

MISSISSIPPI SUPREME COURT DECISIONS – JUNE 28, 2018**SUPREME COURT - CIVIL CASES****HUDSON V. YAZOO CITY****CIVIL - WRONGFUL DEATH**

WRONGFUL DEATH - MUNICIPAL LIABILITY - BREACH OF DUTY - Breach of local ordinances and federal regulations alone do not create a right of action or establish a duty of care

WRONGFUL DEATH - MISS. TORTS CLAIM ACT - DISCRETIONARY FUNCTION IMMUNITY - In determining when a claim against a governmental entity enjoys discretionary-function immunity under Miss. Code Ann. § 11-46-9(1)(d), the court must consider: (1) whether the act involved an element of choice or judgment; and if so (2) whether the choice of judgment involved social, economic or political policy considerations

FACTS

Patrauna Hudson drowned on April 6, 2014 in a drainage ditch near her home after rain flooded her family's entire backyard with water from the ditch. Patrauna's Estate (the "Estate") filed suit against Yazoo City under the Mississippi Torts Claim Act. The Estate claimed Yazoo City failed to (a) warn Patrauna of the danger, (b) adequately maintain, repair, and inspect the ditch, and (c) require improvements to the ditch in accordance with engineering standards and approval from the appropriate governmental agency. An affidavit and report from Gillian Butler, a private civil engineer, stated that two culverts constructed downstream in 2007 increased the height and velocity of the flood water. Butler believed the construction project should have included more precautions, especially considering the National Flood Insurance Program (the "NFIP") regulations and city ordinances governing Yazoo City. James Wayne Morrison, a private civil engineer and consultant to Yazoo City, stated in a deposition that while no hydraulic-analysis was done prior to the 2007 construction project, the results of an analysis conducted after Patrauna's death did not show the culverts caused an increase in the flow of flood water. The Yazoo County Circuit Court granted summary judgment in favor of Yazoo City, finding Yazoo City immune from liability under the discretionary-function exception and the open-and-obvious exception of Miss. Code Ann. § 11-46-9(1)(d) and (v), respectively. The Estate appealed.

ISSUES

Whether (1) Yazoo City ordinances and the NFIP regulations imposed a ministerial duty upon Yazoo City, and Yazoo City breached that duty by failing to comply with those laws during the 2007 culvert project; and (2) the court erred in finding Yazoo City immune from liability under the discretionary-function exception.

HOLDING

(1) Because Yazoo City ordinances and NFIP regulations do not create a right of action or establish a duty of care, the claim that Yazoo City breached a ministerial duty by noncompliance failed as a matter of law for failure to state a cause of action. (2) Because the discretionary-function exception must be determined using the reinstated public-policy function test pursuant to *Wilcher*, Yazoo City's immunity from liability under the discretionary-function exception must be determined using the public-policy function test, and the Estate should be afforded the opportunity to fully present its negligence claim. Therefore, the Supreme Court reversed and remanded the judgment of the Yazoo County Circuit Court.

CONCURRENCE

Presiding Justice Kitchens argued that the Yazoo City ordinances created under the NFIP regulations imposed narrow ministerial duties. He further stated that plaintiffs will rely upon narrow regulations, statutes, and ordinances regardless

of whether the *Brantley* test or public-policy function test is applied. Presiding Justice Kitchens concurred with the result but did not agree with reverting back to the public-policy function test.

Reversed & Remanded - 2016-CA-01384 (June 28, 2018)

Opinion by Justice Beam - Concurrence by Presiding Justice Kitchens

Hon. Jannie M. Lewis (Yazoo County Circuit Court)

David Neil McCarty & Barry W. Howard for Appellant - Robert S. Addison & Steven James Griffin for Appellee

Briefed by [Baxter Geddie](#)

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OLSHAN FOUND. REPAIR CO. OF JACKSON, LLC V. MOORE

CIVIL - CONTRACT

CONTRACTS - ARBITRATION - NON-SIGNATORY - A non-signatory may be bound to an arbitration agreement under ordinary principles of contract and agency but only in the rarest of circumstances should a citizen be bound to the agreement of others that strips the citizen of his or her constitutional right to a trial by jury

CONTRACTS - THIRD-PARTY BENEFICIARIES - BENEFIT - A person may be considered a third-party beneficiary if the contract between the original parties was entered into for that person's or entity's benefit, or the original parties at least contemplated such benefit as a direct result of performance, the promise owed a legal obligation or duty to that person or entity, and the legal obligation or duty connects that person or entity with the contract

