

COURT OF APPEAL
STATE OF MISSISSIPPI

PENNY WILSON

VS

GREGORY WILSON

NO. 2011-TS-00619

CERTIFICATE OF INTERESTED PARTIES

The undersigned Counsel of Record certifies that the following persons have an interest and outcome of this case. These representations are made in order for the Justices of the Supreme Court and Judges of the Court of Appeals to evaluate possible disqualification or recusal.

1. PENNY WILSON, Plaintiffs- Appellants
2. Joyce Funches
Post Office Box 24623
Jackson, MS 39234
3. Honorable Judge Denise Sweet Owens
c/o Eddie Carr
Chancery Clerk of Hinds County
P O Box 686
Jackson, MS 39205
4. Honorable Kathy Gillis
Supreme Court Clerk
P O Box 249
Jackson, MS 39205

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I. INTRODUCTION

The Appellant is requesting a review of the Chancellor's finding in regards to the equitable distribution of marital property. "This Court will not disturb the findings of a chancellor unless the chancellor was manifestly wrong, clearly erroneous or an erroneous legal standard was applied." *Bell v. Parker*, 563 So.2d 594, 596-97 (Miss.1990).

In other words, "[o]n appeal this Court is required to respect the findings of fact made by a chancellor supported by credible evidence and not manifestly wrong." *Newsom v. Newsom*, 557 So.2d 511, 514 (Miss.1990). The word "manifest," as defined in this context, means "unmistakable, clear, plain, or indisputable." Black's Law Dictionary 963 (6th ed.1990). *Turpin v. Turpin*, 699 So.2d 560, 564 (Miss.1997) (quoting *Magee v. Magee*, 661 So.2d 1117, 1122 (Miss. 1995)). The Appellant¹ requests the review of the Chancellor's decision because due to a bifurcation of the hearings, the findings of the Chancellor were manifestly wrong, clearly erroneous or an erroneous legal standard was applied.

II. STATEMENT OF THE ISSUES

1. Whether the Chancellor committed reversible error when she determined that funds held in Appellant's credit union account were subject to distribution as marital property?
2. Whether the Chancellor committed reversible error in awarding Appellee' equity in rental property in which the Appellee did not make "substantial contribution" toward the acquisition of the property?

¹ This Appellant respects the wisdom and judgment of the Chancellor in this matter and believes that the oversights were the result of various factors associated with the hearing of this case.

3. Whether the Court committed reversible error in not considering the Appellant's employment status in its Ferguson analysis?
4. Whether the Chancellor committed reversible error in awarding Mr. Wilson 100% of his retirement to Mr. Wilson?

III. STATEMENT OF THE CASE

Penny Wilson and Gregory Wilson were married on April 13, 2000. The parties moved into a home that Penny Wilson purchased in 1999. The parties had one daughter together, born in April of 1998. Ms. Wilson had two daughters from a previous marriage and Mr. Wilson had a son from a previous relationship. Mr. Wilson moved into the home with Ms. Wilson on or about April 13, 2000 after their marriage. Mr. Wilson commuted to and from St. Louis Missouri for his employment with Entergy for the first five years of the marriage. Ms. Wilson was employed with Delphi Packard Electric when the parties married; however, her employment with Delphi Packard Electric spanned a period of twenty (20) years.

Prior to the marriage Ms. Wilson had acquired certain assets that included savings of approximately \$17,000² and a Silver Share Certificate with a value of approximately \$42,347³. During the marriage, Ms. Wilson was gifted with approximately \$10,000 from her mother and inherited approximately \$7,500 associated with the death of her father.⁴ Mrs. Wilson was employed with Packard Electric as she was at the time of the marriage.⁵ During the period that Mr. Wilson was away, Mr. Wilson would send money home to Ms. Wilson for expenses

² As of 9/30/1999, Ms. Wilson had \$17,201.02 saved in an account at Member's Exchange Credit Union. (See Exhibit 10).

³ See Exhibit 11. The date of the Silver certificate is 7/20/99, approximately nine (9) months prior to her marriage to Mr. Wilson.

⁴ See Exhibit 10 and T. pg. 131 - 132

⁵ Ms. Wilson's employment with Packard Electric spanned a period of 19 years.

associated with the household.⁶ At no time during the marriage did the parties have joint checking or savings accounts.

