

MISSISSIPPI SUPREME COURT DECISIONS – JUNE 30, 2022***SUPREME COURT - POST-CONVICTION RELIEF*****MANNING V. STATE****CIVIL - DEATH PENALTY - POST-CONVICTION**

EVIDENCE - DNA TESTING - COURT AUTHORITY - Under Miss. Code Ann. § 99-39-11, the court may make appropriate orders in connection with a granting of testing, which includes additional DNA testing, if the results of the initial testing are inconclusive or the court finds a reasonable likelihood that further testing would produce probative results

CIVIL PROCEDURE - APPELLATE COURTS - INCORRECT CITATION - The Supreme Court will not reverse a lower court's decision where that court reached the right conclusion but cited the incorrect reason

EVIDENCE - DNA TESTING - ADDITIONAL TESTING - A movant must show that a full DNA profile, if gained from additional testing, would have raised a reasonable probability that the trier of fact would have come to a different outcome at trial in order to meet his burden to obtain additional DNA testing

FACTS

In 1994, Willie Jerome Manning was convicted of two counts of capital murder while engaged in the commission of a robbery. Before trial, Manning was allowed to inspect the State's physical evidence, including fingerprints, hair, fiber, and blood samples. At trial, an FBI agent testified that the hairs found at the crime scene exhibited black racial characteristics, but the State maintained the hair fragments were corroborative, not dispositive, evidence. Other evidence of guilt that was presented included, Manning's girlfriend stating she saw Manning leave the house with a gun and gloves and return days later with a CD player, a leather jacket, and a watch, which were later all linked to the murder victims. Further, bullet shell casings were found at Manning's mother's house which matched the bullets used to kill the victims and Manning's cousin testified that Manning confessed that he murdered the two victims. The Supreme Court affirmed Manning's conviction and sentence on appeal. Manning then raised two petitions for post-conviction relief, wherein he argued the State failed to disclose evidence and asked for leave to conduct DNA testing and fingerprint comparison. The Supreme Court granted Manning's second request and he proceeded in the circuit court. Lab testing commenced, which was inconclusive for fingerprint comparisons and DNA profiles. Manning requested additional time to identify other evidence to be screened for DNA and filed a Motion to Allow Transfer of Evidence for Conclusion of DNA testing in order to utilize different modes of testing. The circuit court denied the motion. Manning appealed.

ISSUES

Whether the circuit court (1) lacked the authority to decide Manning's motion to transfer evidence for additional testing and (2) abused its discretion by denying Manning's motion to transfer evidence for additional testing.

HOLDING

(1) Because the plain language of the statute granted the circuit court authority to fully oversee the DNA testing and fingerprint analysis, as well as to order additional testing, the circuit court had the authority to decide Manning's motion to transfer evidence for additional testing. (2) Because the circuit court had the authority to decide the motion pursuant to the statute, because the circuit court could not have decided the motion for additional testing without also making a decision as to the probative value of the testing, because the circuit court applied the correct standard, and because Manning failed to present an analysis that would support a reasonable probability that a DNA profile would have been obtained from additional testing, the circuit court did not abuse its discretion by denying Manning's motion to transfer

evidence for additional testing. Therefore, the Supreme Court affirmed the judgment of the Oktibbeha County Circuit Court.

DISSENT

Presiding Justice King argued that in death penalty cases, a heightened scrutiny applies on appeal. Further, he argued that additional testing had the possibility of revealing the identity of the true perpetrator and of exonerating Manning, and Manning satisfied his burden to obtain DNA testing. Therefore, the circuit court abused its discretion, and Manning's motion to transfer evidence for final testing should have been granted.

Affirmed - 2020-CA-01096-SCT (June 30, 2022)

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

Hon. Lee J. Howard (Oktibbeha County Circuit Court)

Robert S. Mink Sr., David P. Voisin, & Benjamin H. McGee III (Office of Post-Conviction Counsel) for Appellant - Allison K. Hartman, Ladonna C. Holland, & Brad A. Smith (Att'y Gen. Office) for Appellee

Briefed by [Ansley L. McLellan](#)

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SUPREME COURT – CIVIL CASES

STRICKLAND V. RANKIN CNTY. SCH. DIST.

