

This the 14th day of December, 2010.

James T. Metz
Attorney of Record for Appellees

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STATEMENT OF THE ISSUES

1. Did the Circuit Court Err in Finding Appellees were acting in the course and scope of their employment?

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STATEMENT OF THE CASE

A) Procedural History

Appellant filed his complaint against Christopher Epps and Kentrell M. Liddell on May 25, 2007, for tortuous interference with business and/or contractual relations, intentional and/or negligent infliction of emotional distress and defamation. The claim was filed against the appellees in their official and individual capacities. (Vol. 1 R.3-19).

On June 11, 2007, the complaint was amended to include the Mississippi Department of Corrections as defendant and served on or about July, 12, 2007. (Vol. 1 R. 37-53). The appellees filed their answer and affirmative defenses on August 7, 2007. (Vol. 1 R. 88-100).

Appellees filed their "Motion to Dismiss and/or for Summary Judgment" on November 19, 2007. In support of their motion, the Appellees attached the complaint, amended complaint, answer and "written notice" described as exhibits "a" through "d" respectively. (Vol. 1 R. 20-100). Mr. Blackston filed his response on December 14, 2007. (Vol. 1 R.101-105).

After oral arguments, the trial court entered its "Memorandum Opinion and Order" granting summary judgment. Pursuant to the order, the trial court treated the pleading as a motion for summary judgment based on the fact that the defendants submitted the "written notice" as an exhibit. The exhibit was treated as evidentiary materials pursuant to Rule 12 (b).(Vol. 1 R.106-108). A notice of appeal was filed on December 4, 2008. (Vol. 1 R.109-110).

B) Facts

Appellant Blackston filed a rambling complaint alleging 63 paragraphs of facts. Appellant alleges that he began work with MDOC in July 2003 as Director of Medical

Compliance for a contract between MDOC and Correctional Medical Services, Inc. ("CMS").

Dr. Blackston alleges that Appellee Commissioner Epps was critical of CMS almost immediately. Dr. Blackston complains that in September 2003, Commissioner Epps reneged on a promise to CMS to provide housing for medical staff at Parchman, citing costs to maintain these older small houses. (Vol. 1 R. 38-39).

Plaintiff further complains that Appellee Epps demanded immediate compliance with a requirement for nursing staff to administer all medications at Parchman, though this will require CMS to hire scores of additional RN Staff. (Vol. 1 R. 38-39).

Plaintiff alleges that Appellee Epps demanded investigation into inmates who are being returned to CNFC and other large facilities. (Vol. 1 R. 39). He complains that Epps demanded that Appellant Blackston search for a psychologist to provide services to Reddix. (Vol. 1 R.40).

Dr. Blackston alleges that CMS attempted to implement hospice care at Parchman, which was blocked by MDOC because they will not provide staff, location, or support at the only hospital prison in the system. (Vol. 1 R.40). Mr. Blackston alleges that Appellee Epps concocted a scheme wherein his political connections passed a bill in the legislature which requires that medical providers are only to pay the prevailing Medicaid rate for inmates. Dr. Blackston further complains that Epps demanded that CMS pay MDOC half of all money saved by CMS on the "difference" between what UMC and other providers are charging CMS and the now Medicaid rate. (Vol. 1 R.41).

On September 1, 2004. Appellant began work at CMCF as medical director. Dr. Liddell began work with MDOC as Director of Medical Compliance. One of her first orders was to change her own designation to "Chief Medical Officer." Dr. Liddell claimed work done by

Appellant Blackston and others with MDOC as her own. (Vol. 1 R.42).

Mr. Blackston alleges that Appellee Dr. Liddell constantly criticized CMS staff for their alleged lack of appropriate medical care. In January 2005, Dr. Keith, medical director for CMS in Mississippi, was transferred at the direction of Appellees Epps and Liddell. (Vol. 1 R.42).

