

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

AARON LOVE

APPELLANT

VS.

CAUSE NO. 2010-TS-00450

JENNIFER LOVE

APPELLEE

BRIEF OF APPELLEE

APPEAL FROM THE CHANCERY COURT OF WARREN COUNTY

PREPARED BY:

J. MACK VARNER, MSB [REDACTED]
PENNY B. LAWSON, MSB # [REDACTED]
VARNER, PARKER & SESSUMS, P.A.
Post Office Box 1237
1110 Jackson Street
Vicksburg, Mississippi 39181-1237
Telephone: 601/638-8741
Facsimile: 601/638-8666

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

AARON LOVE

APPELLANT

VS.

CAUSE NO. 2010-TS-00450

JENNIFER LOVE

APPELLEE

CERTIFICATE OF INTERESTED PARTIES

The undersigned counsel of record certifies that the following persons have an interest in the outcome of this case.

1. Jennifer Love - Appellee
2. Aaron Love - Appellant
3. J. Mack Varner and Penny B. Lawson, Attorneys for Appellee
4. Rabun Jones, Attorney for Appellant
5. The Honorable Marie Wilson, Chancellor, Washington County, Mississippi

This the 9th day of February, 2011.

Respectfully Submitted,

JENNIFER LOVE

By:



J. Mack Varner, MSB # [REDACTED]

Penny B. Lawson, MSB # [REDACTED]

Attorneys for Appellee

TABLE OF CONTENTS

CERTIFICATE OF INTERESTED PARTIES	<u>i</u>
TABLE OF CONTENTS	<u>ii</u>
TABLE OF AUTHORITIES	<u>iii</u>
STATEMENT OF ISSUES	<u>1</u>
STATEMENT OF THE CASE	<u>1</u>
A. NATURE OF THE CASE	<u>1</u>
B. THE COURSE OF THE PROCEEDINGS	<u>2</u>
STATEMENT OF THE FACTS	<u>3</u>
SUMMARY OF THE ARGUMENT	<u>6</u>
ARGUMENT	<u>7</u>
I. THE CHANCELLOR APPROPRIATELY APPLIED THE <u>ALBRIGHT</u> FACTORS IN THE CASE AT BAR AND THE CUSTODY DECREE SHOULD BE AFFIRMED.	<u>7</u>
II. THE SUBSTANTIAL WEIGHT OF THE CREDIBLE EVIDENCE SUPPORTS THE AWARDED OF CUSTODY OF TOMMY LOVE TO JENNIFER LYNN LOVE.	<u>12</u>
III. THE CHANCELLOR DID NOT COMMIT MANIFEST ERROR IN EXCLUDING DEFENDANT’S EXHIBIT 7 AS THE EVIDENCE WAS ATTEMPTING TO BE INTRODUCED NOT AT TRIAL BUT AT THE POST-TRIAL HEARING.	<u>12</u>
CONCLUSION	<u>13</u>

TABLE OF AUTHORITIES

<i>Brekeen v. Brekeen</i> , 887 So.2d 280 (Miss. 2004)	<u>7</u> , <u>8</u>
<i>Passmore v. Passmore</i> , 820 So.2d 747, 750	<u>8</u>
<i>Sellers v. Sellers</i> , 638 So.2d 481 (Miss. 1994)	<u>7</u>
<i>Smith v. Smith</i> , 614 So.2d 394, 397 (Miss. 1993)	<u>8</u>

STATEMENT OF ISSUES

- I. THE CHANCELLOR APPROPRIATELY APPLIED THE ALBRIGHT FACTORS IN THE CASE AT BAR AND THE CUSTODY DECREE SHOULD BE AFFIRMED.
- II. THE SUBSTANTIAL WEIGHT OF THE CREDIBLE EVIDENCE SUPPORTS THE AWARDING OF CUSTODY OF TOMMY LOVE TO JENNIFER LYNN LOVE.
- III. THE CHANCELLOR DID NOT COMMIT MANIFEST ERROR IN EXCLUDING DEFENDANT'S EXHIBIT 7 AS THE EVIDENCE WAS ATTEMPTED TO BE INTRODUCED, NOT AT TRIAL, BUT AT A POST-TRIAL HEARING.