CIVIL - PERSONAL INJURY

MISS. TORT CLAIMS ACT - GOVERNMENTAL ENTITY - DISCRETIONARY FUNCTION IMMUNITY - Under the Mississippi Tort Claims Act, discretionary function immunity applies when the activity in question involves an element of choice or judgment and that choice or judgment involved social, economic, or political-policy consideration

CIVIL PROCEDURE - SUMMARY JUDGMENT - REQUIREMENTS - Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact, and the evidence must be viewed in the light most favorable to the non-moving party

TORTS - NEGLIGENCE - ELEMENTS - To prevail on a claim of negligence, the plaintiff must prove (1) duty, (2) breach of duty, (3) causation, and (4) damages by a preponderance of the evidence

FACTS

Christopher Strickland Jr. was a sophomore at Northwest Rankin High School on the cross-country team. In September 2016, he was preparing to run at a meet and before the race, Christopher was stung on the top of his head by a wasp. He began to feel a lump form on his head and swelling, and he then told one of his coaches. According to Rankin County School District ("RCSD") affidavits, two coaches and a registered nurse examined Christopher's head and found no evidence of a sting or adverse reaction, and he then assured the coaching staff he was fine and wanted to run the race. Christopher only recalled one coach examining him, telling him to "man up" and run the race. Christopher ran the race and stated that he began to feel dizzy during the race. He then fell and hit his head. A nurse and neurologist attended to Christopher, and he appeared to recover. Later, Christopher went to a doctor who discovered injuries to his brain and spine. In January 2017, Christopher's father, Christopher Strickland Sr., sued RCSD on Christopher's behalf. He alleged breach of duties by failure to follow the district's concussion protocol of RCSD employees for their treatment of Christopher after the sting but before the race and after the fall. Since RCSD was a governmental entity, the course and scope of its employees fell under the Mississippi Tort Claims Act ("MTCA"). RCSD moved for summary judgment based on discretionary-function immunity and the trial court denied its motion. In the interim, the Supreme Court handed down a sovereign-immunity case, *Wilcher*, in 2018, which restored the two-part public-policy function test for determining if an allegedly tortious activity involved the exercise of a discretionary function and thus was entitled to

sovereign immunity. Relying on *Wilcher*, RCSD amended its motion for summary judgment, asserting its coaches' actions were immune discretionary functions. During the summary judgment hearing, Strickland focused on RCSD's employees' allowing Christopher to run the race after being stung by the wasp, stating these actions were ordinary negligence. The trial court granted RCSD's motion, determining that the employees acted within their discretion, and even if they did not, the coaches exceeded the ordinary care standard. Strickland appealed the grant of summary judgment, and the Court of Appeals affirmed. Strickland petitioned for writ of certiorari.

ISSUE

Whether the trial court erred in granting RCSD's motion for summary judgment.

HOLDING

Because Strickland did not articulate any breach of duty by RCSD employees that proximately caused Christopher's injuries, and because the failure to allege a tort claim made the question of discretionary-function immunity moot, the trial court did not err in granting RCSD's motion for summary judgment. Therefore, the Supreme Court affirmed the judgment of the Rankin County Circuit Court.

CONCURRENCE IN RESULT

Justice Ishee argued that the Supreme Court should not have affirmed the motion for summary judgment based on the negligence claims and should have instead remanded the case back to the circuit court for the negligence claim issues. However, he agreed that summary judgment should have been granted, but on immunity grounds instead. Under immunity grounds, the RCSD employees' decisions involved policy surrounding a student's participation in a sport after alleged injury and were thus immune under the MTCA. Thus, he concurred in result only and agreed the motion for summary judgment should have been granted.

DISSENT

Presiding Justice Kitchens argued that the actions of the RCSD employees of allowing Christopher to run after the wasp sting was an allegation of ordinary negligence that was not protected by immunity. He found that the employees' decisions did not involve social, economic, or political policy. Rather, they were a "simple judgment call" and thus the decisions were not protected under discretionary function immunity.

Affirmed - 2019-CT-01669-SCT (June 30, 2022)

En Banc Opinion by Justice Maxwell - Concurrence in Result by Justice Ishee - Dissent by Presiding Justice Kitchens

Hon. John H. Emfinger (Rankin County Circuit Court)

James Michael Priest Jr. & Timothy D. Moore for Appellants - Walker Reece Gibson, Fred M. Harrell Jr., & Rebecca Suzanne Blunden for Appellee

Briefed by [Marlee Russell](#)

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WILKINSON CNTY. SENIOR CARE, LLC V. MISS. DIV. OF MEDICAID

CIVIL - STATE BOARDS & AGENCIES

ADMINISTRATIVE LAW - DEFENSES - EQUITABLE ESTOPPEL - In order to assert a claim of equitable estoppel, one must show a (1) proof of a belief, (2) reliance on some representation or silence coupled with (3) a change of position as a result of the representation or silence, and (4) detriment or prejudice caused by the change of position

ADMINISTRATIVE LAW - STATE AGENCIES - FUND ADJUSTMENTS - A lapse of time does not insulate a party from the recoupment of funds that it knew were subject to adjustment

ADMINISTRATIVE LAW - STATE AGENCIES - DUE PROCESS - To establish a substantive due process violation, a party must demonstrate a legally cognizable property interest entitled to protection under the constitution

FACTS

Wilkinson County Senior Care, LLC (“Wilkinson”), a nursing facility, underwent a change of ownership in May 2002. The Mississippi Division of Medicaid (“DOM”) required facilities that change ownership to file a cost report from the date of the change through the end of the third month of ownership. The DOM then paid the facility the maximum per diem rate until the rate was adjusted based on the cost report. Wilkinson was notified multiple times that the per diem rate it received was subject to a retroactive adjustment once the DOM analyzed the cost report. After retaining their records for five years as required by statute, Wilkinson opted to destroy the relevant records. The DOM did not pursue reimbursement for these overpayments until 2011. Wilkinson argued that the delay precluded the DOM from recovering the excess payments it received. Wilkinson appealed the DOM’s decision to the chancery court who affirmed that recoupment was allowable. Wilkinson appealed.