CONTRACTS - ESTOPPEL - DIRECT-BENEFIT - Direct-benefit estoppel involves non-signatories who, during the life of the contract, have embraced the contract despite their non-signatory status, but then, during litigation, attempt to repudiate the arbitration clause of the contract

FACTS

Phillip Moore contracted with Olshan Foundation Repair of Jackson, LLC ("Olshan") for repairs to the foundation of the home he shared with his wife, Gloria Moore, and his adult daughter, Katelyn Moore. The Moores sued Olshan and Wayne Brown, the GM of Olshan, in the circuit court of Perry County. The Moores filed suit against Olshan for contract damages, arguing loss of value and expenses to repair their home. Katelyn Moore alleged intentional and negligent infliction of emotional distress. Olshan and Brown moved to compel arbitration of the Moores claims. In a hearing, the court granted the motion with respect to Phillips and Gloria Moore's claims. Finding that the terms of the contract were not broad enough to include Katelyn as a third-party beneficiary, and, further, because her claims were not based solely on the terms of the contract the arbitration agreement could not be enforced on the grounds of equitable estoppel, the Perry County Circuit Court denied the motion to compel arbitration with respect to Katelyn's claims. Olshan appealed.

ISSUE

Whether the trial court erred by denying Olshan's motion to compel arbitration.

HOLDING

Because a signatory may enforce an agreement against a non-signatory only if the non-signatory is a third-party beneficiary or if the doctrine of equitable estoppel applies, and Katelyn's benefit was too incidental or consequential to qualify as a third-party beneficiary, and Katelyn did not knowingly benefit from the contract, the trial court did not err in denying to compel arbitration of Katelyn Moore's claims. Therefore, the Supreme Court affirmed the judgment of the Perry County Circuit Court.

DISSENT

Justice Chamberlin argued that Katelyn availed herself of the contract when she asserted claims that must be determined in reference to the contract and that the claims should be resolved together. He further argued that the trial court's determination that Katelyn's claims were separate from the contract claims of her parents was insufficient to deny arbitration in favor of Katelyn Moore when her claims arose from the same occurrence.

Affirmed - 2017-CA-00138-SCT (June 28, 2018)

En Banc Opinion by Presiding Justice Kitchens - Dissent by Justice Chamberlin

Hon. Jon Mark Weathers (Perry County Circuit Court)

Richard M. Dye & Kathleen Ingram Carrington for Appellants - Robin L. Roberts, Christopher D. Nobles & Heather E. Murray for Appellees

Briefed by [Carson Phillips](#)

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MISSISSIPPI COURT OF APPEALS DECISIONS – JUNE 26, 2018

COURT OF APPEALS - CIVIL CASES

GECKO OUTDOOR PRODS. CORP. V. CASABLANCA CONSTR. INC.

CIVIL - CONTRACTS

CIVIL PROCEDURE - MOTION TO DISMISS - FAILURE TO JOIN PARTIES - A party shall be joined in the action if, in his absence, complete relief cannot be accorded among those already parties

CORPORATIONS - CONTRACT LIABILITY - SUCCESSOR CORPORATIONS - A corporation is considered a continuation of a predecessor if there exists continuity of enterprise

CORPORATIONS - LIABILITY - CORPORATE VEIL - Distinct corporate identity will be maintained unless to do so would subvert the ends of justice

FACTS

Casablanca Construction Inc. (“Casablanca”) entered into a subcontract with Panhandle Metal Fabrication Inc. (“Panhandle”), owned by Christopher Gardner and Tabby Waters. Casablanca’s president, Tom Saucier, testified that on multiple occasions Gardner notified him that Panhandle’s name was changed. Panhandle’s name was first changed to Mainstream Fab Inc. (“MFI”) and later Gecko Outdoor Products Corp. (“Gecko”), but all other aspects of the company remained the same. Saucier was told to coordinate solely with Gardner. The trial court held Gecko and Gardner liable for non-performance and awarded damages to Casablanca. Gardner appealed.

ISSUES

Whether (1) the trial court erred in denying Gardner’s motion to dismiss for failure to join Waters as a party; (2) MFI and Gecko were mere continuations of Panhandle; (3) the trial court erred in piercing the corporate veil by holding Gardner individually liable; and (4) the agreement between Gecko and Casablanca was not enforceable based upon the statute of frauds.

