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**IN THE SUPREME COURT OF MISSISSIPPI**

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**JIMMIE LEE BOND,**

**APPELLANT-PLANTIFF**

**VS.**

**NO. 2010-TS637**

**DONNA SHANELL BOND**

**APPELLEE-DEFENDANT**

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**APPEAL FROM THE CHANCERY COURT OF  
OKTIBBEHA COUNTY, MISSISSIPPI  
CAUSE NO. 09-0180B  
CHANCELLOR KENNETH M. BURNS**

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**BRIEF OF JIMMIE LEE BOND, APPELLANT**

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**ORAL ARGUMENT NOT REQUESTED**

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APPELLANT-PLAINTIFF

VS.

NO. 2010-<sup>CA</sup>~~4~~637

DONNA SHANELL BOND

APPELLEE-DEFENDANT

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CERTIFICATE OF INTERESTED PERSONS

---

This is to certify that I, the undersigned, have designated the following individuals  
as Interested Persons in the instant case:

- (1) JIMMIE LEE BOND  
1817 Stowood Road  
Starkville, Mississippi 39759
- (2) DONNA SHANELL BOND  
c/o KUTZ and STYLZ  
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- (3) CHANCELLOR KENNETH M. BURNS  
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SO CERTIFIED on this the 20<sup>th</sup> day of September, A.D., 2010.

  
WILLIAM L. BAMBACH

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**CERTIFICATE OF INTERESTED PARTIES**

The undersigned counsel of records certifies that, in addition to those listed in the brief of Appellee Donna Shanell Jones, the following listed persons have an interest in the outcome of the case. These representations are made in order that the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. William L. Bambach, Attorney for Appellant
2. Jimmie L. Bond, Appellant
3. Roberta L. Haughton, Attorney for Appellee
4. Donna S. Jones, Appellee
5. Honorable Kenneth M. Burns, Chancellor, Oktibbeha County

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**WILLIAM L. BAMBACH**

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## **STATEMENT OF THE ISSUES**

- I. Did the Court abuse its discretion by failing to expressly consider the adulterous acts of one party when dividing the marital estate in a divorce proceeding?**

## STATEMENT OF THE CASE

### A. Nature of the Case

This Court must decide whether the Chancery Court in its Order and Opinion delivered on February 18, 2010, abused its discretion by failing to properly consider the adulterous acts of Donna Shanell Bond, which led to the demise of her marriage to the Appellant Jimmie Lee Bond, when it ordered its division of the marital assets. This Court must disturb the Chancery Court's findings regarding the reward because it is an exhibition of manifest error and an unjust enrichment to the benefit of the the adulterous party, Donna Bond.

In order to sustain allegations of adultery, a party may prove adultery by circumstantial evidence. The charging party must prove a spouse's general adulterous nature, which may be either an infatuation with another of a proclivity to adultery, and a reasonable opportunity to satisfy the infatuation or proclivity. The proof must be *clear and convincing*. The Chancery Court found that the following was proven by clear and convincing evidence:

1. Oktibbeha County Deputy Sheriff William Ford testified that at a confrontation between Jimmie Bond and Donna Bond that occurred at Donna Bond's shop on April 16 or 17, 2009, Donna Bond admitted that she had been intimate with Alexis Stallings. (Ct.'s Order and Op. ¶10a.)
2. Several witnesses testified that Donna Bond and Alexis Stallings were often together in one or the other's vehicles. Also, one often drove the other's vehicle. (Ct.'s Order and Op. ¶10b.)