ISSUES

Whether (1) recoupment should have been equitably estopped due to estoppel by silence; (2) the DOM’s decision was arbitrary and capricious, clearly erroneous, or unsupported by substantial evidence; and (3) Wilkinson’s substantive due process rights were violated.

HOLDING

(1) Because the DOM communicated to Wilkinson that an adjustment was forthcoming and that the agency was experiencing delays processing the claims, Wilkinson’s claim of equitable estoppel by silence failed. (2) Because Wilkinson argued that the decision was arbitrary due to the facility’s inability to independently verify the DOM’s data rather than offering any evidence that the data was or appeared to be incorrect, and because the facility could have verified the data had it opted to retain the relevant records in anticipation of the rate adjustment, the DOM’s decision was not arbitrary and capricious, clearly erroneous, or unsupported by substantial evidence. (3) Because Wilkinson did not provide an explanation as to why it had a property interest in overpayments that it did not earn or in avoiding an adjustment it knew was forthcoming, Wilkinson did not make a procedural due process argument. Therefore, the Supreme Court affirmed the judgment of the Hinds County Chancery Court.

Affirmed - 2020-SA-01332-SCT (June 30, 2022)

Opinion by Presiding Justice King

Hon. J. Dewayne Thomas (Hinds County Chancery Court)

Julie Bowman Mitchell & Philip Joseph Chapman for Appellant - Janet McMurtray, Maureen Burke Speyerer, & Samuel Philip Goff for Appellees

Briefed by [Rachel Gholson](#)

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SUPREME COURT - ORDERS

JOHNSON V. STATE

EN BANC ORDER

ORDER

In April 2022, a panel denied Zachary Johnson’s Application for Leave to Proceed in the Trial Court and sanctioned him by restricting his in forma pauperis status. Johnson sought reconsideration under Miss. R. App. P. 27(h)(8) and argued that the panel erred by denying relief and by sanctioning him. The Supreme Court found that reconsideration was unmerited. Therefore, the Supreme Court denied Johnson’s motion for En Banc Reconsideration.

OBJECTION

Presiding Justice King disagreed and argued that the imposition of monetary sanctions and the restriction of access to the court violated Johnson’s constitutional rights. He would have found that the petition for post-conviction relief

lacked merit, rather than violating Johnson’s fundamental rights by restricting his access to the courts. Ultimately, he opined that Johnson’s motion for reconsideration should have been granted.

Denied - 2022-M-00303 (June 27, 2022)

En Banc Order by Justice Beam - Objection by Presiding Justice King

Briefed by [Chandler Coleman](#)

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MISSISSIPPI COURT OF APPEALS DECISIONS – JUNE 28, 2022

COURT OF APPEALS - CIVIL CASES

DANIELS V. FAM. DOLLAR STORES OF MISS., INC.

CIVIL - NEGLIGENCE (GENERAL)

CIVIL PROCEDURE - SUMMARY JUDGMENT - REQUIREMENTS - Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact, and the evidence must be viewed in the light most favorable to the non-moving party

TORTS - PREMISES LIABILITY - DUTY TO INVITEES - A landowner owes an invitee the duty to keep the premises reasonably safe, and when not reasonably safe, to warn only where there is hidden danger or peril that is not in plain and open view

TORTS - PREMISES LIABILITY - CONSTRUCTIVE KNOWLEDGE - Constructive knowledge is established where the condition is shown to have existed for such a length of time that the operator, through the exercise of reasonable care, should have known of its existence

TORTS - PREMISES LIABILITY - SLIP AND FALL - In order for a plaintiff to recover in a slip-and-fall case, they must (1) show that some negligent act of the defendant caused her injury; or, (2) show that the defendant had actual knowledge of a dangerous condition and failed to warn the plaintiff; or, (3) show that the dangerous condition existed for a sufficient amount of time to impute constructive knowledge to the defendant, in that the defendant should have known of the dangerous condition

