

**IN THE SUPREME COURT OF MISSISSIPPI
COURT OF APPEALS OF THE STATE OF MISSISSIPPI
CAUSE NO. 2010-CA-00020**

CHARITY HOLM WHATLEY

 APPELLANT

VS.

FREDDIE PARSON DBA
PARSON CONSTRUCTION COMPANY

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

I, Wren C. Way, Attorney for Freddie Parson d/b/a Parson Construction Company, hereby
certifies that the following listed persons have an interest in the outcome of this case.

Charity Hohm WhaleyAppellant
822 Main Street
Vicksburg, Mississippi 39183

Freddie Parson Appellee
Parson Construction Company
539 Hugo Street
Vicksburg, Mississippi 39183

B. Ray Therrell, II, (MSB No. 99958)..... Attorney of Record for Appellant
Mississippi Employment Security Commission
Post Office Box 1699
Jackson, Mississippi 39215-1699

Wren C. Way (MSB No. 7006)..... Attorney of Record for Appellee
1001 Locust Street
Vicksburg, Mississippi 39183

Honorable Isadore W. Patrick
Warren County Circuit Court Judge
P.O. Box 351
Vicksburg, Mississippi 39183

Dated this the 29th day of October, 2010.

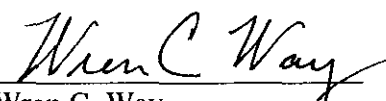

Wren C. Way
Attorney of Record for Appellee

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Kilpatrick v Kilpatrick

732 So. 2d 876, 880 (Miss. 1999)

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STATEMENT OF FACTS

This cause was conducted as a bench trial by the County Court Judge sitting without a jury as agreed by both parties. He observed the witnesses and their demeanor, listened to their testimony, considered all exhibits, found what the facts were and applied the law. The Judge then entered his Judgment based on all of the above criteria, holding that Appellee was indebted to Appellant in the total sum of \$1500.00 (RE. 7). Appellant, thinking that figure not enough, appealed to the Circuit Court. The appeals court performed all of the functions above described that the lower court had done, save observation of witnesses, and rendered a written opinion affirming the County Court's findings of fact and conclusion of law. (RE. 4)

STATEMENT OF THE ISSUE

Appellant now appeals to this Court, stating in her Conclusion, " The judgment for \$1500.00 ignore the testimony and evidence in this matter; and, thus this Honorable Court should reverse the decision in this matter, and award proper damages to the Appellant." (Brief of Appellant, pp 7-8)

The amount of damages awarded in this case is a fact question of fact which must be proved by the claimant by the preponderance of the evidence presented by the claimant at trial before the trier of fact. This burden of proof was not met.

The same standards of review applicable to chancery court's likewise apply to law courts where the trial judge sits without a jury waived by both parties. In the recent case of Betts v Massey, 40 So. 2d 602, 609 (Miss. App. 2009) the Court reiterated the standard:

" It is well settled that a chancellor's findings of fact that are supported by substantial evidence will remain undisturbed on appeal ' unless the chancellor abused his discretion, was manifestly wrong, clearly erroneous or an erroneous legal standard was applied.' "

Sanderson v Sanderson, 824 So. 2d 623, 625-626 (Miss. 2002) (quoting *Kilpatrick v Kilpatrick*, 732 So. 2d 876, 880 (Miss. 1999)


CONCLUSION

A review of the record supports the findings of both the county and circuit judges. There is no basis for reversal of the two lower courts' Judgment that we based on the evidence.

CERTIFICATE OF SERVICE

I, Wren C. Way, attorney for Appellee do hereby certify that I have this day mailed a true and correct copy of the above and foregoing to the Honorable B. Ray Therrell, II, attorney for Charity Holm Whatley, Appellant, P. O. Box 545, Magee, Mississippi 39111 and Honorable Isadore W. Patrick, Warren County Circuit Court Judge, P.O. Box 351, Vicksburg, Mississippi 39183.

SO CERTIFIED this the 29th day of October, 2010.


WREN C. WAY

WREN C. WAY, MSB#70 [REDACTED]
WAY, FIELD & BODRON
1001 LOCUST STREET
VICKSBURG, MS 39183
PHONE: (601) 634-8968
FACSIMILE: (601) 638-5223