It is alleged that in March 2005, CMS offers a position of Regional Medical Director to Appellant Blackston, but Appellant declined. Dr. Blackston states that he did not wish to have the ongoing direct interaction with Appellees Liddell and Epps. (Vol. 1 R.44).

As alleged by Dr. Blackston, in spring 2005, Dr. Liddell demanded "liquidated damages" from CMS. Based on MDOC's calculations. CMS challenged MDOC's demand in a lengthy rebuttal letter which made MDOC furious. (Vol. 1 R. 44).

On July 1, 2005, CMS announced to MDOC it would not seek to extend the contract for a fourth year, citing millions of dollars in losses in Mississippi. In the fall of 2005, MDOC releases the "Request for Proposals for medical contract." CMS refuses to even bid on the contract. (Vol. 1 R. 45).

In the spring of 2006, MDOC announced Wexford was awarded the contract for medical services with MDOC. Many medical staff left or made plans to leave because of the uncertainty of continued employment. In April 2006, medical staff discovered that Wexford was to provide only onsite medical services. (Vol. 1 R. 45).

In April 2006, there was a visit with a representative of the Attorney General's office. He wanted to know all about the medical care of Edgar Ray Killen. In May, 2006, 3 days prior to trial, Appellant received verbal notice from Warden Parker that Plaintiff was to be summoned to Circuit Court in Neshoba County in regard to the trial of Edgar Killen. Plaintiff contacted

Neshoba County Sheriff's office to notify them that Dr. Blackston had not been served and could not accept faxed service of process because he had serious conflicts that same day. The next day through Appellee Dr. Liddell, Dr. Blackston was order to cooperate. (Vol. 1 R. 46).

On July 1, 2006, Wexford assumed care of all onsite medical services; whereupon, Mr. Blackston declares that he was officially unemployed. (Vol. 1 R. 47-48).

In August, 2006 appellant went to work at CMMC, working full-time in ER. Dr. Blackston alleges that he received numerous phone calls from nursing and other staff, black and white, about the mistreatment they are receiving from Wexford. (Vol. 1 R. 49).

Dr. Blackston alleges that an informed source confided to him that Appellee Epps attempted to extort CMMC financial officer Glen Silverman, requesting CMMC provide a fake job for one of Epps' pals, in return for all the business we (MDOC) send you (CMMC). Silverman refused. (Vol. 1 R. 50).

Dr. Blackston requests damages for (1) Tortuous interference with business and/or contractual relations; (2) Intentional and/or negligent infliction of emotional distress; and (3) Defamation. (Vol. 1 R. 51-52).

III.

SUMMARY OF THE ARGUMENT

Surviving summary judgment requires the nonmoving party to produce significant probative evidence showing that there are indeed genuine issues for trial. In response to Appellee's motion, Mr. Blackston produce no evidence, much less, significant probative evidence; thus, appellees were entitled to summary judgment.

Mississippi Code Ann. § 11-46-5 dictates that it shall be a rebuttable presumption that any

act or omission of an employee within the time and place of his employment is within the course and scope of his employment. Proof by a preponderance of the evidence is necessary to overcome that presumption.

To be within the course and scope of employment, an activity must carry out the employer's purpose of the employment or be in furtherance of the employer's business. The allegations of the complaint attack the decisions of the appellees concerning medical care. The decisions were made in the course and scope of employment. Further, the decisions were discretionary in nature and affected social, economic and political alternatives; thus, statutory immunity protects the appellees and summary judgment is appropriate.

IV.

ARGUMENT

A) Appellees Were Entitled to Summary Judgment

"The trial court **must** grant a motion for summary judgment 'if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law'" *Sanders* v. *Wiseman, M.D.*, 29 So. 3d 138, 144 (P24) (Ct. App. 2010) (citing M.R.C. P. 56c)), (emphasis added). The Court of Appeals further noted in *Sanders* at 144 (P24) that summary judgment is properly granted if the nonmoving party "fails to make a showing sufficient to establish the existence of an element essential to his case and on which he bears the burden of proof at trial." (citing *Borne v. Dunlop Tire Corp.*, 12 So. 3d 565, 570 (P16) (Miss. Ct. App. 2009) (citing *Grisham v. John Q. Long V.F.W. Post, No. 4057, Inc.*, 519 So. 2d 413, 416 (Miss. 1988).