FACTS

Sandra Felecia Daniels visited Family Dollar Store (“Family Dollar”) in Gulfport. As Daniels approached the register to check out, she slipped on a liquid substance in front of one of the cash registers, causing her to fall and injure her knee. Daniels filed a complaint against Family Dollar in the circuit court in July 2020, arguing that Family Dollar knew or should have known of the dangerous condition that the liquid substance created. Daniels further argued that Family Dollar was negligent in failing to warn her of the dangerous condition and negligent in failing to properly remove the substance from the floor. In August 2020, Daniels filed an amended complaint alleging that Family Dollar’s negligence was the sole and proximate cause of her injuries. Additionally, the complaint stated that Family Dollar was careless, negligent, grossly careless, and reckless. Family Dollar filed its answer to Daniels’s amended complaint in September 2020, asserting twenty-five affirmative defenses and denying all the claims and causes of action raised in Daniels’s amended complaint. During her deposition, Daniels testified that on the day of the incident she did not see any Family Dollar employee spill anything on the floor nor did she know what the substance was. Daniels further stated that she did not know how long the substance had been on the floor or where it came from. Daniels also testified that she had no evidence to show that Family Dollar knew that the substance was on the floor before she slipped on it. She admitted that there was nothing Family Dollar could have done to prevent the substance from being on the floor. The store’s surveillance video of the relevant time period showed a single employee, Hunter Whited, checking out customers. At the beginning of the video, the floor in front of the cash register was clear of any substances. Three customers lined up; as they moved up in line, one clearly stepped out of the frame of the camera to avoid a substance on the floor. After

the store employee checked out the last customer of that group, approximately thirteen seconds elapsed before Daniels approached and fell. Approximately two minutes elapsed between the time the liquid substance appeared on the floor and Daniels's fall. In his deposition, Hunter testified that at the time of the incident, he was an assistant store manager but often worked as a cashier during his shifts. Hunter stated that on the day Daniels fell, the store was understaffed. In addition, Hunter testified that as he and Daniels greeted one another, Daniels slipped and fell "fast and hard." Hunter also testified that had an additional cashier been working that day, he would have been free to walk the store, and he may have been able to discover the liquid substance prior to Daniels's fall. The store manager was also deposed and stated that no one had ever slipped and fallen at the store during her tenure. In April 2021, Family Dollar filed a motion for summary judgment in which it argued that Daniels's claims failed because Daniels had failed to show that Family Dollar created the hazard. Further, Family Dollar argued that Daniels had failed to show that Family Dollar knew or should have known that the hazard was on the floor for a sufficient time to allow Family Dollar to remedy the situation. In May 2021, Daniels filed a response and brief in opposition to Family Dollar's motion for summary judgment and attached an affidavit of an expert, Eric White. Eric, who had years of experience in the retail safety field, opined that Family Dollar had a level of staffing that was sufficient to operate core essential functions such as operating the registers, but not sufficient to complete additional tasks such as monitoring for safety hazards and monitoring for individuals who were impaired to an extent that caused a safety hazard to fellow shoppers. In total, however, there was no deposition testimony or affidavit presented that Hunter knew of the liquid substance on the floor when he instructed Daniels to come to his register. Daniels argued that because the store was understaffed, Hunter was tied to the cash register even though he was an assistant manager and had made several complaints about the understaffing. Daniels argued that it was foreseeable that something like this would happen due to the understaffing of the store. Therefore, Daniels contended that Family Dollar did in fact have constructive notice and that it caused her injury by not having enough staffing. The circuit court heard argument on Family Dollar's motion for summary judgment in May 2021. The circuit court entered a final judgment in June 2021, finding that Family Dollar was entitled to summary judgment and that there was no evidence to create a genuine issue of material fact in terms of any negligence on Family Dollar's part. Daniels appealed.

ISSUE

Whether genuine issues of material fact existed that presented questions for a jury as to whether Family Dollar breached its duty of reasonable care and was therefore liable to Daniels, a business invitee, for the significant damages she suffered.

HOLDING

Because Daniels failed to provide any evidence that Family Dollar was responsible for the substance being on the floor, and because Daniels failed to provide any evidence that Family Dollar had constructive knowledge of the presence of the liquid substance, the circuit court did not err in granting summary judgment in favor of Family Dollar. Therefore, the Court of Appeals affirmed the judgment of the Harrison County Circuit Court.

Affirmed - 2021-CA-00781-COA (June 28, 2022)

Opinion by Judge McDonald

Hon. Randi Peresich Mueller (Harrison County Circuit Court, First Judicial Dist.)

