

COPY

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2012-TS-00964-COA

FILED

OCT 23 2012

**OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS**

WILLIE H. JONES II

APPELLANT

VS

**MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY
HINDS COUNTY SCHOOL DISTRICT
HINDS COUNTY SCHOOL BOARD**

APPELLEE

BRIEF OF APPELLANT

TABLE OF CONTENTS

	PAGE
TABLE OF CONTENTS.....	2
TABLE OF AUTHORITIES.....	4
I. STATEMENT OF THE ISSUES.....	5
A. Whether the finding of MDES's Administrative Law Judge, Cindy C. Gill, was based on fraudulent, created, and seemingly defamating, late information provided by the Hinds County School District-Hinds County School Board.	
B. Whether Administrative Law Judge, Cindy C. Gill, wronged in her interpretation of the law that the Appellant's official grievance submittal to the secretary of the Hinds County School Board, Lajuan Stinson, on May 14, 2010 did not negate the process of continuing any plan until heard before the school board as according to Mississippi Code of 1972-Grievance Procedures-Licensed Personnel.	
C. Whether the Appellant was placed on a performance plan of improvement with nineteen other Educators by the principal and did not complete any portion of said plan of improvement, with all others completing their plans.	
D. Whether Administrative Law Judge, Cindy C. Gill, based her finding of the facts clearly and solely on the information submitted to MDES prior to the hearing and testimony given during the hearing according to the rules of evidence that governs a "de novo" hearing.	
E. Whether during the "de novo" hearing, were witness(es) of the Hinds County School District allowed to be in the same room during each other testimony and coached on their responses even after being warned by the Administrative Law Judge, especially during the testimony of Ms. Cindy Gibson.	
F. Whether the Appellant received adequate notice by MDES that Judge Gary Holmes Jr. was removed or replaced as the presiding Judge in this matter.	
II. STATEMENT OF THE CASE.....	6
A. Facts of the case and the course of the proceeding.....	6
III. ARGUMENT.....	7

IV. CONCLUSION.....	11
CERTIFICATE OF SERVICE.....	12

STATUTES AND RULES

**MISS. CODE OF 1972-GRIEVANCE PROCEDURES-LICENSED
PERSONNEL.....6,8,9**

EDUCATION EMPLOYMENT PROCEDURE LAW OF 2001.....7

**MISSISSIPPI DEPARTMENT of EMPLOYMENT SECURITY RULES OF
EVIDENCE.....7-11**

MISSISSIPP CODE OF 1972 SEC. 37-9-111.....7

STATEMENT OF THE ISSUES

- A. Whether the finding of MDES's Administrative Law Judge, Cindy C. Gill, was based on fraudulent, created, and seemingly defamating late information provided by the Hinds County School District-Hinds County School Board.**
- B. Whether Administrative Law Judge, Cindy C. Gill, wronged in her interpretation of the law that the Appellant's official grievance submittal to the secretary of the Hinds County School Board, Lajuan Stinson, on May 14, 2010 did not negate the process of continuing any plan until heard before the school board as according to Mississippi Code of 1972-Grievance Procedures-Licensed Personnel.**
- C. Whether the Appellant was placed on a performance plan of improvement with nineteen other Educators by the principal and did not completed any portion of said plan of improvement, with all others completing their plans.**
- D. Whether Administrative Law Judge, Cindy C. Gill, based her finding of the facts clearly and solely on the information submitted to MDES prior to the hearing and testimony given during the hearing according to the rules of evidence that governs a "de novo" hearing.**
- E. Whether during the "de novo" hearing, were witness(es) of the Hinds County School District allowed to be in the same room during each other testimony and coached on their responses even after being warned by the Administrative Law Judge, especially during the testimony of Ms. Cindy Gibson.**
- F. Whether the Appellant received adequate notice by MDES that Judge Gary Holmes Jr. was removed or replaced as the presiding Judge in this matter.**