STATEMENT OF THE CASE

A. NATURE OF THE CASE

This appeal by Aaron Love (hereinafter "Aaron") stems from a ruling by the Chancery Court of Washington County awarding custody of the minor child to Jennifer Love (hereinafter "Jennifer"). The Chancellor did not abuse her discretion and properly applied the Albright factors finding that it was in the best interest of the child that custody of Tommy Love (hereinafter "Tommy") remain with Jennifer. The Chancellor made proper determinations regarding the credibility of the witnesses who testified both for Aaron and Jennifer and ultimately determined that several witnesses for Aaron lacked credibility and/or had ulterior motives and therefore, gave little consideration to their testimony.

The Chancellor, in her Final Judgment, found that Jennifer saved her money, and upon separation of the parties, moved into a three bedroom house where she still resided, while Aaron continued to live with and depend upon his parents. Jennifer was self-employed, paid her bills and expenses and supported her son while Aaron, on the other hand, worked part-time, did not

pay rent, utilities, or room or board at his parents' house and that neither party paid child support to the other.

The Chancellor correctly found the testimony from Aaron and twelve other witnesses called by him exaggerated or unlikely. The Court noted the majority of Aaron's testimony was focused on Jennifer's shortcomings, and Aaron presented little testimony as to his own parenting skills. In contrast Jennifer demonstrated that she was concerned and involved with Tommy's daily routines, bedtime, potty training, correcting him and also teaching him proper conduct, had superior parenting skills and was the best person to raise Tommy.

B. THE COURSE OF THE PROCEEDINGS

On January 4, 2008, Jennifer Lynn Love, filed her Complaint for divorce on grounds of habitual and cruel inhuman treatment, or in the alternative, irreconcilable differences. (C.R.7; R.E. 1) Aaron Love was personally served with process on January 15, 2008 and filed his Answer and Counterclaim asserting adultery and habitual cruel and inhuman treatment, or in the alternative, irreconcilable differences. (C.R.28; R.E. 2) On December 10, 2008, an Order Granting Temporary visitation was entered by the Court. (C.R. 45; R.E. 3) and on February 6, 2009, Jennifer Love filed her Answer to Plaintiff's Counter Complaint. (C.R. 47; R.E. 4)

On August 24, 2009, Jennifer filed a Motion *in Limine* for exclusion of tainted evidence, because Aaron had without her consent or permission illegally entered her home and without her knowledge, planted or placed personal property in her house, and then took photos of the alleged "evidence" with the intent to present same to the Chancellor for consideration.

On August 25, 2009, the parties filed their consent to be divorced on the grounds of irreconcilable differences and the Court entered an Agreed Order withdrawing the fault based grounds for divorce. (C.R. 59; R.E. 5) The Trial of this matter was held on August 25, 2009.

On September 29, 2009, Judgment was entered by the Court awarding custody of the minor child, Tommy, to Jennifer, based on the following Albright factors:

1. Age, health and sex of the child - factor **favours neither** parent
2. Continuity of care - factor **favours neither** parent.
3. Best parenting skills - factor slightly **favours the mother**.
4. The employment of the parents and responsibilities of that employment - factor **favours the mother**.
5. Physical and mental health and age of the parents - factor **favours neither** parent.
6. Emotional ties of parent and child - factor **favours the mother**.
7. Moral fitness of parents - factor favours the father (**but see testimony from Aaron**). (T. 164-166; R.E. 6)
8. The home, school and community record of the child - factor **favours the father**.
9. Stability of home environment and employment to each parent - factor **favours the father**. (C.R. 60; R.E. 7)

On October 7, 2009, Aaron filed his Motion for Reconsideration and Amendment of Judgment or, Alternatively, for a New Trial. (C.R. 75; R.E. 8) On October 15, 2009, the Court entered an Order stating that the Court would hear evidence solely on the issue of the reliability of the evidence which had been excluded at trial but denied the motion as to all other issues. (C.R. 96; R.E. 9)

On February 19, 2010 a hearing was held on the Motion for Reconsideration regarding evidence not admitted during trial. The Court held that even reconsidering all allegations that on the evidence and Albright factors that it was in the best interest of the child, that the Court's initial custody ruling should be altered and thereupon denied the Motion for Reconsideration. (T. 184; R.E. 10)

On March 15, 2010, Appellant filed his Notice of Appeal. (C.R.103; R.E. 11)

STATEMENT OF THE FACTS

The parties lived together approximately four (4) years prior to being married on January 7, 2006. (T. 12-13; R.E. 12) Thomas Nathaniel Love ("Tommy") was born on July 7, 2006. At

the time of Tommy's birth the parties lived on Third Street in Leland, Mississippi. In the Fall of 2006, when Tommy was approximately three to four (3-4) months old, the parties moved in with Aaron's parents (T. 16; R.E. 13) and remained there until the parties separated on or about November 1, 2007.