3. Donna Bond and Mr. Stallings were recognized in the community as a “couple.” (Ct.’s Order and Op. ¶10c.)
4. Donna Bond was seen in Alexis Stallings’ apartment using the remote to his television set. (Ct.’s Order and Op. ¶10d.)
5. Donna Bond and Alexis Stallings were seen having a meal at a local Starkville restaurant. (Ct.’s Order and Op. ¶10e.)
6. Donna Bond was observed at and inside the apartment of Alexis Stallings during all hours of the day and night. Her vehicle was parked in the same location and dew had accumulated on the windshield of the vehicle during nighttime and early morning hours. (Ct.’s Order and Op. ¶10f.)
7. Donna Bond and Alexis Stallings were at a casino in Philadelphia, Mississippi around 1:00 a.m. on July 11, 2009, and they were acting like “boyfriend-girlfriend.” (Ct.’s Order and Op. ¶10g.)
8. Donna Bond and Mr. Stallings shopped together in Wal-Mart in Starkville and a witness testified that she observe Donna Bond inside Alexis Stallings’ apartment wearing lingerie. (Ct.’s Order and Op. ¶10h.)
9. Voluminous cell phone records were introduced into evidence indicating calls between Donna and Alexis Stallings from on or about December 1, 2008, up through the latter part of 1009. The calls were placed during all hours of the day and night. (Ct.’s Order and Op. ¶10i.)
10. On the day of the trial, Donna Bond and Alexis Stallings were seen holding hands during a recess taken by the Court. (Ct.’s Order and Op. ¶10i.)



Consequently, the Chancery Court found that Donna Bond's affair with Alexis Stallings caused the separation of the parties and, therefore, granted Jimmie Bond a divorce from Donna Bond on the ground of adultery. (Ct.'s Order and Op. ¶11.) After an improper application of the legal analysis derived from *Ferguson v. Ferguson*, 639 So.2d 921 (Miss. 1994), the Chancery Court still awarded Donna Bond, the adulterous party, a share in the marital home, which Jimmie Bond owned prior to their marriage, and proceeds from the Jimmie's Workmen's Compensation settlement. (Ct.'s Order and Op. ¶18b.) Among the *Ferguson* factors, the Court is allowed to observe and consider, "Any other factor in which equity should be considered." *Ferguson*, at 921. The Chancery Court abused its discretion and committed a manifest error in its failure to take account of Donna Bond's extensive and audacious adulterous acts in its division of marital assets.

**B. Course of Proceedings and Disposition in the Court Below**

On April 24, 2009, the Jimmie Bond filed a Complaint for Divorce and for Other Relief against Donna Bond. (Ct.'s Order and Op. ¶2.) Donna Bond failed to answer the Complaint, and Default Judgment was entered against her in the Chancery Court of Oktibbeha County, Mississippi, on June 4, 2009. (Ct.'s Order and Op. ¶2.) An Order setting Hearing for Pending Motions was set for July 21, 2009, and the Default Judgment was set aside on August 21, 2009. (Ct.'s Order and Op. ¶2.) After discovery was completed, the cause was tried on December 17, 2009, and January 22, 2010. (Ct.'s Order and Op. ¶2.) The Chancery Court delivered its opinion on February 18, 2010, in which it concluded that Donna Bond, by clear and convincing evidence, engaged in adulterous acts which cause the separation of the parties. (Ct.'s Order and Op. ¶11.) Jimmie Bond filed a Motion to Reconsider on March 12, 2009, which was overruled on March 15,

2010. Consequently, Donna Bond filed a Motion to Hold Plaintiff in Contempt on March 24, 2010, because Jimmie had not paid Donna the ordered marital division sum, the amount this appeal disputes, within 30 days of the entered judgment. A Notice of Appeal was filed with the Supreme Court of Mississippi on April 12, 2010.