II. STATEMENT OF THE CASE

A. FACTS

This is a wrongful denial of unemployment benefits action brought by and of the Appellant, Mr. Willie H. Jones II. Mr. Jones was an Educator with the Hinds County School District from July 31, 2006 until his wrongful termination on May 28, 2010, the last working day of his 2009-2010 contract. On May 4, 2010, the Appellant signed his contract with the Hinds County School District for the 2010-2011 school term. On May 7, 2010 when arriving to work at Bolton-Edwards Elementary Middle School, Mr. Jones discovered laying openly for full viewership a letter indicating that he would be placed on a plan of improvement that would start the first working day of the 2010-2011 school term. Dr. Stephen L. Handley, Ms. Cindy Gibson, Dr. Delesicia M. Martin, Mr. William Lawson Jr., and Ms. LaShurn Taylor unfairly, harassingly and unjustly demanded that the Appellant submit to the same said Plan of Improvement, mention above, on May 7, 2010, the same exact day (at or around 2:20 pm on a working school day) the Appellant discovered it in his my mailbox.

On Saturday May 8, 2010 the Appellant submitted via-email Module 1 of said plan of improvement to the prescribed personnel as indicated by the plan. On Monday, May 10, 2010, the Appellant again submitted Module 1 of said plan in writing along with his written statement detailing his grievance to acting principal Cindy Gibson, LaShurn Taylor, and William Lawson. On May 11, 2010, the Appellant meet with the Superintendent of the Hinds County School District. The Superintendent of the Hinds County School District did not prove or show any factual evidence verbally or in writing that warranted any thought or haste judgment for a Plan of Improvement. The only submission that the Superintendent could produce was about Mr. Willie H. Jones II, classroom evaluations, since becoming an Educator with the Hinds County School District in 2006. All evaluations deemed Good evidence of either Excellent or Good teaching and classroom management skills, according to the documents presented at the meeting between the Superintendent and the Appellant, with Dr. Delesicia M. Martin and Ms. LaShurn Taylor, as his witnesses.

According to the Grievance Procedure-Licensed Personnel, on May 14, 2010 the Appellant, Willie H. Jones II, officially submitted his grievance to the secretary of the school board, Lajuan Stinson, pertaining to a said plan of improvement for the 2010-2011 school term. Grievance Procedural laws and guidelines clearly states that within five(5) days after receipt of the grievance, the board secretary, in concert with the board chairman and superintendent, shall schedule a hearing before the school board on the grievance, but mysteriously this was never done.

On Friday May 21, 2010, instead of receiving the date when the school board would hear the grievance of the Appellant, Mr.

Jones contract for the 2010-2011 school term was made official by the signature of the Superintendent and hand delivered to his classroom. On May 28, 2010, in a meeting with the Superintendent, Dr D. Martin, and the Appellant, Mr. Jones was wrongfully terminated. On that same day, the Appellant hand delivered to the Hinds County School District his appeal to his wrongful termination. After debate, the hearing to determine the merits of the termination of the Appellant was finally set to be heard before the school board on June 25, 2010. Mississippi Code of 1972, Sec. 37-9-111, clearly states that the Appellant, Willie H. Jones II, should have received notification of the school board decision within (30) days of the conclusion of the hearing since the hearing was conducted by a hearing officer. The hearing was held on June 25, 2010, but the school board did not make or issue its decision until August 12, 2010, clearly disregarding the statutes and purpose of the Education Employment Procedures Law of 2001, which is a mechanism for the nonrenewal of licensed educational employees in a timely cost- efficient and fair manner. This seemingly intentional negligent act by the Appellee knowingly put the Appellant, Willie H. Jones II, in a very difficult situation on finding other employment since the school year in the Great State Of Mississippi begun for most school districts around August 4, 2010.

III. ARGUMENT

- A. Whether the finding of MDES's Administrative Law Judge, Cindy C. Gill, was based on fraudulent, created, and seemingly defamating late information provided by the Hinds County School District-Hinds County School Board.