Prior to the separation of the parties, Jennifer worked part-time and cared for Tommy during the day until she left for work around 4:00 in the afternoon. Patricia Love, Aaron's mother, cared for Tommy until one or the other parent returned home. Aaron worked for Radio Shack part-time and would get off at 9:00 p.m. and usually would come home by 9:30 p.m. Jennifer returned from work after her shift about 10:00 or 11:00 p.m.

Jennifer left and separated from Aaron because of his lack of responsibility with his share of the chores and his failure to save any money contrasted with her saving \$3,000. (T. 21; R.E. 14) Since the separation, Aaron has done nothing in the way of parenting or support for Tommy instead relying on his parents for housing, utilities and cable.(T. 129-30; R.E. 15)

Tommy suffers from ear infections and ultimately had tubes put in his ears that helped with the drainage. (T. 24; R.E. 16) Tommy also suffers from food allergies, as he cannot have whole milk and he currently only drinks soy milk, which has helped him to overcome the majority of his food allergies. (T. 27; R.E. 16) Upon receipt of a letter from Tommy's pediatrician stating that the doctor believed that second hand smoke was the major contributor towards the ear problems, Jennifer stopped smoking in the house and then quit smoking altogether seven months prior to trial. (T. 28; R.E. 16) Jennifer admitted at trial that she drank socially and also drank with Mr. Love while they were married. (T. 29; R.E. 16)

During the trial Jennifer honestly admitted that she had had a sexual relationship with a man by the name of James Trillo and that she was, in fact, currently pregnant with his child, but

had no plans to marry him at that point in time. (T. 30; R.E. 16) However, she also testified that she has taken care of Tommy since he was born, nursed him for three months, gets up in the mornings with him, makes him breakfast, gets him dressed, plays with him, does chores with him, has lunch with him, and also attends church with him. (T. 31; R.E. 16) Jennifer gives Tommy a shower or bath at 6:00 at night and also teaches him to take care of such needs himself. They eat dinner together, and Jennifer puts Tommy to bed every night around 8:00 p.m. She has a stable routine, because she feels that stability is the key in raising children. (T. 32; R.E. 16) Jennifer disciplines Tommy and places him in time-out when he does not act properly. She communicates with her child whenever he acts out and explains to him the reason for time-out, to which constructive discipline Tommy is responding. (T. 35; R.E. 16)

During the past year, when Jennifer has worked, she has had the same babysitter who cares for Tommy. She is currently engaged in his potty training so that he can begin the head start program (a pre-kindergarten program.). (T. 36; R.E. 16) Jennifer candidly admitted that she had previously smoked marijuana in the past, but she had not done so for some time. (T. 38; R.E. 16) Jennifer has a strong bond with Tommy as they cuddle in the mornings and basically spend the days together. (T. 42; R.E. 16) Jennifer has a strong work ethic and provides for Tommy without any assistance from family or Aaron. (T. 43; R.E. 16)

Aaron admitted to using marijuana and he continued to use same until June or July of 2008. (T. 131-132; R.E. 17) Aaron admitted that he had a serious problem with marijuana up until the time that he quit using. (T. 133; R.E. 17) Aaron adamantly denied at trial that he had a sexual relationship with Ashley Buford, that they dated, or that she had ever spent the night at his house. (T. 134-136; R.E. 17) At the hearing on the Motion for Reconsideration on February 9, 2010, Aaron testified that he had not told the Court the truth at trial, and, that in fact, he and

Ashley Buford lived together at 884 Douglas Road. He testified that his child, Chloe Love, with Ashley, also resided there. (T. 164-166; R.E. 6)

Significantly, at the trial of this matter Aaron denied a sexual relationship with Ms. Buford (T. 134-136; R.E. 17) but during his subsequent sworn testimony at the rehearing Aaron confessed his previous perjury by admitting that he had had a child with Ms. Buford since the time of the trial. (T: 164-166; R.E. 6)

SUMMARY OF THE ARGUMENT

The Chancellor made detailed findings of fact and correctly applied the Albright factors in determining what was in the best interest of Tommy Love. The testimony by Aaron was not given much weight because of severe credibility issues found by the Chancellor. Aaron blindly fails to recognize any factor found in favor of Jennifer and instead only wants to dwell on testimony to which the Chancellor gave no credibility to support his theory that the Chancellor erred in her opinion and order.