C. Statement of the Facts

Jimmie Lee Bond and Donna Shanell Bond were married on June 11, 2005, in Starkville, Oktibbeha County, Mississippi. (Ct.'s Order and Op. ¶5.) They separated in Oktibbeha County, Mississippi on April 16, 2009. (Ct.'s Order and Op. ¶5.) No children were born to the parties. (Ct.'s Order and Op. ¶5.) Jimmie Bond is thirty-eight (38) years old. (Ct.'s Order and Op. ¶5.) According to his Rule 8.05 financial statement dated October 14, 2009, his adjusted monthly income from Social Security benefits is \$1,256.00. (Ct.'s Order and Op. ¶5.) Donna Bond is thirty-four (34) years old and in good health. (Ct.'s Order and Op. ¶5.) She is employed as a hair stylist with Kustom Kutz & Stylz in Starkville, Mississippi, and is a part-time college student. (Ct.'s Order and Op. ¶5.) According to her Rule 8.05 financial statement, her adjusted monthly income is \$1,761.00. (Ct.'s Order and Op. ¶5.)

Jimmie and Donna Bond separated on April 16, 2009, because Donna was pursuing an adulterous affair with Alexis Stallings. (Ct.'s Order and Op. ¶10.) On April 20, 2009, Jimmie Bond was made aware of this when Donna Bond voluntarily, willingly, and freely openly admitted to Jimmie in the presence of a Deputy Sheriff from Oktibbeha County that she was engaging in sex with another man. (Ct.'s Order and Op. ¶10a.) Donna Bond made it "crystal clear to the Plaintiff in the actual presence of said law

enforcement officer that she has had sex with said man who is not her spouse.” (Compl. for Divorce and Other Relief ¶7.)

Additionally, the Chancery Court found numerous other adulterous acts engaged in by Donna Bond were proved by clear and convincing evidence. (Ct.’s Order and Op. ¶9.) Among them, several witnesses corroborated that Donna Bond and Alexis Stallings were frequently seen together in each other’s vehicles, and one often drove the other’s vehicle. (Ct.’s Order and Op. ¶10b.) One or more witnesses testified that Donna Bond and Mr. Stallings were recognized as a “couple” in the community. (Ct.’s Order and Op. ¶10c.) Donna Bond was seen in Alexis Stallings’ apartment at all hours of the day and night, and her vehicle was parked in the same location at nighttime and early morning hours. (Ct.’s Order and Op. ¶10f.) Dew has accumulated on the windshield of Donna Bond’s vehicle, indicative of her spending the night at another man’s house other than her husband’s. (Ct.’s Order and Op. ¶10f.) Donna Bond was specifically seen in Alexis Stallings’ apartment using the remote control to his television. (Ct.’s Order and Op. ¶10d.) On another occasion, Donna Bond was seen wearing lingerie in Alexis Stallings’ apartment. (Ct.’s Order and Op. ¶10h.) Witnesses observed Donna Bond and Alexis Stallings share meals together at restaurants and shop together. (Ct.’s Order and Op. ¶10e,h.) Donna Bond and Alexis Stallings were seen at a casino in Philadelphia, Mississippi, at 1:00 a.m. on July 11, 2009 where they were acting like “boyfriend-girlfriend.” (Ct.’s Order and Op. ¶10g.) Voluminous cell phone records indicated that Donna Bond called and talked to Alexis Stallings at all hours of the day and night. (Ct.’s Order and Op. ¶10i.) On the day of the trial, Donna Bond and Alexis Stallings were seen holding hands during a recess taken by the Court. (Ct.’s Order and Op. ¶10j.)

## STANDARD OF REVIEW

### I. Abuse of discretion by the Court by failing to expressly consider the adulterous acts of one party when dividing marital estate

The Supreme Court of Mississippi should review this issue de novo.

According to *Marshall v. Gipson Steel, Inc.*, “This Court will not interfere with a chancellor’s findings of fact unless they are manifestly wrong, clearly erroneous or an erroneous legal standard was applied. However, we review the chancellor’s interpretation and application of the law de novo.” 806 So.2d 266, 270

(Miss.2002)