HOLDING

(1) Because Waters was not associated or involved with Gecko at the time of the breach, the trial court did not err in dismissing Gardner’s motion to dismiss for failure to join Waters as a party. (2) Because the record indicated that Gardner and Gecko held themselves out as the continuation of MFI, they are considered mere continuations of Panhandle by extension. (3) Because Saucier looked to Gardner individually to perform the terms of the contract, Gardner flagrantly disregarded corporate formalities. Further, because Gardner admitted he did not have a Mississippi contractor’s license to enable him to complete the contract, the trial court did not err in piercing the corporate veil. (4) Because Gecko is a continuation of Panhandle, the agreement did not fall under the statute of frauds and was enforceable. Therefore, the Court of Appeals affirmed the judgment of the Lamar County Circuit Court.

DISSENT

Judge Tindell argued that the contract placed a burden of performance on the corporation, not individuals, and that Gecko attempted to complete its performance, which does not equate to fraud. He would find, therefore, that the trial court did in fact err by piercing the corporate veil and holding Gardner individually liable.

Affirmed - 2017-CA-00308-COA (June 26, 2018)

En Banc Opinion by Chief Judge Lee - Dissent by Judge Tindell

Hon. Anthony Alan Mozingo (Lamar County Circuit Court)

Jeffrey Braden Arnold for Appellants - Carey R. Varnado & Robin E. Blackledge Blair for Appellee

Briefed by [T. Jack Schultz](#)

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LATHAM V. JOHNSON

CIVIL - CONTRACT

CONTRACTS - STATUTE OF LIMITATIONS - ACCRUAL - In a contractual claim, a cause of action accrues on the date of actual injury, the date on which the facts occurred enabling the plaintiffs to bring a cause of action; having knowledge, regardless of whether that knowledge was actual or constructive, of the terms of the agreement begins the statute of limitations

CONTRACTS - PARTNERSHIP - ACCOUNTING - Miss. Code Ann. § 79-13-405(b) states that an accounting is not required before a partner may assert a claim against another partner to enforce the partner's rights under the partnership agreement

CIVIL PROCEDURE - DAMAGES - PREJUDGMENT INTEREST - The requirements to be entitled to prejudgment interest are that: (1) the claims for damages are liquidated prior to judgment; and (2) the pleadings reflect a request for prejudgment interest, including the date allegedly due

FACTS

Roger Dale Latham, Terry W. Johnson, John W. Robinson III, and Craig Trahan agreed to form a partnership to purchase Lonesome Pine, a tract of land in Sunflower County, Mississippi. Upon the sale of the property, a check for the total purchase price of the land was deposited in Latham's commercial account instead of the partnership's Lonesome Pine account. Johnson, Robinson, and Trahan sued Latham, alleging breach of partnership agreement, breach of fiduciary duties, misappropriation and conversion of partnership assets, malicious, intentional, and wanton conduct, and fraud, deceit, and misrepresentation. The Sunflower County Circuit Court returned a verdict for Johnson, Robinson, and Trahan. Latham appealed. Johnson, Robinson, and Trahan cross-appealed.

ISSUES

On direct appeal, whether the trial court erred in (1) denying Latham's motion to dismiss or, alternatively, to transfer venue; (2) denying Latham's motion to dismiss based on the applicable statutes of limitation; (3) denying Latham's motion to dismiss based on the statute of frauds; (4) denying Latham's motion to dismiss for Johnson, Robinson, and Trahan's failure to perform an accounting; (5) denying Latham's ore tenus motion regarding an alleged discovery violation; (6) allowing the use of a deposition for impeachment; (7) allowing the admission of parol evidence to explain a series of emails between Robinson and a third party; (8) denying Latham's motion for a mistrial; (9) denying Latham's motion for a JNOV; and (10) denying Latham's motion for a new trial. On cross appeal, whether the trial court erred in (11) denying Johnson, Robinson, and Trahan's request for prejudgment interest.