Aaron in his brief relies heavily on the testimony given by himself, his mother, Patricia Love, Felicia Jefferies and Robert Dismuke to support his position that the Chancellor ignored the overwhelming weight of the evidence and committed manifest error in misapplying the Albright factors. However, the Chancellor noted in her Final Judgment that the testimony from Aaron and Patricia's "testimony" and "particularly the timing, not to be entirely trustworthy." Addressing the testimony of Felicia Jefferies, the Court noted that Felicia "is very angry with Jennifer, and the Court did not find Ms. Jefferies to be a reliable witness." Similarly, Robert Dismuke attempted to insinuate that Jennifer was a drug dealer but the Court found that "his entire testimony regarding the plaintiff's drug use is suspect." (T. 182-183; R.E. 18)

Finally, while the Albright factors in the Final Judgment were mostly equal, Jennifer would point out that the “moral fitness” of the parents, which was originally decided toward Aaron, should in fact favor neither. The Chancellor initially awarded this Albright factor to Aaron because Jennifer was pregnant by another man whom she did not intend to marry. The real truth, initially concealed from the Court by Aaron at trial, was that Aaron’s girlfriend, Ashley Buford was also pregnant with Aaron’s child during the trial. Aaron intentionally lied to the Court about his relationship with Ashley Buford when questioned at the initial hearing by counsel for Jennifer. Given this fact, the Chancellor in all likelihood would have ruled that this factor favored neither Aaron or Jennifer had Aaron not committed perjury at the initial hearing.

ARGUMENT

I. THE CHANCELLOR APPROPRIATELY APPLIED THE ALBRIGHT FACTORS IN THE CASE AT BAR AND THE CUSTODY DECREE SHOULD BE AFFIRMED.

In all child custody cases, the polestar consideration is the best interest of the child.

Sellers v. Sellers, 638 So.2d 481 (Miss. 1994). The Albright factors, used to determine child custody based on the best interests of the child are:

- (1) age, health and sex of the child;
- (2) determination of the parent that had the continuity of care prior to the separation;
- (3) which has the best parenting skills and which has the willingness and capacity to provide primary care;
- (4) the employment of the parent responsibilities of that employment;
- (5) physical and mental health and age of the parent;
- (6) emotional ties of parent and child;
- (7) moral fitness of parents;
- (8) the home, school, and community record of the child;
- (9) the preference of the child at the age sufficient to express a preference by law;
- (10) stability of home environment and employment of each parent; and
- (11) other factors relevant to the parent - child relationship.

Brekeen v. Brekeen, 887 So.2d 280 (Miss. 2004). The Chancellor in this matter appropriately applied the Albright factors as stated above and made the proper findings of fact with regard to each of the Albright factors. Where a Chancellor properly considers and applies the Albright factors, the appellate courts decline to reverse absent the lower court being manifestly wrong. Stated differently, where a Chancellor makes careful consideration and proper application of Albright the Chancellor is not reversed reversal on appeal. See Smith v. Smith, 614 So.2d 394, 397 (Miss. 1993).

Age, health and sex of the child:

At the time of the Chancellors' ruling, Tommy was a three year old male child. After discussion and consideration, the Chancellor found that this factor favored neither parent. Although the issue of second hand cigarette smoke was an issue in this matter, the Chancellor found that Jennifer had already quit smoking cigarettes. Aaron argues in his brief that the Chancellor erred in her application of this factor claiming there was no proof in the record as to when Jennifer began smoking cigarettes, whether before or after the marriage. He also argues that the Chancellor focused only on current conditions and did not take the past into consideration. Clearly the Chancellor here carefully considered the detrimental affects of second hand smoke to Tommy but clearly found that because Jennifer no longer smoked that this was not really an issue. Additionally, "there is still a presumption that a mother is generally better suited to raise a young child. Passmore v. Passmore, 820 So.2d 747, 750 (Miss. Ct. App. 2002) At the time of trial, Tommy was three (3) years of age which would be considered a child of tender years that still requires a special type of care which Jennifer can give. (T. 13; R.E. 19) Given this tender age, there is a presumption that Jennifer would be better suited in having primary custody of Tommy. The Chancellor properly weighed and applied this Albright factor.