## SUMMARY OF ARGUMENT

The lower Court abused its discretion by failing to expressly consider the adulterous acts of Donna Bond when it divided the marital estate between her and James Lee Bond, a manifest error that this Court must rectify. The Chancery Court was correct in applying the *Ferguson* factors in determining the division of marital property; however, the Court failed to apply all of the factors unerringly in the case at hand. Among the various factors, *Ferguson* allows for, “Any other factor which in equity should be considered.” Courts across Mississippi have affirmed that infidelities are a viable factor that must be taken into consideration by the Chancery Court when dividing marital property. After analyzing the adulterous acts on Donna Bond under this prong of the *Ferguson* factors, this Court cannot purport to ignore Donna Bond’s unfaithful actions when exercising its discretion to divide marital assets. Donna Bond would be unjustly enriched by such a disregard when, in fact, the Court found that her affair alone caused her divorce from Jimmie Lee Bond.

## ARGUMENT

**I. The Chancery Court failed to expressly consider the extensive and audacious adulterous acts of Donna Shanell Jones when the Court awarded her a significant portion of the marital estate she and her husband shared.**

From *Ferguson v. Ferguson*, Mississippi Courts derived a set of factors to aid in the Court's calculations of marital assets in divorce proceedings. 639 So. 2d 921 (Miss. 1994). Among these factors, the Court included an eighth, catch-all factor: any other factor which in equity should be considered. *Id.* Since the adoption of the *Ferguson* factors, Courts have considered adulterous acts of a spouse under this prong. *Id.* The Chancery Court abused its discretion by failing to consider entirely Donna Bond's involved adulterous affair with Alexis Stallings when it awarded her an interest in her husband's home and in his Workmen's Compensation settlement. Marital misconduct is a viable factor entitled to be given weight by Chancellors for purposes of just division of marital property. *Carrow v. Carrow*, 741 So.2d 200 (Miss.1999). Thus, the Chancery Court's disregard of Donna Bond's unfaithfulness and disloyalty to her husband when dissecting the marital estate is a manifest error this Court must amend.

Furthermore, Mississippi Courts have instated a partiality toward the injured spouse when dividing marital assets if it is demonstrated that the adulterer placed a burden on the stability and harmony of marital and family relationships. *Singley v. Singley*, 846 So.2d 1004 (Miss.2002). Donna Bond undeniably oppressed her disabled husband by engaging in an intense, longstanding relationship with another man. She was physically absent from the home they shared so that she may pursue an affair with

another man. The Court need not only consider marital misconduct in this case, but also view Donna Bond's prolonged relationship with Alexis Stallings in an unbalanced light partial to Jimmie Lee Jones, her forsaken husband, in the Court's division of the marital estate.

**A. Marital misconduct is a viable factor to be given weight in distributing marital assets.**

The Chancery Court incorrectly applied the *Ferguson* factors when dividing the marital assets of Jimmie Lee Bond. It was within the Chancery Court's discretion to consider Donna Bond's adulterous actions when distributing the marital assets, but it failed to exercise this prudence, a manifest error on behalf of the Chancery Court that this Court must remedy. Mississippi Courts have consistently held that adultery is a feasible facet to reflect upon in its division of marital assets.

In the recent case of *Rodriguez v. Rodriguez*, the Mississippi Court of Appeals considered this very issue. 2 So.3d 720 (Miss.Ct.App.2009). In *Rodriguez*, an issue on appeal was whether the adulterous party's actions should have been taken into consideration when dividing the marital property. *Id.* Accordingly, the Court of Appeals in *Rodriguez* analyzed the extramarital acts of the party and made a ruling on the issue because the Chancery Court had failed to do so itself. *Id.*

In *Sullivan v. Sullivan*, the Court reiterated that it is within the Chancery Court's discretion to consider adulterous conduct and its impact, if any, on the destruction of the marriage when distributing marital property. 990 So.2d 783 (Miss.App.Ct.2008). In *Sullivan*, the adulterous party purported that the Chancery Court erred in considering her affair when the Court ordered its division of marital assets. *Id.* The Mississippi Court of

Appeals held, “The chancellor was correct to consider Donna’s affair.” *Id.* at 785. Citing *Ory v. Ory*, the Court stated, “Marital misconduct is a proper factor for a chancellor to consider when equitably distributing marital assets.” 936 So.2d 405, 413 (Miss.Ct.App.2006) (citing *Singley*, 846 So.2d 1004, 1007 (Miss.Ct.App.2002)).