Clearly and beyond any reasonable doubt, MDES Administrative Law Judge Cindy C. Gill findings of the facts contains many occurrences of false, created, and misleading information that was obviously submitted by the Hinds County School District-Hinds County School Board. First, the principal, Mrs. M. McIntyre was fired on May 3, 2010 clearly making the findings of the facts that was reported by MDES totally impossible. On Friday May 7, 2010 Mr. Jones found a seemingly created letter laying openly in a mailbox at Bolton-Edwards Elementary office stating that he would be placed on an improvement plan to began the first working day of the 2010-2011 school term on the basis of Effective Communication Skills, not to begin May 7, the day of discovery. Secondly, information contained in MDES's findings of the facts state that Mr. Jones did not or refused to complete any portion of the plan, which is not true. On Saturday May 8, 2010, Mr. Jones,

via e-mail, submitted to the prescribed personnel, according to said plan of improvement, the complete Module 1 portion of the plan and on May 10, 2010 he hand delivered the same information along with his written statement setting forth in detail his claim to have been discriminated against. MDES's findings of the facts clearly states that there were nineteen other employees placed on an improvement plan at the same time as Mr. Jones and all nineteen completed their plans, which is a 100% false account or 100% falsification or even a 100% manipulation of the true facts submitted by the Hinds County School District-Hinds County School Board. When Mr. Jones was wrongfully told to begin the said plan of improvement on May 7, 2010, there were only around four other employees placed on a plan and that Mrs. McIntyre had been terminated, according to testimony given by Ms. Cindy Gibson during the "de novo" hearing. Mr. Jones was wrongfully terminated, Mrs. Dorothy Williams resigned, and the outcome of the others is unknown.

- B. Whether Administrative Law Judge, Cindy C. Gill, wronged in her interpretation of the law that the Appellant's official grievance submittal to the secretary of the Hinds County School Board, Lajuan Stinson, on May 14, 2010 did not negate the process of continuing any plan until heard before the school board as according to Mississippi Code of 1972-Grievance Procedures-Licensed Personnel.**

The purpose of the Grievance Procedures-Licensed Personnel is to provide the licensed employee an equitable solution to any grievance at the first possible administrative level. According to the Grievance Procedure-Licensed Personnel, on May 14, 2010 the Appellant, Willie H. Jones II, officially submitted his grievance to the secretary of the school board, Lajuan Stinson, pertaining to a said plan of improvement for the 2010-2011 school term. Grievance Procedural laws and guidelines clearly states that within five(5) days after receipt of the grievance, the board secretary, in concert with the board chairman and superintendent, shall schedule a hearing before the school board on the grievance, but mysteriously this was never done. This action by the Hinds County School District-Hinds County School Board clearly lead Mr. Jones to believe that instead of following the guidelines and procedures set in place by the laws that governs all educational setting in the Great State of Mississippi, that the Hinds County School District-Hinds County School Board was creating their own. If this huge part of the law had been followed in the way our ancestors meant, we probably

would not be discussing this matter today in this Honorable Court.

- C. Whether the Appellant was placed on a performance plan of improvement with nineteen other Educators by the principal and did not completed any portion of said plan of improvement, with all others completing their plans.

The findings of the facts of Administrative Law Judge Cindy C. Gill 100% clearly contains false and misleading information surely provided by the Hinds County School District-Hinds County School Board. MDES finding of the fact state that Mr. Jones was placed on a improvement plan by the principal on May 7, 2010 along with 19 others. The principal, Mrs. M. McIntyre was fired on May 3, 2010, so that scenario of the findings of the facts is clearly a lie. MDES findings of the fact state that Mr. Jones did not or refused to complete any portion of the plan, which is not true. Mr. Jones submitted the entire Module 1 portion of the plan to the prescribed personnel on May 8, 2010 and hand delivered the same information to the same prescribe personnel on Monday May 10, 2010. The findings of MDES stated that there were nineteen other Educators placed on a plan of improvement and all other complete their plans, which is not true. Clearly, Mr. Jones was wrongfully terminated, but Mrs. Dorothy Williams, another great Educator, resigned and completed none of said plan. Therefore, Cindy C. Gill of MDES findings is clearly erred and centered or built on misleading or falsification of the real and true facts surrounding this matter.