HOLDING

(1) Because Sunflower County was where the land was located, where the decision was made to purchase the property, where the partnership was formed, and where the sale occurred that resulted in the profit, the circuit court did not abuse its discretion in denying Latham's motion or in denying a transfer of venue. (2) Because the cause of action did not accrue until Johnson, Robinson, and Trahan suffered damages, the circuit court did not err in denying Latham's motions to dismiss based on the statute of limitations. (3) Because an otherwise enforceable partnership agreement does not constitute a contract for the sale of lands under the statute of frauds, the circuit court did not err in denying Latham's motion to dismiss based on the statute of frauds. (4) Because an accounting is not required under Miss. Code Ann. § 79-13-405(b), the circuit court did not err in denying Latham's motion. (5) Because Latham was aware of the individuals whom Johnson, Robinson, and Trahan intended to call as witnesses, there was no abuse of discretion. (6) Because the

deposition of a party may be used by an adverse party for any purpose, the circuit court did not abuse its discretion. (7) Because Robinson's testimony did not contradict, vary, alter, add to, or detract from the terms of a written agreement, the circuit court's allowance of parol evidence was not an abuse of discretion. (8) Because the jury was able to rationally come to a decision, the circuit court did not abuse its discretion in denying Latham's motion for a mistrial. (9) Because Latham failed to raise or assert a defense of in pari delicto, the circuit court did not err in denying Latham's motion for JNOV. (10) Because the court defers to the jury's determination of the credibility, the circuit court's denial of Latham's motion for a new trial was not an abuse of discretion. (11) Because Johnson, Robinson, and Trahan's damages were liquidated, the circuit court erred in denying the motion for prejudgment interest. Therefore, the Court of Appeals affirmed the judgment of the Sunflower County Circuit Court on direct appeal and reversed and remanded the judgment on cross-appeal.

PARTIAL CONCURRENCE/DISSENT

Judge Greenlee agreed with the majority's opinion concerning Latham's appeal. He dissented with the majority's decision to reverse and remand for a determination of prejudgment interest because the trial court was guided by sound legal principles when it determined that liquidated damages were not set forth in the alleged partnership.

Affirmed on Direct Appeal. Reversed & Remanded on Cross-Appeal - 2015-CA-00722-COA (June 26, 2018)

En Banc Opinion by Presiding Judge Griffis - Partial Concurrence/Dissent by Judge Greenlee

Hon. Margaret Carey-McCray (Sunflower County Circuit Court)

J. Edward Rainer for Appellant - John W. Robinson III & John P. Sneed for Appellees

Briefed by [Katie Humphries](#)

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COURT OF APPEALS - POST-CONVICTION RELIEF

MOORE V. STATE

CIVIL - POST-CONVICTION RELIEF

POST-CONVICTION RELIEF - DISMISSAL - STATUTE OF LIMITATIONS - A motion for post-conviction relief must be filed within three years following the entry of judgment of conviction, and failure to file within the three-year period procedurally bars appeal of the dismissal of the motion

POST-CONVICTION RELIEF - STATUTE OF LIMITATIONS - EXCEPTIONS - Miss. Code Ann. § 99-39-5(2) includes the following exceptions to the three-year statute of limitations on motions for post-conviction relief, including cases where: (1) the Supreme Court or the U.S. Supreme Court has rendered an intervening decision that would adversely affect the outcome of the conviction or sentence; (2) the defendant presents evidence not reasonably discoverable at trial that would have been practically conclusive at that time to cause a different result in conviction or sentencing; and (3) the defendant's sentence has expired or his probation, parole, or conditional release has been unlawfully revoked

FACTS

Michael Bernard Moore pled guilty to statutory rape on Oct. 17, 2011. The Harrison County Circuit Court sentenced him to thirty years. On July 1, 2016, Moore filed a motion for post-conviction relief with the Harrison County Circuit Court. The circuit court denied the motion without an evidentiary hearing because the motion was filed after the three-year statutory bar. Moore alleged that the court lacked jurisdiction, that he had received ineffective counsel, and that he lacked capacity to enter a guilty plea. The circuit court held that Moore's claims for relief did not except him from the statutory bar. Moore appealed.

ISSUES

Whether (1) Moore's claims excepted his motion for post-conviction relief from the statute of limitations; (2) Harrison County had jurisdiction to hear Moore's guilty plea; (3) Moore received ineffective assistance of counsel; (4) Moore was mentally competent when he pled guilty; and (5) The trial court erred in dismissing the motion for post-conviction relief without an evidentiary hearing.