In or about 2005, Ms. Wilson learned that Delphi Packard Electric had filed bankruptcy and that the company would be closing.⁷ She made a decision to purchase rental property as an investment vehicle that she could utilize when she became unemployed. Mr. Wilson testified that he was not aware of the property⁸ and made no contributions toward the purchase of the properties.

During the marriage, Ms. Wilson purchased four (4) pieces of property, one piece purchased with her daughter and titled in her name and her daughter's name.⁹ Prior to making the purchases, Ms. Wilson spoke with Mr. Wilson about joining her in the venture. He declined and decided to invest his extra money into a joint venture with his brother.¹⁰ The parties had difficulties throughout the marriage and had filed for divorce at least twice prior to this divorce action. Ms. Wilson was granted a divorce on the grounds of Habitual Cruel and Inhuman Treatment on January 15, 2010. All other issues were held in abeyance until a final hearing set for February 1, 2010.

The minor child, a daughter, at the age of 13 years old elected to live with her father. The Court inadvertently did not address child support in the Final Judgment and the case should be remanded to address child support obligations of the Appellant.

⁶ Mr. Wilson stated that he did not pay any bills per se. I gave her a check for half of whatever our total costs for the month was. (See T. pg 145). In a letter to Ms. Wilson (See Exhibit 16), Mr. Wilson in which he states that "Even the bills, I should have made sure all the money was there on time for every bill or done my best even if my personal ones were not paid."

⁷ See T. pg. 89.

⁸ See T. pg. 149

⁹ The property address is 3821 Newman Avenue. (See T. pg. 85). This property is jointly owned by Ms. Wilson and her daughter and she has only ½ of the equity in this property.

¹⁰ During testimony Mr. Wilson stated that he took money from the marriage to invest into a barber/beauty shop with his brother but he did not provide any money to his wife on buying properties (T. pg. 165-166).

The list of assets were prepared for the Court by the parties and provided to the Chancellor for consideration. The assets included six (6) pieces of property, four (4) automobiles and liquid assets totaling approximately \$298,450.00.¹¹

SUMMARY OF ARGUMENTS

1. Whether the Chancellor committed reversible error when she determined that all of the funds held in Appellant's credit union account were subject to distribution as marital property?

The Supreme Court has consistently held that all property acquired during the marriage is marital property. The Supreme Court has also consistently held that property acquired prior to the marriage or was the result of inheritance or gifts were not marital property and should be considered the separate estate of the parties unless they were commingled or the character of the property was changed due to "family use". The Chancellor's oversight in her analysis because she did not review evidence that showed that the Appellant had marital assets prior to the marriage, that she was the beneficiary of monies due to the death of her father and that she was the beneficiary of a gift from her mother that was never commingled with marital assets and therefore were retained as a separate estate by the Appellant.

2. Whether the Chancellor committed reversible error in awarding Appellee' equity in rental property in which the Appellee did not make "substantial contribution" toward the acquisition of the property?

The Chancellor committed reversible error in awarding the Appellee equity in rental property that the Appellee did not make "**substantial contributions**" to the acquisition of and

¹¹ The bulk of the funds were in a savings account in Ms. Wilson's name at Member's Credit Union. The account was a mixture of funds that she had prior to the marriage, funds that she inherited and funds that she received as a part of a severance package from Packard Electric when the company closed in May of 2010.

made written representations to that fact.¹² During the course of the nine year marriage with the Appellee, the Appellant acquired property. The property was 1) Williamson Avenue; 2) 3829 Newman Avenue; 3). Sanford Street; 4) and 3821 Newman Street.

The *Ferguson* factors which govern equitable distribution have been set forth by this Court as follows:

(1) substantial contributions to the accumulation of the property, including economic and domestic contributions by each party to the marriage, (2) expenditures and disposal of the marital assets by each party, (3) the market value and emotional value of the marital assets, (4) the value of the non-marital property, (5) tax, economic, contractual, and legal consequences of the distribution, (6) elimination of alimony and other future frictional contact between the parties, (7) the income and earning capacity of each party, and (8) any other relevant factor that should be considered in making an equitable distribution.

Selman v. Selman, 722 So.2d 547, 552 (Miss.1998). (emphasis added.)

The Appellant directs the Court to *Kilpatrick v. Kilpatrick*, 732 So.2d 876 (Miss.1999), in which this Court reversed a chancellor for failing to make the required findings of fact and conclusions of law regarding the distribution of the marital estate. Id. at 881. While the chancellor did enumerate the actual property division, the chancellor made no conclusions of law to support the division of the marital estate. Id. at 878-88. This Court reversed and remanded for specific findings of fact stating that "[w]ithout findings from the Chancellor concerning this income or use of income, we cannot determine if the distribution of property outlined above meets the standards of equitable distribution required by *Ferguson*." Id. at 881.