Determination of the parent that had the continuity of care prior to separation:

The Chancellor, in her application of the facts to this Albright factor found that this factor, favored neither parent because the difference in time each parent had Tommy was so minute that the factor went to neither parent. Aaron argues that this factor should have been in his favor based on the time frame outlined in the order granting temporary visitation. However, during the trial testimony was presented regarding how much time Tommy spent with each party which reflected a flexible visitation acceptable to both parties. (T. 20; R.E. 20)

Aaron also argues that because his mother is always Tommy's babysitter (while he is at work) this factor should have gone to him. Jennifer, perhaps unfortunately, does not live with her parents and therefore when she is at work she has to hire a babysitter, but this in and of itself does not cause this factor to favor Aaron. The fact is, that when Aaron has custody (he is "at work") it is his mother that is giving the care to Tommy not Aaron. Apparently, based on this argument, this factor should be given to Aaron on the basis that he has a family member who can care for Tommy when he is at work. As his mother is not a party, Aaron clearly does not comprehend what "continuity of care" is or how the factor is applied. The Chancellor's decision that this went to neither parent was appropriate. (T. 25, 36-37; R.E. 20)

Which has the best parenting skills and which has the willingness and capacity to provide primary child care:

Aaron's brief on this factor centers on his erroneously and rejected assertion that Jennifer is an alcoholic, and that there were four corroborating witnesses who testified for Aaron regarding this issue. As mentioned above, the Chancellor made special mention of the credibility of these witnesses' testimony finding that this testimony was not credible. Specifically, the Chancellor held as follows:

“(I) Jennifer drinks alcoholic beverages. And, Patricia and Felicia ultimately argue that Jennifer is an alcoholic. The Court believes the testimony on this point to be exaggerated or unlikely for the following reasons: Jennifer’s alleged abuse of alcohol was said to have begun prior to her leaving Aaron. However, Jennifer took Tommy with her when she left Aaron, and Tommy lived with Jennifer for an entire year before Aaron filed to obtain temporary custody or visitation. Prior to the agreed temporary order of visitation, Aaron had frequent regular visitation with Tommy, but Aaron never once stopped Jennifer from taking Tommy. In fact, although he argues that Jennifer is an alcoholic, Aaron had agreed to give Jennifer the 2001 Nissan automobile that he bought. The Court further notes that no evidence was presented of any action that was taken by any of these witnesses to get Jennifer help or to attempt to get Jennifer help for alcoholism.” (C.R. 60; R.E. 1)

The Chancellor observed the demeanor of the witnesses and carefully weighed the evidence regarding this false issue and rejected Aaron’s contrived claim that Jennifer was an alcoholic.

Of note, the Chancellor found that Aaron’s case centered on detailing the shortcomings of Jennifer, while Aaron put on very little evidence and testimony reflecting his own parenting skills. The Chancellor clearly found Jennifer offered extensive testimony regarding her parenting skills and that Aaron did not. Jennifer testified that she was concerned with Tommy’s daily routines and his bedtime, that she was potty training him and correcting him and teaching proper conduct, and that she was disciplining him. (T. 31-32, 34-35; R.E. 20) There was no such evidence from Aaron.

In contrast to Jennifer’s positive evidence, Aaron provided little in the way of testimony regarding his own parenting skills. The Chancellor properly found that it was apparent as when Aaron works, Patricia was the one that was providing the parenting skills as opposed to Aaron.(T. 112, 114; R.E. 21)

Emotional Ties of Parent and Child:

Aaron in his brief argues that the Chancellor abused her discretion and committed clear error in awarding this factor to Jennifer. Again, Aaron spends a great deal of time arguing that this factor should go to him based on reasons that have to do with Jennifer. As the Chancellor noted in her Final Judgment, that one reason there was so little testimony regarding the relationship between Aaron and Tommy was **“because when with Aaron, Tommy is, in effect, being raised by Aaron’s parents.”** Unlike Aaron, there was a great deal of testimony regarding Jennifer’s relationship with Tommy in terms of continuity of care, parenting skills and her emotional ties to Tommy.

Moral Fitness of Parents:

In her Final Judgment, the Chancellor held the following regarding this factor:

“Although still married to Aaron, Jennifer is pregnant by another man who she does not intend to marry at this time. This factor favors the father.” (R.E. 1).

