

IN THE SUPREME COURT OF MISSISSIPPI

William R. Cromwell

APPELLANT

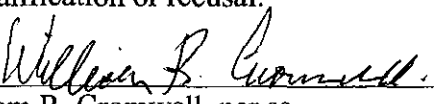
VS.

NO. CV 2010-CC-01249

MISSISSIPPI DEPARTMENT OF
EMPLOYMENT SECURITY

APPELLEE

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



William R. Cromwell, per se.

Mississippi Department of Employment Security
Legal Department (Attn. LeAnne F. Brady)
P.O. Box 1699
Jackson, Mississippi
39215

Honorable Andrew K. Howorth
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1 Courthouse Square
Oxford, Mississippi
38655

Big M Transportation
6311 Hwy 15 North
Blue Mountain, Mississippi 38610

CERTIFICATE OF SERVICE

The undersigned does hereby certify that he has this day placed a true and correct copy of the foregoing in the U.S. Mail, First Class postage prepaid, properly addressed to:

MISSISSIPPI DEPT. OF EMPLOYMENT SECURITY
LEGAL DEPT.
P.O. BOX 1699
JACKSON, MS 39215-1699

HON. ANDREW K. HOWORTH
1 COURTHOUSE SQUARE
SUITE 201
OXFORD, MISSISSIPPI 38655

BIG M TRANSPORTATION INC.
6311 HWY. 15 N.
BLUE MOUNTAIN, MISSISSIPPI 38610

I further certify that pursuant to M.R.A.P. 25(a), I have deposited the original and three (3) true and correct copies of the above and foregoing in the U.S. Mail, First Class postage prepaid, properly addressed to:

Hon. Kathy Gillis
Clerk, Supreme Court of Mississippi
Post Office Box 249
Jackson, MS 39205-0249

On this the 3rd day of December, 2010.


WILLIAM R. CROMWELL

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STATEMENT OF ISSUE

Whether or not plaintiff should be awarded unemployment benefits.

STATEMENT OF THE CASE

On May 5th 2009, appellant was discharged from employment with Big M transportation Inc, (then of Hickory, Flat Ms) the reason stated being that the company's insurance carrier would no longer insure me, after a second accident within 36 months. Application for unemployment benefits were made and denied. Subsequent appeals were made to the Administrative Law Judge, Board of Appeals and the Circuit Court of the 3rd District in Marshall County, Ms. All appeals were denied.

SUMMARY OF THE ARGUMENT

Employee would show unto the court, that according to MDES publication, “A Guide to the appeals process”, “and the telephone hearing instructions”. Sec. 3 “Burden of Proof of Responsibility Notice” it is clearly and specifically stated that the burden of proof in a discharge, “must prove disqualifying misconduct by clear substantial and convincing evidence by the employer.” Mississippi Department of Employment Security Law, statute number 71-5-513A (1) (C) also speaks to burden of proof being upon the employer.

ARGUMENT

Appellant contends that unemployment benefits should be awarded, since there has been no allegation or proof of misconduct by the employer, the employer's insurance carrier, or police officers investigating the accidents. The burden of proof has not been met.

CONCLUSION

Appellant prays for reversal of previous decisions denying benefits and for award of Unemployment Benefits from June 9, 2009 to the present.