In the case at bar, the Chancery Court acknowledged no other equitable factor affecting division of marital when applying its own analysis of the *Ferguson* factors. The Court’s Order and Opinion merely stated, “The Court observed no other factor.” (¶I.J.) Precedent law clearly indicates the Chancery Court abused its discretion by failing to consider Donna Bond’s adulterous affair under this prong of *Ferguson*. Consequently, the case at bar should be remanded to the Chancery Court for reconsideration on the issue of division of marital assets.

**B. Donna Shanell Bond’s extensive affair with Alexis Stallings placed a burden on the stability and harmony of the marital and familial relationships once enjoyed by her spouse Jimmie Lee Bond, and consequently the Court should display partiality to Jimmie Lee Bond in its distribution of marital assets.**

Marital misconduct is a proper factor for a chancellor to consider in the equitable distribution of marital property. Moreover, when the misconduct places a burden on the stability and harmony of the marital and family relationships, the adulterous conduct is entitled to be given substantial weight for purposes of just marital property disposal. *Carrow*, 741 So.2d 200 (Miss.1999). Donna Bond’s longstanding affair with Alexis Stallings unquestionably burdened her disabled husband with considerable hardship, and



consequently Donna Bond should not receive unjust enrichment from the marital asset division ordered by the Chancery Court.

In *Watson v. Watson*, the Supreme Court of Mississippi acknowledged that the central question for whether adulterous conduct as a ground for divorce is relevant to equitable distribution is whether the conduct impacted and burdened the stability and harmony of the marriage. 882 So.2d 95 (Miss.2004). In *Watson*, a husband began a sexual relationship with one of his employees and left his wife to move in with his paramour whereupon he began paying the mortgage and utilities for their residence. *Id.* Consequently, the Chancery Court granted a divorce on the grounds of adultery, and subsequently, the wife appealed the Chancery Court's Order of Division of Marital Assets because the Court did not consider her husband's extramarital conduct in its distribution. *Id.* The Supreme Court of Mississippi held that the husband's conduct – his physical absence from their home and the emotional abandonment of his spouse – rose to level of adulterous conduct that “impacts and burdens the stability and harmony of the marriage” and citing *Singley*, remanded the case for a recalculation of distribution of marital assets. *Watson*, 882 So.2d 95 (citing *Singley*, 846 So.2d at 1007).

Donna Bond's conduct is comparable to the adulterous party in *Watson*. The Chancery Court found by clear and convincing evidence that Donna Bond was physically absent from her spouse Jimmie Lee Bond's home in the Court's finding that she was spending the night at another man's house. Likewise, the adulterous party in *Watson* left his family's home to be at his mistress's home. 882 So.2d 95. Aside from physical unavailability, Donna Bond undeniably emotionally abandoned her husband Jimmie Bond. The Court also found that by clear and convincing evidence that the community in

which she resided viewed Donna Bond and her suitor Alexis Stallings as a couple, and they often shared meals together at restaurants in Starkville. Similarly, the adulterous party in *Watson* began dating a person other than his spouse and developed a sexual relationship. 882 So.2d 95. Donna Bond admitted in the presence of a police officer to her husband that she maintained an intimate relationship with Alexis Stallings. The Chancery Court in the case at hand opined that it was Donna Bond's adulterous actions that singlehandedly caused her divorce from her husband Jimmie Bond. Irrefutably, this lends to the finding that Donna Bond's behavior rises to the level of extramarital egregiousness that requires the Court to consider her actions in its division of marital assets.