Leonard B. Melvin III for Appellant - Douglas Bagwell & Nicole Collins Huffman for Appellee

Briefed by [Chatham M. DeProspero](#)

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HINES V. EARLS

CIVIL - WILLS, TRUSTS, & ESTATES

WILLS & ESTATES - INTERPRETATION - FOUR CORNERS - A trial court begins interpretation of a will by looking within the four corners of the document, and if there is no ambiguity within the writing further analysis is proscribed

WILLS & ESTATES - INTERPRETATION - LATENT AMBIGUITY - A latent ambiguity occurs where the devise of property is unclear or remains unclear when the language of the will is applied to the external facts surrounding the testator

WILLS & ESTATES - INTERPRETATION - EXTRINSIC EVIDENCE - Extrinsic evidence, or parol evidence, may only be considered if the language of the will itself can be construed to result in more than one interpretation as to the disposition of property

FACTS

Patricia Hines Neill died in September 2018, leaving a last will and testament naming her brother, John Hines, as executor of her estate. The will devised real property to Hines and real property to Neill's friend, Jerry Earls. Following the estate proceedings, the chancery court entered its final order in October 2019 closing Neill's estate and distributing her assets. The chancery court's order instructed Hines to distribute Neill's property and specifically stated that Earls should receive Neill's residence at 216 Carpenter Street, in Utica, and the lot upon which the residence was situated. Based on the court's order, Hines prepared a deed ("Executor's Deed") conveying real property from Neill's estate to Earls. The Executor's Deed was filed in December 2019 and was provided to Earls's attorney in January 2020. Earls's attorney contacted Hines's attorneys and stated that there was an issue with the real property description contained in the Executor's Deed. In February 2020, Earls filed a motion to correct the error in the Executor's Deed, alleging Hines had misconstrued the terms in Neill's will and failed to include the entire property that was devised to him. Earls argued that he was entitled to receive the entirety of the property conveyed from the Breedens to the Neills ("the Breeden property") in July 1987, by a deed that was titled Corrected Warranty Deed and consisted of four separately described parcels of property. Hines filed his response to Earls's motion and contended that the Executor's Deed correctly conveyed the property in accordance with the language of the will and the chancery court's final order. Hines argued that the devise to Earls in Neill's will provided a definite description of the property as 216 Carpenter Street. Hines claimed that this address was an accurate description that corresponded with one of the lots listed in the Corrected Warranty Deed. Hines asserted that because the devise provided an accurate description matching one lot, Earls was only entitled to that singular lot, regardless of whether the lot was a part of a bigger piece of property. Hines further argued that Earls's claim of error was faulty based upon other specific devises Neill had made in the will. Hines stated that the will specifically devised property at 226 Carpenter Street and 227 Carpenter Street to him and that those two property descriptions corresponded with the lots listed in the Corrected Warranty Deed. Hines also noted that Earls was specifically devised property at 225 Carpenter Street, which Hines alleged was one of the lots also described in the Corrected Warranty Deed. Hines also claimed that he was entitled to all remaining property not otherwise specifically devised as he was the beneficiary of the residuary clause in Neill's will. The chancery court requested the parties further brief the issues presented. Hines filed his supplemental response to Earls's motion and asserted that the Corrected Warranty Deed from the Breedens conveying the property at issue to the Neills described the boundaries of distinctly separate lots. Hines argued that the Executor's Deed conveyed only one of the lots because the location of the house at the address of 216 Carpenter Street corresponded to the property described as Parcel 1 exclusively. Hines asserted that the Executor's Deed satisfactorily conveyed to Earls the real property devised to him in the will. Earls filed his reply, stating that the will had identified each piece of property Neill had owned and distributed it particularly, indicating that Neill did not intend for any real property to pass through the will's residuary clause. Earls argued that distributing the entirety of the property in the Corrected Warranty Deed to him would not overlap other bequests to Hines in the will. In January 2021, the chancery court entered an order ruling on Earls's motion to correct the alleged error in the Executor's Deed. The chancery court focused its analysis on the testator's intent, noting that the court first must look to the four corners of the will to determine Neill's intent. The chancery court stated that the will was detailed and specific and found that there was no real property that was not specifically devised within Neill's will. Based on this finding, the chancery court concluded that the language of the will was unambiguous. The chancery court initially determined that the will deeded to Earls the entirety of the Breeden property. Following its initial conclusion, the chancery court then discussed the issue in the alternative under the premise that the will's language was ambiguous. The chancery court attempted to determine the construction of the ambiguous language that was most consistent with Neill's intent. Without a hearing or receiving additional parol evidence, the chancery court inferred that Neill had used the four separate lots as one entire piece of property at the date of purchase. The chancery court also stated that the Hinds County Tax Assessor had combined the four parcels described in the Corrected Warranty Deed into one tax parcel when the Neills recorded the Corrected Warranty Deed from the Breedens. Based on these findings, the chancery court

concluded that the construction most consistent with the intention of Neill would be to treat the language referencing “the lot upon which the residence is situated” to include the entirety of the Breeden property deeded in the Corrected Warranty Deed. The chancery court granted Earls’s motion to correct the Executor’s Deed and ordered Hines to prepare a deed conveying the entirety of the property described in the Corrected Warranty Deed to Earls. Hines appealed.

ISSUES

Whether (1) the chancery court erroneously applied the pertinent legal standard and (2) the chancery court’s factual findings were not supported by substantial evidence.