¹² The record consists of three letters from Mr. Wilson that provide the Chancellor with a written declaration that he was not responsible for the accumulation of the property and that he was not seeking to acquire equity in any of the property... that is, until she received a divorce. (See Exhibits 14, 15, 16).

The Appellant finds this to be the case in the case at bar and the case should be remanded to the Chancellor for review of the *Ferguson* factors in association with the acquisition of the property by the Appellant. The action should be remanded for an appropriate *Ferguson* analysis.

3. Whether the Court erred in not considering the Appellant's employment status in its *Ferguson* analysis?

The Court in its review of the *Ferguson* factors expounded that both parties had equal earning capacity. The Court did not acknowledge that at the time of the divorce the Appellant was separated from her employment. With this separation came the lack of medical and dental insurance, the accumulation of retirement funds and a basic instability in the financial life of the Appellant or the job market. The Appellant has been unemployed and continues to be unemployed since her separation from Packard Electric. The Appellant has sought employment and has returned to school to enhance her employment opportunities. As a result, the Appellant's only source of income was unemployment and rental income that was nebulous at best. The Appellant, as a result, has to expend her savings in order to continue to live.

4. Whether the Chancellor's award of 100% of Mr. Wilson retirement to Mr. Wilson was in error?

The Court awarded Mr. Wilson 100% of his retirement in manifest disregard that it awarded Ms. Wilson a 25% stake in the Appellant's severance package from Packard.

The Chancellor determined that the Appellee was entitled to 25% of the Appellant's severance from her employment. The Chancellor further determined that the Appellee should be awarded 100% of his retirement. The Chancellor's determination was manifestly wrong and the Appellant should be awarded one-half of the Appellee's retirement.

ARGUMENTS

1. Whether the Chancellor failed to classify certain assets held by the parties prior to the marriage as non-marital prior to making a distribution of the assets?

The Chancellor failed to classify certain assets held by the Appellant prior to the marriage as non-marital assets. As a result, the Chancellor failed to take into consideration the property assets that were held by the Appellant prior to the marriage and included the funds into the calculation for distribution of assets. The trial was bifurcated and as a result, the Appellant believes that the classification of the savings prior to the marriage, inheritances and gifts as marital property was an oversight on the part of the Chancellor. The *Hemsley* Court has that that "assets accumulated during the marriage are, for the purpose of this divorce, marital property subject to equitable division unless it can be shown by proof that such assets are attributable to one of the parties' separate estates prior to the marriage or outside the marriage." *Hemsley v. Hemsley*, 639 So.2d 909, 914, 915 (Miss.1994).

Testimony and evidence was provided to the Court that prior to the marriage the Appellant purchased the marital home at 2846 Fall Brook.¹³ The Appellant also prior to the marriage had accumulated \$17,402.02¹⁴ and another \$42,347.32¹⁵. There was testimony that Ms. Wilson received \$6000 from the death of her father and another \$1500 from an asbestosis settlement associated with her father's death.¹⁶ Ms. Wilson was also given as a gift \$10,000 which was placed into the Member's Exchange account and there was no co-mingling of these assets. The total funds that Ms. Wilson held that should have been considered as non-marital

¹³ The Appellant is not disputing that the marital home was converted to marital property by virtue of the family use doctrine.

¹⁴ See T. pg. 127 and Exhibit 10.

¹⁵ See Exhibit 11.

¹⁶ See T. pg. 131.

\$77,248.34 was not marital assets and should not be included in the calculation for distribution. There was no evidence that the assets were converted by commingling or utilized for domestic purposes and therefore the Chancellor erred in not giving Ms. Wilson credit for those funds in the distribution of the Member's Exchange account. The Chancellor erred in determining that the funds in the Member's Exchange Account was marital property because the funds were a mixture of savings held prior to the marriage, inheritance and funds awarded to the Appellant as a result of her severance from her employment with Packard Electric. This is especially true because the funds were not commingled and the Appellee made no contribution to the acquisition of the funds. In McKissack v McKissack, 45 So. 3d 716 (Miss. App., 2010), the Court determined that the Chancellor improperly applied the family use doctrine to classify the certificates of deposits held by the husband as marital property. The Appellant contends that the Chancellor in the case at bar has also misapplied the doctrine in regard to the funds held at Member's Exchange.