As stated above, the Chancellor found that this factor favored Aaron based on the fact that at the time of trial Jennifer was pregnant with a child by another man. However, at the subsequent February 19, 2010 hearing, Aaron admitted **that at the time of trial, he had committed perjury regarding his relationship with Ashley Buford.** (T. 166; R.E. 22) Given this admission of perjury by Aaron, Jennifer submits that this factor, should in fairness, not have favored either parent. Based on the Chancellor’s application at the original hearing it is readily apparent that had Aaron not lied under oath that the Chancellor most likely would have found that this factor should have favored neither parent.

II. THE SUBSTANTIAL WEIGHT OF THE CREDIBLE EVIDENCE SUPPORTS THE AWARDING OF CUSTODY OF TOMMY LOVE TO JENNIFER LYNN LOVE.

In making her factual findings in this case the Chancellor found that several of the witnesses for Aaron totally lacked credibility, and therefore, the Court in the proper exercise of its discretion did not place a lot of trust in their testimony. The Chancellor in her opinion cited specifically her reasons for not believing and not placing much credence on the testimony of Felicia Jefferies and Aaron's mother, Patricia Love.

The Court specifically found that Felicia Jefferies and Jennifer Love had an ongoing argument regarding payment or non-payment of rent thereby giving additional motive to Felicia to be adverse to Jennifer.

The Chancellor also recognized that Patricia Love spent a great deal of time caring for Tommy and most likely had an ulterior motive in Aaron getting custody. Such are evidentiary factors to be heard, weighed and decided by our trial Courts under an abuse of discretion standard.

III. THE CHANCELLOR DID NOT COMMIT MANIFEST ERROR IN EXCLUDING DEFENDANT'S EXHIBIT 7 AS THE EVIDENCE WAS ATTEMPTING TO BE INTRODUCED NOT AT TRIAL BUT AT THE POST-TRIAL HEARING.

The Chancellor properly excluded Aaron's Exhibit 7 when it was sought to be introduced, not during the trial on the merits, but instead at the post-trial hearing. Courts have traditionally applied a four-factor test to determine if evidence should be excluded for a discovery transgression. Here, Aaron's transgression continued during the pre-trial period as well as during trial on the merits. Later applying this four-factor test was moot because the trial on the merits had already transpired.

Aaron also argues that his transgression should be overlooked as Jennifer filed for divorce on January 4, 2008 but did not submit any discovery until May 1, 2009, beyond the ninety day period allowed for discovery. (C.R. 52; R.E. 23) However, Aaron was also delinquent in discovery as he was served with process on January 16, 2008, yet did not file his Answer or discovery requests until August 21, 2008, some seven (7) months later. (C.R. 4, 28; R.E. 24) Nevertheless, the bottom line is that Aaron had these photos (Exhibit "7") in his possession prior to and during the trial and yet failed to produce them or attempt to introduce them during the trial on the merits.

As for the four-factor test, factors 3 and 4 could not be applied as the trial had already occurred. Factor 3 concerns the need for time to prepare to meet the testimony. How would one prepare to meet testimony after a trial? Clearly, once a trial has been held, the preparation time to meet this testimony at trial has come and gone and does not apply. Factor 4 deals with the possibility of a continuance. Again, the same argument applies as how can one continue a trial that has already been held?


CONCLUSION

The Chancellor appropriately applied the Albright factors and the substantial weight of the credible evidence supports the awarding of Tommy to Jennifer and therefore, the custody decree should be affirmed. Further, the Chancellor did not commit manifest error in excluding Defendant's Exhibit 7 as evidence when attempts were made to introduce it not at the trial, but at the post-trial hearing.

Respectfully submitted this the 8th day of February, 2011.

JENNIFER LYNN LOVE

BY:


J. MACK VARNER, MSP [REDACTED]
PENNY B. LAWSON, MSB [REDACTED]

OF COUNSEL:

VARNER, PARKER & SESSUMS, PA
1110 Jackson Street
Post Office Box 1237
Vicksburg, Mississippi 39181-1237
Telephone: 601-638-8741
Facsimile: 601-638-8666


CERTIFICATE OF SERVICE

I, Penny B. Lawson, do hereby certify that I have this day mailed, via U.S. Mail, postage prepaid, or via facsimile or email, a true and correct copy of the above and foregoing Appellee's Brief to:

Rabun Jones, Esquire
Dyer, Dyer, Jones & Daniels
Post Office Box 560
Greenville, Mississippi 38702-0560
Attorney for Appellant

Honorable Marie Wilson
Washington County Chancery Court
Post Office Box 1762
Greenville, Mississippi 38702-1762

This, the 9th day of February, 2011.


Penny B. Lawson