HOLDING

(1) Because the chancery court determined that the language in Neill’s will was unambiguous based on a provision in the Corrected Warranty Deed which was not included in the four corners of the will and therefore extrinsic evidence, the chancery court erroneously concluded that the will’s language was unambiguous. (2) Because the record did not provide sufficient insight to the Hinds County Tax Assessor’s actions regarding the property being treated as a single parcel by tax authorities, and because there was no evidence the property was consistently treated as a single parcel by Neill, the findings of the chancery court were not supported by substantial evidence. Therefore, the Court of Appeals reversed and remanded the judgment of the Hinds County Chancery Court.

Reversed & Remanded - 2021-CA-00177-COA (June 28, 2022)

En Banc Opinion by Judge Smith

Hon. Tiffany Piazza Grove (Hinds County Chancery Court, Second Judicial Dist.)

J. Peyton Randolph II & Rick D. Patt for Appellant - H. Byron Carter III for Appellee

Briefed by [Abbey Bufkin](#)

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S. CENT. HEATING INC. V. CLARK CONSTR. INC. OF MISS.

CIVIL - CONTRACT

CONTRACTS - ARBITRATION AGREEMENT - WAIVER - To overcome a presumption against waiver of the right to arbitration, the objector to arbitration must establish that a party seeking arbitration substantially invoked the judicial process to the detriment of the other party or has actively participated in a lawsuit or has taken other action inconsistent with the right to arbitration

CONTRACTS - ARBITRATION AGREEMENT - ENFORCEMENT - Parties must not engage in conduct inconsistent with timely enforcement of the arbitration agreement

FACTS

Clark Construction Inc. of Mississippi (“Clark”) is a general contractor licensed in several states. In March 2017, Clark and EBM Group LLC (“EBM”), another contractor, entered into a joint venture to obtain and complete construction contracts. South Central Heating Inc. (“South Central”) is a third contractor that specializes in building and installing duct work in commercial buildings. Clark and South Central entered into contracts together in March 2018, December 2017, and May 2017. South Central was unable to provide payment for each of the individual projects, resulting in Clark requiring the president of South Central, Jack A. Holsomback, to personally guarantee payment for labor, subcontractors, and supplies. Each contract for the individual jobs contained the same arbitration clause. After disputes arose over the payment to South Central’s subcontractors, Clark refused to pay South Central, who subsequently decided to leave the jobs. In January 2019, Clark filed a “Complaint for Damages/Motion to Compel Arbitration and Motion to Stay” against South Central and Holsomback, regarding all three contracts. South Central responded with a motion seeking additional time to respond, which was granted. However, South Central and Holsomback failed to respond despite the extension, and Clark filed an “Application to Clerk for Entry of Default and Supporting Affidavit.” The clerk then filed a “Docket Entry of Default” against South Central and Holsomback. South Central and Holsomback

filed their answer on the same day, as well as a motion to set aside the clerk's entry of default, which Clark agreed to. South Central denied allegations made in Clark's motion to compel arbitration and stay litigation, asserting that the contracts between the parties were null and void. In several procedural documents, Clark specifically asserted that it was not waiving its right to compel arbitration. In February 2021, the circuit court conducted a hearing on a motion for summary judgment previously filed by South Central. After hearing the arguments, the circuit court found that Clark and EBM did not waive their rights to arbitration and granted Clark's and EBM's motions to compel arbitration and stay proceedings. South Central and Holsomback appealed.

ISSUE

Whether the circuit court erred when it compelled arbitration and in determining that Clark and EBM did not waive their arbitration rights.

HOLDING

Because Clark's and EBM's filings mostly related to arbitration and did not substantially invoke the judicial process, because South Central did not show that it was prejudiced as a result, and because Clark and EBM did not engage in conduct inconsistent with timely enforcement of the arbitration agreement, the circuit court did not err in compelling arbitration or in determining that Clark and EBM waived their arbitration rights. Therefore, the Court of Appeals affirmed the judgment of the Forrest County Circuit Court.

Affirmed - 2021-CA-00285-COA (June 28, 2022)

Opinion by Presiding Judge Carlton

Hon. Robert B. Helfrich (Forrest County Circuit Court)

Jolly W. Matthews III for Appellants - Christopher Solop, Charles Stephen Stack Jr., Clyde X. Copeland III, & Frank Russell Brabec for Appellees

Briefed by [Allyson Avant](#)

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TAYLOR V. TOLBERT

CIVIL - WILLS, TRUSTS, & ESTATES

WILLS & ESTATES - LOST WILLS - REVOCATION BY DESTRUCTION - A rebuttable presumption arises that the decedent intentionally revoked his will by destroying it when (1) a person has created a will; (2) the will is last known to have been in his possession prior to his death; and (3) it is not found after death by a diligent search