Surviving summary judgment requires the nonmoving party to produce "significant probative evidence showing that there are indeed genuine issues for trial" *Sanders* v. *Wiseman, M.D.*, 29 So. 3d 138, 144 (P25) (Ct. App. 2010) (citing *Borne,* 12 So.3d at 570 (P16) (quoting *Price v. Purdue Pharama Co.*, 920 So. 2d 479, 485 (P16) (Miss. 2006)).

As set-forth above with authorities, a trial court **must** grant a motion for summary judgment if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. Mr. Blackston's complaint appears to be nothing more than a complaint criticizing the way the prison health system was managed. However, Mr. Blackston's criticism with management does not create a cause of action. This fact did not go unnoticed by the trial judge.

Appellees attached the "written notice" as a exhibit to its motion; thus, the trial court properly treated the motion as a motion for summary judgment. Thus, appellees were entitled to summary judgment, provided that there was no genuine issue of material fact. A genuine issue of material fact is described as an element essential to his case and on which he bears the burden of proof at trial.

Further, "the party opposing a summary judgment motion may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." *Simpson v. Watson and Tillman Furniture Company*, 14 So. 3d 86, 87 (P4) (Miss. Ct. App. 2009). Surviving summary judgment requires the nonmoving party to produce significant probative evidence showing that there are indeed genuine issues for trial. In response to Appellee's motion, Mr.

Blackston produced **no** evidence, much less, significant probative evidence; thus, appellees were entitled to summary judgment. The record is devoid of any evidence in response to appellees' motion.

Appellant's Response to Defendants' Motion to Dismiss and/or for Summary Judgment contains no attachments or exhibits in support of his legal argument. (Vol. 1 R. 101-105). A response drafted and signed by an attorney is not significant probative evidence; thus, appellees are entitled to summary judgement.

B) Course and Scope

The trial court was correct when it found that the Appellees were within the course and scope of their employment; thus, entitled to dismissal.

Mr. Blackston files suit against the appellees Epps and Liddell in their individual capacity. The statutes dictate that it shall be a rebuttable presumption that any act or omission of an employee within the time and place of his employment is within the course and scope of his employment. *Mississippi Code Ann. § 11-46-5(3).*

The Supreme Court in *Singley v. Smith,* 844 So.2d 448 (Miss. 2003) stated as follows:

> This Court has not interpreted the rebuttable presumption of Miss. Code Ann.§ 11-46-5; therefore, the issue is one of first impression. We hold that proof by a preponderance of the evidence is necessary to overcome that presumption. This means that the plaintiff must prove his case by producing evidence that is most consistent with the truth and that which accords best with the reason and probability. It is that evidence which, after examination, has a greater persuasive and convincing force. *Gregory v. Williams*, 203 Miss. 455, 35 So. 451, 453 (1948).

Mississippi law provides that an activity must be in furtherance of the employer's business

to be within the scope and course of employment. *Cockrell v. Pearl River Valley Water Supply District*, 865 So.2d 357 (Miss. 2004), citing *L.T. ex rel. Hollins v City of Jackson* 145 F. Supp. 2d 750, 757 (S.D. Miss 2000)(citing *Estate of Brown ex rel Brown v. Pearl River Valley Opportunity. Inc.*, 627 So.2d 308 (Miss. 1993), aff'd mem. 245 F.3d 790 (5th Cir.2000). To be within the course and scope of employment, an activity must carry out the employer's purpose of the employment or be in furtherance of the employer's business. *Seedkem South, Inc. V. Lee*, 391 So.2d 990, 995 (Miss. 1980).

