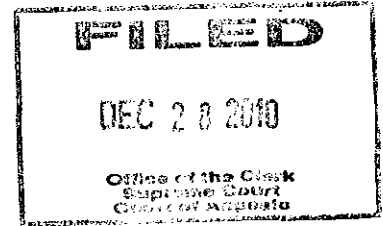


**SUPREME COURT OF MISSISSIPPI
COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

COPY

NO. 2009-CA-00824



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

APPELLANT

VS.

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

APPELLEES

REPLY BRIEF OF APPELLANT

ORAL ARGUMENT REQUESTED

LOUIS H. WATSON, JR.

MBN [REDACTED]

NICK NORRIS

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Attorneys for Appellant

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other portions of Appellant's Complaint as a distraction. It was clearly not a discretionary function of Dr. Liddell to require an independent contractor to not hire white individuals as medical director. Additionally, it was also certainly not involving a social, economic or political policy alternative of the State of Mississippi to require an independent contractor to not hire white individuals for a medical director position. Appellees stated, "Medical care decisions must be made by the state officials involved and those decisions must be made within the confines of the money available." *Appellee Brief* at p. 13. This statement in and of itself is racist. It clearly implies that hiring whites for positions costs the State more money than hiring non-whites.

Finally, Appellees contend Appellant has attempted to raise a claim under Title VII of the Civil Rights Act of 1964 or 42 U.S.C. § 1981 for the first time on appeal. This is not true. Appellant has already pursued those claims against the potential employer Wexford, which were later settled before trial. *Blackston v. Wexford Health Sources, Inc.*, 2009 WL 3816975 (5th Cir. 2009).

CONCLUSION

The Circuit Court was incorrect in granting Appellees' Motions to Dismiss and for Summary Judgment. As such, the Circuit Court's Orders granting the Motion to Dismiss and Motion for Summary Judgment should be reversed and remanded for trial.

Respectfully submitted,


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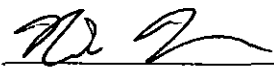
CERTIFICATE OF SERVICE

I, Nick Norris, attorney for Appellants, hereby certify that I have this day served, via United States Mail, First Class, postage prepaid, a true and correct copy of the foregoing Brief of Appellants to the following:

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Purdie & Metz, PLLC
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Ridgeland, MS 39158

Honorable William F. Coleman
1843 Springdale Drive
Jackson, MS 39211
CIRCUIT COURT JUDGE

This the 28th day of December, 2010


LOUIS H. WATSON, JR.
MBN [REDACTED]
NICK NORRIS
MBN [REDACTED]