WILLS & ESTATES - REVOCATION BY DESTRUCTION - POSSESSION - Where it is undisputed that the testatrix possessed the will at some point prior to death, and no evidence is presented to show that the testatrix ever lost possession, then the possession factor is met

WILLS & ESTATES - REVOCATION BY DESTRUCTION - REBUTTAL - To overcome the rebuttable presumption of intentional revocation, there must be clear and convincing evidence that the maker did not intend to revoke her will; proof that persons negatively affected by the will had the chance to destroy it is not enough to overcome the presumption

FACTS

In 2014, Mary Markwell executed a will, and the original was given to her at that time. Her will named her grandson, Micheal Taylor, as the sole beneficiary. A copy of the will was left with her attorney, John T. Lamar Jr. Markwell died in 2019. The chancery court granted a petition by Taylor to probate the copy of her will when the original could not be found. Markwell's daughter, Cheryl Tolbert, objected arguing that Taylor failed to present the necessary proof required to allow a copy of a will to be admitted to probate. A bench trial was held in which both Taylor and Tolbert testified that each did not know about the will before Markwell's death. Markwell's daughter Cindy moved in with and cared for Markwell about six months before her death. Tolbert and her boyfriend also cared for Markwell before her death. Taylor testified that he visited Markwell almost daily, took care of her property, and took her to the doctor on occasion.

According to Taylor, Markwell brought out her lock box, which contained cash, paperwork, and other things, and opened it in front of Taylor sometime in 2017. Taylor thought that is where her will was, but he admitted to never seeing the will. After Markwell's death, Taylor received a copy of the will from Lamar. Taylor also testified that Tolbert, Tolbert's boyfriend, and Cindy had access to his grandmother's home in her last months and that Tolbert had access to Markwell's key to the lockbox. According to Taylor and his girlfriend, Tolbert claimed to know the contents of the will at Markwell's funeral. Additionally, Taylor's paternal grandmother, who claimed to be close friends with Markwell, testified that Markwell told her that everything was going to Taylor. However, Tolbert testified that Markwell wanted to change the will. Tolbert stated that Taylor and Markwell agreed that Taylor would get everything in the will if he did certain chores around the house and that Taylor stopped performing his part of the agreement in 2017. Tolbert also testified to writing checks from her mother's account for funeral bills, expenses, and Tolbert's son's student debt. According to Tolbert's boyfriend, Markwell said she wanted to make a will the week before she died, but it never happened. After a bench trial, the chancery court set aside and dismissed its probate order finding the lost will was revoked by destruction. Further, the chancery court found that the probated copy of the will was improper. Taylor appealed.

ISSUES

Whether (1) the chancery court erred in relying on the revocation presumption or, alternatively, (2) Taylor offered sufficient evidence to rebut the revocation presumption if it were applied.

HOLDING

(1) Because the chancery court found that Markwell prepared a will in 2014 that was subsequently given to her and no evidence was given to show that she ever lost possession, and because the lack of evidence regarding the whereabouts of the will after 2014 did not diminish the chancery court's finding that Markwell possessed her original will, the chancery court did not err in relying on the revocation presumption. (2) Because there was no evidence as to the will's whereabouts after it was made and given to Markwell, and because the facts were entirely distinguishable from a previous case, the chancery court did not err in finding Taylor failed to rebut the presumption of destruction and setting aside and dismissing its prior order allowing probate of a copy of Markwell's will. Therefore, the Court of Appeals affirmed the judgment of the Tate County Chancery Court.

Affirmed - 2021-CA-00900-COA (June 28, 2022)

Opinion by Presiding Judge Carlton

Hon. Percy L. Lynchard Jr. (Tate County Chancery Court)

John Thomas Lamar Jr. & Taylor Allison Heck for Appellant - Jerry Wesley Hisaw & Joseph M. Sparkman Jr. for Appellee

Briefed by [Christian Eaves](#)

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TOWNS V. PANOLA CNTY. BD. OF SUPERVISORS

CIVIL - PERSONAL INJURY

MISS. TORT CLAIMS ACT - GOVERNMENTAL ENTITY - WEATHER IMMUNITY - Pursuant to Miss. Code Ann. § 11-46-9(1)(q), a governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim arising out of an injury caused solely by the effect of the weather conditions on the use of streets and highways

MISS. TORT CLAIMS ACT - GOVERNMENTAL ENTITY - PREMISES IMMUNITY - Pursuant to Miss. Code Ann. § 11-46-9(1)(v), a governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim arising out of an injury caused by a dangerous condition on property of the governmental entity that was not caused by the negligent or other wrongful conduct of an employee of the governmental entity or of which the governmental entity did not have notice, either actual or constructive, and adequate opportunity to protect or warn against; provided, however, that a governmental entity shall not be liable for the failure to warn of a dangerous condition which is obvious to one exercising due care