Section 11-46-7 (2) of the Mississippi Code provides:

> An employee may be joined in an action against a governmental entity in a representative capacity if the act or omission complained of is one for which the governmental entity may be liable, but no employee shall be held personally liable for acts or omissions occurring within the course and scope of the employee's duties. For the purposes of this chapter an employee shall not be considered as acting within the course and scope of his employment and a governmental entity shall not be liable or be considered to have waived immunity for any conduct of its employee if the employee's conduct constituted fraud, malice, libel, slander, defamation or any criminal offense.

Obviously, of the three theories of recovery alleged by plaintiff, (1) intentional and/or negligent infliction of emotional distress, (2) tortious interference, and (3) defamation, only defamation is not controlled by the Tort Claim Act. Thus, plaintiff must overcome the rebuttable presumption that the individuals were within the course and scope of their employment in order to prevail against the individuals on the tortious interference and intentional infliction claims.

A thorough reading of the complaint shows that the conduct of which plaintiff complains

was in fact in furtherance of the State's business and within the course and scope of their employment. Indeed, the entire complaint complains of their job performance as such the individual defendants are immune from suit on the tortious interference and intentional infliction claims.

C) State and Individual Statutory Immunity

The MTCA provides for governmental immunity in certain enumerated instances. Miss. Code Ann. § 11-46-9(1) provides:

> A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim:
> (d)Based upon the exercise or performance or the failure to exercise a discretionary function or duty on the part of a governmental entity or employee thereof, whether or not the discretion be abused.

Whether governmental conduct is discretionary requires a two-prong analysis:"(1) whether the activity involved an element of choice or judgment; and if so, (2)whether the choice or judgment in supervision involves social, economic or political policy alternatives." *Bridges v. Pearl River Valley Water Supply Dist.*, 793 So.2d 584, 588 (Miss. 2001)(citing *Jones v. Miss. Dep't of Transportation*, 744 So.2d 256, 260 (Miss. 1999). *Pearl Pub. Sch. Dist. v.Groner*, 784 So.2d 911, 914 (Miss. 2001); *Brewer v. Burdette*, 768 So.2d 920, 922 (Miss. 2000). Conversly, governmental conduct is ministerial if imposed by law, and its performance is not dependant on the employee's judgment. *Leflore County v. Givens*, 754 So.2d 1223, 1226 (Miss. 2000)(citing *L.W. v. McComb Separate Mun. Sch. Dist.*, 754 So.2d 1136, 1141 (Miss. 1999); *Mohundro v. Alcorn County*, 675 So.2d 848, 853 (Miss. 1996)).

1) Discretionary Judgment

As discussed above, the State and its employees are immune to any claim based on a discretionary function of its employees, whether or not that discretion be abused; thus, the conduct is discretionary if it involved an element of choice or judgment and that choice or judgment in supervision involved social, economic or political policy alternatives.

Plaintiff complains that in April 2006, medical staff discovered that Wexford was awarded the contract for medical services with MDOC. Succinctly stated, Plaintiff complains of awarding a contract to Wexford to provide medical services. Further, he does not agree with Dr. Liddell when she contracted with two physicians from every medical speciality to provide either onsite or offsite speciality care to inmates.

Appellant complains in paragraph after paragraph about the decisions made by Dr. Liddell and Commissioner Epps in providing medical services to inmates. For example:

(1) Jennifer Miles, Head Pharmacist, was fired by Wexford. (Vol. 1 R. 48).

(2) Bobby Knight (African-American) was given position of Administrator. (Vol. 1 R. 48).

(3) Dr. Okunoren was given a job by Epps/Liddell but had been previously fired by CMS in October 2004 for incompetence and laziness. (Vol. 1 R. 48).

(4) In July 2006, Dr. Felda Jones (white) dental director was fired. (Vol. 1 R. 48).

(5) Killen did not receive his antibiotics for more than a week. Attorney General Jim Hood received substantial publicity for his role in the case. (Vol. 1 R. 48).

(6) Jim Foster, RN, who is White was fired by Bobby King. (Vol. 1 R. 49).

(7) Nurse Diane Wolfe (white) was fired by Bobby King. (Vol. 1 R. 49).