Returning to a case previously discussed in the above section, *Sullivan v. Sullivan* also validates the notion that the Chancery Court's division of marital assets should be reevaluated because Donna Bond's affair ascends to a level of abomination that must be considered in the division of marital assets. 990 So.2d 783 (Miss.Ct.App.2008). In *Sullivan*, a wife met another man, and over the course of a few months, the two of them spent time together and eventually developed a sexual relationship. *Id.* Despite her husband's constant pleadings to stay home, the wife would go out with this other man. *Id.* She eventually left her marital home and moved into an apartment with the other man. *Id.* Her husband attempted to resolve the issue and convince her to return home twice, but his wife refused. *Id.* While the wife was living with the other man, she continued to access her marital accounts with her husband. *Id.* The Chancery Court took the wife's extramarital relationship in its entirety into account in the Court's distribution of assets and stated, "Her open, shameless, continued relationship...had a tremendous

impact on the harmony and stability of the marriage.” *Id.* at 788. The wife appealed the Chancery Court’s application of the *Ferguson* factors because she felt she was prejudiced by the Court’s calculation based on her adulterous affairs. *Id.* The Mississippi Court of Appeals affirmed the Chancery Court’s decision, stating:

The Chancellor was correct to consider Donna’s affair. Marital misconduct is a proper factor to consider when equitably distributing marital assets “when the misconduct places a burden on the stability and harmony of the marital and family relationship.” *See Ory v. Ory*, 936 So.2d 405, 413 (Miss.Ct.App.2006) (citing *Singley v. Singley*, 846 So.2d 1004, 1007 (Miss.2002)). The record reflects that Donna’s ongoing affair...placed a tremendous burden on the marriage and ultimately resulted in her leaving... [her husband]. Accordingly, we see no error with the chancellor’s decision to **place great emphasis on what he deemed her “open, shameless, continued relationship”**...[with another man]. We see no merit to... [the wife’s argument].

*Id.* at 788 (emphasis added).

The actions of the adulterous party in *Sullivan* are indistinguishable from the actions of Donna Bond’s; therefore, there should be no discrepancy in the Chancery Court’s application of the *Ferguson* factors in regards to the infidelities committed by the wife in *Sullivan* and Donna Bond. However, whereas the Chancery Court in *Sullivan* put **great emphasis** on the affair when distributing marital assets, the Chancery Court in the case at bar did not so much as consider Donna Bond’s affair with Alexis Stallings. The wife in *Sullivan* and Donna Bond both met men outside of their marriage and despite their husbands pleas to stay at home, both would leave to go spend the night with their

paramour all while still maintaining access to their marital bank account. Both Courts also granted divorced solely based on the adulterous party's actions. The Chancery Court in *Sullivan* reprimanded and stressed the wife's affair because of its flagrant openness and continuance. The same action should be taken by the Court against Donna Bond. The Chancery Court found by clear and convincing evidence that Donna Bond and her adulterer were equally as open and shameless in their relationship; they were known as a "couple" in their community, and Donna Bond freely admitted in front of a police officer to her husband that she was intimate with Alexis Stallings. For the sake of judicial consistency, this Court should remand the case at bar to the Chancery Court for reconsideration of Donna Bond's marital asset award.

The Court again examined adulterous affairs and its weight on marital distribution in *Singley v. Singley*. 846 S0.2d 1004. (Miss.2002). In *Singley*, the Supreme Court of Mississippi reviewed the Chancery Court and Court of Appeals decisions in the Courts' assessments of a wife's extramarital affairs and its impact on the apportioning of the marital assets. *Id.* Whereas the lower Courts did not give assign consequence for the wife's affairs, the Supreme Court reversed, stating, "The overwhelming nature of... [the wife's] involvement in numerous affairs and the resulting strain and conflict created in the marriage cannot be ignored or lessened." *Id.* at 1010. The Supreme Court also noted, "The chancellor found that... [the wife] was physically and emotionally gone from [her husband and son] because of the numerous adulterous relationships." *Id.* at 1010. Despite this discovery by the Chancery Court, the Court did not give deference to the wife's affairs at all; the Supreme Court was obliged to rectify this, stating:

... We again note that it was [the husband] who was granted the divorce on grounds of adultery because of [his wife's] numerous affairs. Although a chancellor is generally given great deference as to findings of fact and conclusions of law, here, considering the overwhelming nature of evidence adduced by [the husband], we conclude that the chancellor's decision was unsupported by substantial evidence. Thus, the chancellor in applying the law to these facts **was manifestly wrong, abused her discretion, and failed to do equity. As such, we reverse and remand this issue for rehearing.**

*Id.* at 1010 (emphasis added). The Supreme Court held, "The wife's numerous adulterous affairs weighed **heavily** in the husband's favor when dividing the marital assets." *Id.* at 1004 (emphasis added).

Many parallels can be drawn between *Singley* and the case at bar. Whereas the wife in *Singley* engaged in numerous affairs, Donna Bond was engrossed in one intensive, continuing relationship with Alexis Stallings. The number of affairs is irrelevant; the material fact is that these infidelities disconnected the wives from the homes of their spouses physically and emotionally. Consequently, both spouses were granted divorces solely on the grounds of adultery because of their wives' affairs. Comparably, both Chancery Courts acknowledged these findings of fact, but both Courts failed to apply them properly, adequately, or at all in their distribution of the marital assets. The Supreme Court of Mississippi in *Singley* held that the Chancery Court was manifestly wrong, abused its discretion, and failed to do equity by this omission because the wife's actions in *Singley* were substantial enough to warrant consideration.

Accordingly, this Court should do the same in this case because Donna Bond's adulterous affairs are homologous to those in *Singley*.

Relevant case law from this own Court indicates that marital misconduct is a viable factor to be given weight when dividing the marital estate. Moreover, case law from this Court also evidences that when the adulterous behavior places a burden on the stability and harmony of the marital and familial relationships, deference must be given in favor of the forsaken spouse. In the case at bar, the Chancery Court granted a divorce on the grounds of adultery solely because of Donna Bond's extensive adulterous affair with Alexis Stallings. The Court did not, however, consider this finding of fact when it applied the *Ferguson* factors in its analysis of marital asset distribution. The Chancery Court's Opinion and Order blatantly states, "The Court observed no other factor" under the prong of *Ferguson* where Donna Bond's adulterous affairs must be necessarily analyzed. Furthermore, comparable case law suggests that Donna Bond's affair rises to a level of egregiousness that requires her husband to be favored in the division of assets. This is a manifest error and an abuse of discretion by the Chancery Court that we pray the Supreme Court will correct.

## CONCLUSION

Marital misconduct is a viable factor to be considered in the distribution of the marital estate. The Chancery Court abused its discretion and committed a manifest error in its failure to consider Donna Bond's adulterous affair with Alexis Stallings in the Court's determination of marital asset division. The Chancery Court failed to properly apply the *Ferguson* factors by this omission. Additionally, Donna Bond's unremiiting relationship with Alexis Stallings was to such an extent that, according to case law from this own Court, her misconduct requires partiality be shown to her husband in the division of the marital estate. Thus, relief must be granted to Jimmie Lee Bond; the order of division of Jimmie Bond's marital assets must be remanded for a rehearing in the Chancery Court so that Donna Bond's affair will be appropriately given weight.

Respectfully submitted this 10<sup>th</sup> day of ~~August~~ <sup>SEPT</sup>, 2010.



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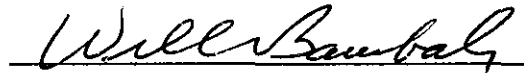
CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing  
Brief for Appellant has been delivered by hand or via United States Mail, postage  
prepaid, to:

Hon. Kenneth M. Burns  
Post Office Box 110  
Okolona, Mississippi 38860

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SO CERTIFIED, this 10<sup>th</sup> day of ~~August~~<sup>SEPT</sup>, 2010.



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