HOLDING

(1) Because Moore did not move for post-conviction relief within three years after the judgment, and because none of his claims fell under an exception to the statute, his claims were procedurally barred. (2) Because Moore testified that he had also committed statutory rape in Harrison County, this issue was without merit. (3) Because Moore testified that he was satisfied with his attorney and acknowledged that he could receive up to thirty years in prison, this issue was without merit. (4) Because Moore's competence was an issue presented for the first time in Moore's reply brief, the court declined to review this issue. (5) Because Moore was not entitled to any relief, he was not entitled to an evidentiary hearing. Therefore, the Court of Appeals affirmed the judgment of the Harrison County Circuit Court.

Affirmed - 2016-CA-01408-COA (June 26, 2018)

Opinion by Judge Greenlee

Hon. Christopher Louis Schmidt (Harrison County Circuit Court, First Judicial Dist.)

William Stacy Kellum III for Appellant - Laura Hogan Tedder (Att'y Gen. Office) for Appellee

Briefed by [Michael Lambert](#)

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PITTS V. STATE

CIVIL - POST-CONVICTION RELIEF

POST-CONVICTION RELIEF - ADEQUATE NOTICE - INDICTMENTS - Tracking the language of the statute under which a defendant is charged is sufficient to provide notice of the crime charged

POST-CONVICTION RELIEF - SEXUAL BATTERY OF A VULNERABLE PERSON - POSITIONS OF AUTHORITY - Being in control of the care of a vulnerable person is enough to be held accountable as a person who is in a position of authority

POST CONVICTION RELIEF - FACTUAL BASIS - GUILTY PLEAS - Stating on the record that one had opportunity to discuss with attorneys the facts and circumstances related to the charges in which one is pleading guilty is sufficient to reflect a factual basis

FACTS

Clifford Pitts was married to a woman whose daughter has Down Syndrome and mental delay. The daughter, T.R.S., and Pitts maintained a relationship after the woman's passing while T.R.S. lived with her niece, Madeline Randall. On July 26, 2014, Randall allowed Pitts to take T.R.S. to Wendy's during Pitts's stay in Jackson. When T.R.S. was returned home, she was acting reserved and made the statement, "It was bad...he did it again." Randall took T.R.S. to the hospital. T.R.S. told the investigating officer that Pitts had sexually penetrated her. Pitts was indicted on two counts of sexual battery of a vulnerable person. Pitts ultimately pled guilty to one count of sexual battery of a vulnerable person while in a position of authority. Pitts then filed a PCR motion, which was dismissed. Pitts appealed.

ISSUES

Whether (1) the indictment failed to charge essential elements rendering it defective; (2) the indictment was defective for failing to inform Pitts of his position of trust or authority; and (3) there was a factual basis for Pitts's guilty plea.

HOLDING

(1) Because the indictment tracked the language of the statute, Pitts was provided reasonable notice of the charges against him. (2) Because T.R.S. and Randall both viewed Pitts as T.R.S.'s step-father, Pitts referred to T.R.S. as his step-daughter, and because Pitts was in control of the care of T.R.S., he was adequately informed of his position of trust or

authority. (3) Because Pitts stated on the record that he had an opportunity to discuss the facts and circumstances surrounding his charge with his attorneys, and his guilty plea contained factual statements that established the elements of the crime, this issue was meritless. Therefore, the Court of Appeals affirmed the judgment of the Rankin County Circuit Court.

Affirmed - 2017-CP-00892-COA (June 26, 2018)

Opinion by Judge Westbrook

Hon. William E. Chapman III (Rankin County Circuit Court)

Pro se for Appellant - Laura Hogan Tedder (Att’y Gen. Office) for Appellee

Briefed by [James Adamoli](#)

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ROBINSON V. STATE

CIVIL - POST-CONVICTION RELIEF

POST-CONVICTION RELIEF - GUILTY PLEA - TIME BAR - Miss. Code Ann. § 99-39-5(2) states that, in the case of a post-conviction motion for relief after a guilty plea, a motion for relief must be made within three years after entry of the judgment of conviction

POST-CONVICTION RELIEF - SUCCESSIVE WRIT - PROCEDURAL BAR - Miss. Code Ann. § 99-39-23(6) states that an order dismissing the petitioner’s motion shall bar a second or successive motion