First, the funds were held in the name of the Appellant and her mother only. The funds were accumulated as a result of 1) savings held prior to the marriage, 2) inheritance from the death of the Appellant's father, 3) a gift from her mother and 4) severance from her employment at Packard Electric. The funds, based on the evidence, should be declared non-marital. The funds were not commingled and the Appellee were not entirely aware of the existence of the funds until the bank records were subpoena in preparation for the distribution associated with the divorce.

The bulk of the funds were the result of an award of severance to the Appellant based on an agreement that she would continue to work until the plant closed over a period of three years.

The Appellant was given \$35,000 for three years (income) and \$50,000 upon the close of the plant. The Appellant continued to receive her normal salary during this period.

The Court in Cross v Cross, (Miss. App., 2010) acknowledges that “the same application of the family-use doctrine to cash or cash equivalents is rather tenuous.” The Appellant agrees. The record is clear and noted by the Court in its Final Judgment of Equitable Distribution of Marital Property notes “This was not a marriage where the parties shared finances except for payment of expenses.” The Appellee provided testimony that he made payments to the Appellant each month to cover the expenses.

The Supreme Court in Pearson v Pearson, 761 So. 2d 157 (Miss. 2000) held that a holding company that held separate assets from James Pearson’s former business was not commingled with marital assets. The Appellant contends that the funds in the Member’s Exchange were not used for familial purposes and there was no commingling that would change the character of the funds to marital. The court held that separate property becomes marital if it is placed in a joint account. See, e.g. A & L, Inc. v Grantham, 747 So. 2d 832, 839 (¶¶21-22) (Miss. 1999); Tillman v Tillman, 716 So. 2d 1090, 1095 (¶20) (Miss. 1998).

The Court in its analysis of this factor failed to give consideration to the funds in the Member’s Exchange account that were the separate estate of the Appellant. The difference in the severance amount and the amount held in the Member’s Exchange Account equated to \$62,278.00. The \$62,278 is representative of what the Appellant would have had in the account prior to the payment of the severance payments. This \$62,278 makes up the separate estate of the Appellant. The funds were not commingled and were derived from a pre-marital source, inheritance and a gift. The Appellant would request that the Court reviews its determination of

the award to the Appellee giving the Appellant credit for the portion of the funds that were determined by testimony to be a separate estate that was not commingled and was not utilized for “familial purposes” and therefore retained its character of a separate estate.

2. Whether the Chancellor erred in awarding Mr. Wilson with equity in the rental property as he made no “substantial contribution” to the accumulation of the assets?

During the course of the nine year marriage with the Appellee, the Appellant acquired property. The property was 1) Williamson Avenue; 2) 3829 Newman Avenue; 3). Sanford Street; 4) and 3821 Newman Street.

The *Ferguson* factors which govern equitable distribution have been set forth by this Court as follows:

(1) substantial contributions to the accumulation of the property, including economic and domestic contributions by each party to the marriage, (2) expenditures and disposal of the marital assets by each party, (3) the market value and emotional value of the marital assets, (4) the value of the non-marital property, (5) tax, economic, contractual, and legal consequences of the distribution, (6) elimination of alimony and other future frictional contact between the parties, (7) the income and earning capacity of each party, and (8) any other relevant factor that should be considered in making an equitable distribution.

Selman v. Selman, 722 So.2d 547, 552 (Miss.1998). (emphasis added.)

The *Ferguson* Court propounded that in *Jones v Jones*, 532 So. 2d 574, 580, recent cases have struggled with the definition of “contribution” within the context of the acquisition of assets. The court has stated “ [i]f contribution toward the acquisition of assets is proven by the divorcing party, then the court has the authority to divide these ‘jointly’ accumulated assets.” Id. at 580.

During the marriage, the Appellant made a decision to purchase property to be used as an investment. The Appellant acquired various pieces of property during the course of the marriage. The Appellant asked her husband if he was interested in investing in rental property and he declined.¹⁹ The Appellee did not make any payments on the property and did not pay taxes or insurance on the property. The Appellee went into a joint venture with his brother instead.²⁰ The Appellee went so far as to put it in writing that “being of sound mind and body, do hereby declare that in nom manner do I wish or desire to own or have half or any of your rental properties (no matter how many they may be) and furthermore have no desire to receive any monies collected by buying or selling of any of the above mentioned properties.”²¹

The Court in *Flechas v. Flechas*, 791 So. 2d 295 (Miss. App. 2001) was confronted with an alleged oral agreements between the parties in regards to division of asset at the conclusion of the marriage. The Chancellor in the case, at bar, was provide with written testimonial from the husband in which he rejected the properties that the judge determined were a part of the marital

¹⁹ See T. pgs. 165 -166

²⁰ See T. pgs. 85 – 89.