(8) Tangela Barnes, RN (black) was made Nursing supervisor at CMCF by Wexford. Barnes had previously been the subject of personnel action while employed by CMS for

cursing at an inmate and telling him to "Get your monkey ass out of the clinic." (Vol. 1 R. 49).

(9) In September 2006, Bethany Case, Nurse Practitioner (white) quit working at CMFC. (Vol. 1 R. 49).

(10) Xray Tech Pency Barnes (white) quit because she was placed under the direction of an African-American who was not a certified X-ray Tech. (Vol. 1 R. 50).

(11) Dr. Jon Bearry, (white) Medical Director at Parchman resigned in disgust with Wexford and Liddell. (Vol. 1 R. 50).

(12) In September 2006, Dr. Merritt, an African-American Ob/gyn physician quit in disgust.
(Vol. 1 R. 50).

(13) In October 2006, an informed source confided to Plaintiff that Epps attempted to extort CMMC financial officer Glen Silverman, requesting a fake job for friend. (Vol. 1 R. 50).

(14) Dr. Liddell refused to authorize a curative orthopedic procedure on an Inmate that was injured. (Vol. 1 R. 50).

The above allegations are symbolic of the entire complaint, Mr. Blackston vents his frustration on the decisions of the State Officials; however, the State and its officials are immune from suit based on these discretionary decisions.

As discussed above, the State and its employees are immune for discretionary decisions, even if those decisions are abused. There is no question that the allegations of the complaint arise from decisions within the course and scope of employment. Indeed, the very authority to made the judgment calls arise from their employment positions A decision is discretionary if it requires an element of choice and if that choice involves social, economic, or political policies; the state and its employees are entitled to immunity.

It cannot be seriously argued that the allegations of the complaint did not take place in the

course and scope of employment and required an element of choice affecting social, economic or political policies. The State and its employees, Commissioner Epps and Dr. Liddell are immune and entitled to summary judgment on the interference and the intentional and/or negligent infliction claims.

2) Social, Economic or Political Policies

The decisions were made in the course and scope of employment and affected social, economic or political policies. Common sense dictates that decisions involving personnel administering medical services and, the quality of that medical service affects social, economic and political polices. Society and the law, for that matter, dictate that inmates receive adequate medical care. Medical care decisions must be made by the state officials involved and those decisions must be made within the confines of the money available. Appellant's allegations are nothing more than a complaint about the decisions of Commissioner Epps and Dr. Liddell concerning medical services. Discretionary immunity protects Appellees from liability based on those decisions and summary judgment was properly granted by the trial court.

D) DEFAMATION

As acknowledged by the trial court in its "Memorandum Opinion and Order", appellant, by and through counsel, in oral argument conceded the claim of defamation against the defendants. (Vol. 1 R. 106-108).

E) 42 U.S.C.§ 1981

Mr. Blackston makes reference to a Section 1981 claim in his primary brief. Appellant's complaint does not allege a 1981 claim and the trial court, even if it had jurisdiction to hear the federal claim, did not have an opportunity to address the claim.

1) Procedural bar

"As this Court has stated, time and again, an issue not raised before the lower court is deemed waived and is procedurally barred." *William Alias, Jr. v. The City of Oxford, Mississippi*, 2010 Miss. App. Lexis 500 (Miss. Ct. App. 2010) (citing *Gale v. Thomas*, 759 So. 2d 1150, 1159 (P40) (Miss. 1999).

2) MDOC is not subject to a Section 1981 claim.

42 U.S.C. § 1981 does not afford a remedy for violation of rights guaranteed thereunder when such claim is pursued against a governmental entity. In *Oden v. Oktibbeha County, Miss.*, 246 F. 3d 458 (5th Cir. 2001), the Fifth Circuit held that "§ 1981 implicitly created an independent cause of action against *private* actors because no other statute created such a remedy," but that "Section 1983 remains the only provision to expressly create a remedy against persons acting under color of state law." *Id.* at 463 (citing *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 732 (1989)).