POST-CONVICTION RELIEF - SUCCESSIVE WRIT - NEWLY-DISCOVERED-EVIDENCE EXCEPTION - Under *Allen v. State*, the successive-writ bar does not apply if the movant has evidence not reasonably discoverable at the time of trial if it is practically conclusive that it would have caused a different result in the conviction

FACTS

Calvin Lee Robinson pled guilty for statutory rape in 2003, receiving a thirty-year sentence with ten years suspended if he completed his probation. Robinson’s first PCR motion was denied in 2004, and Robinson’s second PCR motion was denied as successive. Robinson filed his third PCR motion in 2016 with affidavits attached, alleging ineffective assistance of counsel that led him to involuntarily enter a guilty plea. The Leflore County Circuit Court held that the motion was time-barred, successive, and without merit. Robinson appealed.

ISSUES

Whether the trial court erred in finding that Robinson’s PCR motion (1) was time-barred; (2) was successive; and (3) offered no newly discoverable evidence to overcome the procedural bars.

HOLDING

(1) Because Robinson filed his third PCR motion more than three years after the entry of his judgment of guilt, it was time-barred. (2) Because Robinson’s first and second PCR motions were denied, his third PCR motion was procedurally barred as a successive writ. (3) Because the affidavits only contained evidence available at the time Robinson entered his guilty plea, the third motion did not trigger the newly-discovered-evidence exception to the procedural bar. Therefore, the Court of Appeals affirmed the judgment of the Leflore County Circuit Court.

Affirmed - 2017-CP-00417-COA (June 26, 2018)

Opinion by Judge Westbrook

Hon. W. Ashley Hines (Leflore County Circuit Court)

Pro se for Appellant - Scott Stuart (Att’y Gen. Office) for Appellee

Briefed by [Lauren Rogers](#)

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COURT OF APPEALS - CRIMINAL CASES

PATRICK V. STATE

CRIMINAL - FELONY

CRIMINAL LAW - MENS REA - GUILTY KNOWLEDGE - A disparity between the value of the property in question and the price at which the defendant subsequently sells it may be evidence of guilty knowledge when coupled with the possession of the burglary tools adapted for breaking and entering and burglarizing

CRIMINAL LAW - MENS REA - GUILTY KNOWLEDGE - Guilty knowledge may be shown by evidence that the defendant received the property under circumstances that would lead a reasonable man to believe it to be stolen

CRIMINAL LAW - MENS REA - UNEXPLAINED POSSESSION - Unexplained possession of recently stolen property, standing alone, is insufficient to satisfy the guilty knowledge required as an element for the crime of receiving stolen property

FACTS

The Scott County Sheriff's Department received information that Malcolm Patrick was riding a four-wheeler that was previously reported stolen. An informant that had witnessed Patrick riding the four-wheeler worked with the Sheriff's Department to conduct a controlled buy. Based on acceptance of \$750 in cash originating from state funds and audio and video recordings of the purchase, Patrick was indicted for receipt of stolen property. A jury found Patrick guilty of knowingly receiving stolen property in violation of Miss. Code Ann. § 97-17-70 and sentenced him to ten years, with eight years to serve. Patrick filed a motion for a new trial on the grounds of insufficient evidence, which was denied. Patrick appealed.

ISSUE

Whether the trial court erred in finding there was sufficient evidence to prove beyond a reasonable doubt that Patrick received stolen property.

HOLDING

Because unexplained possession of recently stolen property, standing alone, is insufficient to satisfy the knowingly mens rea requirement of receipt of stolen goods, and because the record demonstrates only that Patrick was in possession of the stolen four-wheeler around the time it was stolen and had sold it for less than its value, the trial court erred in finding that there was sufficient evidence to prove beyond a reasonable doubt that Patrick received stolen property. Therefore, the Court of Appeals reversed and rendered the judgment of the Scott County Circuit Court.

DISSENT

Judge Carlton argued that there was sufficient evidence to affirm the conviction, notwithstanding Patrick's sentence exceeded the statutory maximum number of years for receipt of stolen property. Therefore, Carlton would remand for resentencing.

Reversed & Rendered - 2017-KA-00854-COA (June 26, 2018)

Opinion by Presiding Judge Irving - Dissent by Judge Carlton

Hon. Christopher A. Collins (Scott County Circuit Court)

W. Daniel Hinchcliff (Pub. Def. Office) for Appellant - Barbara Wakeland Byrd (Att'y Gen. Office) for Appellee

Briefed by [Tucker Hood](#)

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