²¹ Mr. Wilson went even further and stated that “I view your houses as I always have, that is to say, as yours. I wish to have or own no portion of your properties but do not hold the highest regard and best wishes for you in your goals and accomplishments. (See T. pg. 90).

estate and subject to distribution.²² The Chancellor provided the Appellant no reason, legal or otherwise, why the repudiation by the Appellee was not considered.

The source of funds by which the Appellant could have purchased the property was questioned by the court and the Court assumed that the funds had to be marital funds. As provided earlier, the Appellant came into the marriage with considerable savings and therefore the assumption that the funds were marital cannot be sustained. As the marriage was one where each party retained funds that were not utilized for monthly expenses from their respective incomes, there were ample funds available for “family use” without necessitating the use of savings for daily living. The Court in its Final Judgment of Equitable Distribution of Marital Property notes “This was not a marriage where the parties shared finances except for payment of expenses.”²³

The Appellee provided un-collaborated testimony that he performed electrical work on the units and therefore he had made a substantial contribution to the accumulation of the property. The Appellee stated that he did not assist in purchasing the property, nor paying taxes and insurance on the property. The Appellant, provided testimony collaborated through Andy McLeod that she paid Mr. McLeod to perform service and repairs on the property.²⁴ The

22 Exhibit 14 concludes with the statement “As I have spoken these words to you countless times, they are now written and are my word, as God is my Judge and witness.” There can be no sounder repudiation of ownership of the property than this declaration made by Mr. Wilson. This Court should hold Mr. Wilson to his written and oral “utterances” to God as his judge and witness as there can be no higher judge.

23 See R. 000070

24 See T. pg. 140 - 142

Appellee also stated in letters to the Appellant that the properties belonged to her and that he was not interested in making claim to the property.²⁵

The Chancellor also failed to take into consideration that that the Appellant only held 50% interest in the property at 3821 Williamson which was titled to the Appellant and her daughter. The Chancellor's award of 25% of the value of the total property was in direct contradiction of the testimony of the Appellee's testimony and the evidence presented that he did not have any vested interest in the property.

In order to determine whether a party has made substantial contributions, the Court looks at the following factors:

- a. Direct or indirect economic contribution to the acquisition of the property

The Appellee made it clear that he made no direct contribution to the acquisition or upkeep of the property.²⁶ The Appellee did not pay taxes or insurance on any of the property during or after the acquisition of the property.

The Appellee states that he made indirect contributions to the acquisition of the property but during testimony admitted that he did not even know where the multi-dwelling unit was.²⁷ The Appellee asserted that he had done electrical work on all of the units with the exception of the

²⁵ See Exhibits 159, 160 and 161

²⁶ See T. pg 165 and 166

²⁷ See T. pg. 150

multi-dwelling unit. The Appellant testified that the Appellee did not perform work on the property and that the work was hired out to Andy McLeod.²⁸

b. Contribution to the stability and harmony of the marital and family relationships as measured by quality, quantity of time spent on family duties and duration of the marriage.

The Appellant would The Chancellor acknowledged that the marriage of the parties spanned a nine year timespan. The Chancellor also acknowledges that Ms. Wilson had solid work ethics and that Ms. Wilson over the years had saved and invested her money. The Chancellor also acknowledged that the Appellee worked and made non-monetary contributions to the household because of his skills as an electrician. The Chancellor acknowledges that this factor weighed in favor of the Appellant.

c. Contribution to the education, training or other accomplishment bearing on the earning power of the spouse accumulating the assets.

The Court asserts that this factor does not favor either party. The Appellant disagrees. The fact that the Appellee was off in St. Louis for employment reasons should be sufficient to acknowledge that the Appellant contributed to accomplishments bearing on the earning power of the accumulated assets. With a child born in 1998 to a marriage that that was instituted in 2000, the Appellant was responsible for the primary care of the parties' child from the years 2000 to 2005, while the Appellee travelled for his employment. Without the support of the Appellant, the Appellee would not have been able to take a job out of town and be responsible for the household as well. This contribution by the Appellant allowed the Appellee to rise in his role at

²⁸ Mr. McLeod testified and his testimony that he was responsible for repairs to the units and he was paid by Ms. Wilson.

acquisition of the property and therefore the Chancellor erred in awarding the Appellee equity in the property.