Obviously, Mississippi Department of Corrections is not subject to a 1981 claim.

3) Individuals and the 1981 claim.

The "Civil Rights Act of April 9, 1866, c.31, 14 Stat. 27, from which this section was devolved, was intended for the protection of citizens of the United States and enjoyment of certain rights without discrimination on account of race, color, or previous condition of servitude." *U.S. v. Cruikshank,* 92 U.S. 542 (1875). "[T]he Act was meant, by its broad terms, to proscribe discrimination in the making or enforcement of contracts against or in favor of any race." *McDonald v. Santa Fe Rail Transport Co.*, 427 U.S. 273 (1976). It is clear that the intent of Section 1981 is to protect against discrimination on the basis of race. Section 1981 "is a parallel remedy against discrimination which may derive its legal principles from Title VII." *Bloom v. Gulf*

Oil Corp., 597 F.2d 936 (5th Cir. 1979). The Fifth Circuit stated in *Flanagan v. A.E.Henry Com. Health Service Cert.*, 876 F.2d 1231 (5th Cir.1989), "[T]o prove an allegation of racial discrimination, Flanagan must show that she belonged to a racial minority within the center, she was terminated from a position for which she was qualified, and she was replaced by someone not in her protected class." The Fifth Circuit requires "a showing of purposeful discrimination in cases brought under 42 U.S.C. § 1981." *Crawford v. Western Elec. Co., Inc.*, 614 F.2d 1300, 1315 (5th Cir. 1980).

Appellant has failed to plead a claim under Section 1981; however, to the extent that the Appellant has alleged that the Defendants conspired to deprive him of his employment, he has failed to present any evidence or to make any allegation that would allow a claim under Section 1981 to proceed.

F) Title VII of the Civil Rights Act of 1964

Mr. Blackston makes reference to a Title VII claim in his primary brief. Appellant's complaint does not allege a Title VII claim and the trial court, even if it had jurisdiction to hear the federal claim, did not have an opportunity to address the claim.

Further, assuming the trial court had jurisdiction to entertain the Title VII claim, which appellees deny. Appellant has not presented any evidence that he has filed an EEOC charge which is a statutory prerequisite to filing suit.

An individual claiming discrimination in violation of Title VII must file a charge of discrimination with the EEOC within 300 days "after the alleged unlawful employment practice occurred" 42 U. S.C. § 2000e-5(e)(1). The filing of a timely EEOC charge is a statutory prerequisite to filing suit. *Equal Employment Opportunity Commission v. WC&M Enterprises, Inc.*,

496 F.3d 393 (5th Cir. 2007).

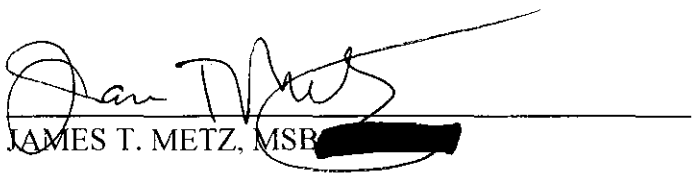
V.

CONCLUSION

For the above reasons and authorities, Appellees were entitled to summary judgment and the trial court's Memorandum Opinion and Order should be affirmed.

Respectfully Submitted,

CHRISTOPHER B. EPPS, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY, AND KENTRELL M. LIDDELL, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY , AND MISSISSIPPI DEPARTMENT OF CORRECTIONS

By: 

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CERTIFICATE OF SERVICE

I, James T. Metz, certify that I have this day served, by United States Mail, postage prepaid, a true and correct copy of the foregoing Brief of the Appellee upon the following:

Louis H. Watson, Jr., Esquire
Nick Norris, Esquire
520 East Capital Street
Jackson, Mississippi 39201

Honorable William F. Coleman, Circuit Court Judge
1843 Springdale Drive
Jackson, Mississippi 39211

This, the 14th day of December, 2010.

James T. Metz