

REBUTTAL ARGUMENT OF STEWART FINCH TO APPELLANT'S ARGUMENT THAT THE CROSS APPEAL IS NOT TIMELY FILED

The Appellant Rosemary Finch filed her notice of appeal from the February 16, 2011 judgment of the Lamar County Chancery Court. (C.P. 360; R.E. appellant #14). At the oral argument before Judge Gambrell one of the issues raised was the failure of the appellant, Rosemary Finch to provide to Stewart Finch a copy of the child, Sean Finch's grades and attendance in junior college. During oral argument, counsel for Mrs. Finch knew of Sean's poor performance at Jones County Junior College for the fall 2010 semester and did not advise the court or Mr. Finch.

Mr. Finch brought this issue up during his oral argument. Judge Gambrell took the matters under advisement and issued her ruling on the matter. Specifically Judge Gambrell ordered that the minor child was not emancipated but reduced Mr. Finch's child support obligation and required that the obligation would continue as long as the "minor child attends school and maintains a C average". (C.P. 358; R.E. appellant # 2) She further ordered that the minor child must authorize the school to provide to Mr. Finch with copies of his grades.

Mr. Finch and his counsel immediately sought the information regarding the grades and the child's attendance in junior college at Jones County Junior College. No authorization was ever executed by Sean Finch and the information was provided to Stewart Finch by Mrs. Finch's counsel on April 1, 2011 well after the appeal deadline had passed. Whether this was intentional or not who will ever know? It is just another example of the manipulation of the legal process by Mrs. Finch.


Upon receipt of the transcript for the fall semester, Mr. Finch and his counsel

immediately filed a motion to reopen pursuant to Rule 60(b)(3) of the Mississippi Rules of Civil Procedure. Further argument of Mr. Finch was the fact that no information regarding whether or not Sean Finch was enrolled in the spring 2011 semester at Jones Junior College had been provided either. (C.P. 0370; R.E. #15 appellant). Two days later Mrs. Finch also files a motion to reopen to supplement the record.(C.P. 0374; R.E. # 16, appellant.) The Court again heard oral argument on the motions and entered her Order of May 19, 2011. (C.P. 0408; R.E. #17, appellant)

The Appellee, Stewart Finch filed his cross appeal on June 10, 2011 one day prior to the expiration of the 30 day appeal time. Rule 4(c) and (d) clearly authorizes an appeal 30 days from the date of the last post-trial motions. Mr. Finch's cross-appeal is timely.

Respectfully submitted,
STEWART FINCH, Appellee/cross
appellant


BY:


S. CHRISTOPHER FARRIS
Attorney for Appellee/cross appellant

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this date mailed a true and correct copy of the foregoing Appeal to the Mississippi Supreme Court Clerk, Ms. Kathy Gillis, Post Office Box 117, Jackson, MS 39205; Judge Deborah Gambrell, Chancery Court Judge, Post Office Box 807, Hattiesburg, MS 39403-0807; Hon. Jimmy Robertson, Wise Carter Child & Caraway, P. O. Box 651, Jackson, MS 39205-0651; by regular United States mail, postage prepaid.

DATED this the 8th day of February, A.D., 2012.


S. CHRISTOPHER FARRIS