- D. Whether Administrative Law Judge, Cindy C. Gill, based her finding of the facts clearly and solely on the information submitted to MDES prior to the hearing and testimony given during the hearing according to the rules of evidence that governs a "de novo" hearing.

According to the Mississippi Department of Employment, Under the Rules of Evidence, prior to the hearing, a copy of all the documents submitted to MDES must also be provided to all other parties. The information submitted to MDES by the Hinds County School District-Hinds County School Board dated August 12, 2010 does not contain any information found in MDES's Administrative Law Judge Cindy C. Gill findings of the facts except that Mr. Jones meet with the Superintendent on May 11, 2010 and Mr. Jones was terminated on May 28, 2010. All other information contained within MDES finding of the facts was obviously submitted after or at the end of the hearing which clearly violates the Rules of Evidence and the rights of Mr. Jones. Furthermore, Hinds County School District submitted no evidence to support their actions leading up to May 7, 2010.

- E. Whether during the "de novo" hearing, were witness(es) of the Hinds County School District allowed to be in the same room during each other testimony and coached on their responses even after being warned by the Administrative Law Judge, especially during the testimony of Ms. Cindy Gibson.**

During the hearing, one could clearly hear talking or discussions before the witnesses of the Hinds County School District as if they were being coached on what to say. Nevertheless, during the testimony of Ms. Cindy Gibson, ALJ Cindy C. Gill had to openly warn and reprimand the Superintendent, Stephen Handley, to leave the room because he was also a witness on behalf of the Hinds County School District. This action alone is a clear violation of the rights of Mr. Jones and a clear slap in the face to the laws, guidelines and procedures that were set in place by our ancestors of the Great state of Mississippi to govern our educational setting.

- F. Whether the Appellant received adequate notice by MDES that Judge Gary Holmes Jr. was removed or replaced as the presiding Judge in this matter.**

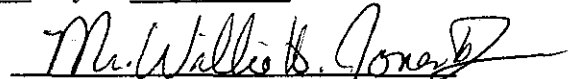
As a simple rule of fairness, Mr. Jones felt that in a matter as important as this, the realization of consistence place on him by MDES as in reference to following the proper procedure(s) according to law is just as Good for MDES. The common courtesy of any man should be to call, text, e-mail, or even yell of any changes to the order of the proceedings, especially the change of Judgeship.

IV. CONCLUSION

Over the years, Mr. Jones has lived by the belief that nothing is perfect and all that is ever truly guaranteed is fairness amongst humanity. Mr. Jones feels that the errors committed by the Mississippi Department of Employment and Hinds County School District-Hinds County School Board has a seemingly combined effect of patent unfairness towards or against Mr. Jones, an excellent Educator in the Great state of Mississippi. One cannot, of course, overstate the seriousness of the wrongful act(s) or errors committed on the behalf of the Appellees.

For the foregoing reasons, Mr. Willie H. Jones II respectfully request that this Honorable Court reverse and render in favor of Mr. Willie H. Jones II. Mr. Jones further request any additional relief this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED this the 23 day of October 2012



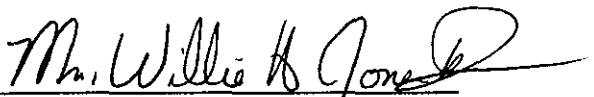
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Certificate of Service

I, Willie H. Jones II, do hereby certify that I have this day mailed a true and correct copy of the above and forgoing pleading to:

**Mississippi Department of Employment Security
P.O BOX 1699
Jackson, Ms. 39215-1699**

This, the 23 day of October, 2012


Mr. Willie H. Jones II