The Chancellor did not review all of the *Ferguson* factors in association with the acquisition of the property by the Appellant and substantial contributions made by the Appellee and the action should be remanded for an appropriate Ferguson analysis.

4. Whether the Court erred by awarding Mr. Wilson 100% of his retirement account?

The Court, after determining that the Appellee was entitled to 25% of the Appellant's separation pay from Packard Electric determined that the Appellant was not entitled to any of the Appellee's retirement of \$46,577.83. The Appellant is aware of the fact that equitable does not mean equal but in light of the fact that the Appellant was unemployed and continues to be, the Court should have provided an explanation as to why the Appellant was not entitled to any on the Appellee's retirement.

The Court in *Ferguson v. Ferguson*, 639 So 2d 921, 934 the Court held that when separate plans for each spouse are not in existence, it is only equitable to allow both parties to reap the benefits of the one existing retirement plan, in which both parties have materially contributed to in the same fashion. As the Appellant only has available her severance plan as her retirement, the court would be manifestly wrong to not allow her to share in the retirement plan of the Appellee. There can be no dispute that a portion of the Appellee's retirement account should be considered a marital asset just as Ms. Wilson's severance was considered a marital asset.

Whether the Court erred in not considering Ms. Wilson employment status in its allocation of marital assets?

The Appellant has been unemployed since her separation from Packard Electric and has not been able to find employment. As a result, the Appellant's only source of income was unemployment and rental income that was nebulous at best. The Chancellor, in evaluating the marital distribution by way of the Ferguson factors, gave no consideration to the unemployment status of the Appellant or the job market. The Chancellor erred in not considering the needs of the Appellant for her financial security. One of the Ferguson factors require a Chancellor to review the needs of the parties for financial security with due regard to the combination of assets, income and earning capacity. The Court, in its ruling, stated that the Appellant's earning capacity should ensure her ability to provide for her future.

The Appellant has suffered a tremendous setback in her employment status due to no fault of her own. The Appellant went from earning a considerable salary to unemployment when the facility closed. The Appellant was able to acquire approximately \$50,000 from Packard because she agreed to remain on with the plant as opposed to seeking employment prior to the actual close of the plant. In retrospect, the delay in seeking employment jeopardized the Appellant's ability to obtain gainful employment and she has returned to school to acquire additional skills. The Appellant's income at the time of the divorce was \$2,640 and the Appellee's \$5,520 (double that of Ms. Wilson's). The Appellant's expenses were approximately \$3,779.00 at the time of the divorce. As a result of unemployment, The Appellant no longer has health insurance, life insurance or retirement assets.

On the other hand, the Appellee's salary in 2009 was approximately \$74,000 with a

monthly salary of \$5,520. The Appellee was awarded 100% of his retirement. The Appellee has skills and ability to sustain suitable employment as he worked for Entergy and continues to do so.

The Chancellor did not consider the predicament that the recent loss of employment would place the Appellant in regards to her financial security. The Chancellor's determination that the Appellant's earning capacity would assure her ability to provide for her future should be reassessed based on the economic climate and the current job market that the Appellant has been placed in.

CONCLUSION AND PRAYER

The Appellant prays that this Court will remand this case to the Chancellor for review and further consideration of the classification of the assets as marital property, the contribution of the Appellee to the acquisition of any marital assets and the review of the Ferguson factor in association with the financial well-being of the Appellant in lieu of the Court's distribution of marital assets. The Appellant further prays for any and all relief this Court determines to be applicable.

CERTIFICATE OF SERVICE

I, Earnestine Alexander, certify that I have this day delivered through postage paid mail or hand-delivered, a copy of the foregoing document to the parties below:

Joyce Funches
Post Office Box 24623
Jackson, MS 39234

Honorable Judge Denise Sweet Owens
c/o Eddie Carr
Chancery Clerk of Hinds County
P O Box 686
Jackson, MS 39205

Honorable Kathy Gillis
Supreme Court Clerk
P O Box 249
Jackson, MS 39205

This the 19th day of September, 2011.

Earnestine Alexander
Earnestine Alexander