FACTS

In April 2015, during a heavy rainstorm, Danny Towns drove his truck into a washed-out culvert on Mount Olive Road, injuring himself and killing a passenger. In April 2016, Towns filed a complaint against the Panola County Board of Supervisors and Panola County alleging that the culvert was in a serious state of deterioration and disrepair and that Panola County was aware of this condition. Towns also asserted that this deterioration in addition to the heavy rain was the cause of the washout. In its 2016 answer, Panola County claimed immunity based on three statutory exemptions from liability under the Mississippi Torts Claim Act (“MTCA”): discretionary-function immunity, weather immunity, and premises immunity. A bench trial took place in October 2020. Before the bench trial, an interrogatory response from Panola County revealed that the Road Department knew about the deteriorated state of the culvert and planned to replace it. It did not get replaced, however, until after the washout. During the bench trial, several county officials testified that they knew that the culvert was in bad shape and needed replacing. An expert witness also testified about the dangerous condition of the roadway over the culvert. Further, three individuals testified about the bad weather that happened before the washout. Lastly, Towns himself testified to witnessing the bank washing off around the culvert pipe. On the final day of the bench trial, the trial court issued its ruling, finding that there was a major weather event on the night in question. Leaning heavily on a deposition from a supervisor and testimony from a road manager about the culvert’s condition, the trial court found it was more probable than not that the tree or the heavy rain caused the washout. The trial court found Panola County immune under weather immunity of Miss. Code Ann. § 11-46-9(1)(q) and under premises immunity of Miss. Code Ann. § 11-46-9(1)(v). The trial court did not make a finding under the discretionary-function immunity. Towns appealed.

ISSUES

Whether, under the Mississippi Tort Claims Act, Panola County was entitled to either the (1) weather immunity or the (2) premises immunity exemption.

HOLDING

(1) Because the washout of the road was not solely caused by the heavy rains, Panola County was not entitled to weather immunity. (2) Because Panola County knew of the culvert’s deterioration and failed to timely repair it, Panola County was not entitled to premises immunity. Therefore, the Court of Appeals reversed and remanded the judgment of the Panola County Circuit Court.

Reversed & Remanded - 2020-CA-01364-COA (June 28, 2022)

Opinion by Judge Westbrook

Hon. James McClure III (Panola County Circuit Court, Second Judicial Dist.)

Derek Oliver Fairchilds & Glenn K. Vines Jr. for Appellant - Arnulfo Ursua Luciano, Daniel Judson Griffith, & Bethany Ann Tarpley for Appellees

Briefed by [Cade Perry Barlow](#)

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COURT OF APPEALS - POST-CONVICTION RELIEF

ROBERSON V. STATE

CIVIL - POST-CONVICTION RELIEF

CRIMINAL PROCEDURE - NEWLY DISCOVERED EVIDENCE - RECANTATION - When a defendant moves for a new trial based on recanted testimony, the defendant has the burden of proving: (1) the perjury existed by showing that the recantation was material, and (2) the result of a new trial would be different than the one reached

CRIMINAL PROCEDURE - NEWLY DISCOVERED EVIDENCE - RECANTATION - Recanted testimony, if believed by the trial judge, may in some situations require a new trial, but the mere fact a trial witness later recants does not itself necessitate a new trial

FACTS

Detrius Roberson and three co-defendants allegedly robbed a retail shop in Kosciusko where one victim was shot and killed in the course of the act. Two eyewitnesses identified one of the co-defendants, Buddy Love, as one of the perpetrators. Love was subsequently arrested and identified Roberson and the two other co-defendants as co-conspirators to the armed robbery. Roberson and another co-defendant, Justin James, were jointly tried; Love was tried separately. Roberson and James were convicted and sentenced to sixty years in the custody of the MDOC. Roberson collaterally appealed his conviction with James. The circuit court's judgment was affirmed. About one year later, James filed a post-conviction relief ("PCR") motion for a new trial on the ground that Love recanted his testimony. James's PCR motion was denied upon evidentiary findings that Love's recanted testimony was sufficiently corroborated by other evidence, and the fourth co-defendant's, Robert Landfair's, transcript from his plea hearing where he implicated James, Roberson, and Love. James appealed the decision but was denied. The PCR motion at issue began in 2016 when Roberson's petition-seeking-leave-to-file-a-PCR-motion was granted. In early 2017, Roberson filed his PCR motion seeking an evidentiary hearing and new trial based upon Love's recanted testimony. Attached to the motion were several affidavits, including affidavits from Love and Landfair both asserting that Roberson was not present during the commission of the crime. An evidentiary hearing was held in late 2019. During the hearing, Love and Landfair both testified. Love invoked his Fifth Amendment rights and Landfair testified that the contents of the affidavit were false. Landfair testified that the record from his original plea hearing was the truth and that he only recanted his testimony in the affidavit because he was being harassed by his and Roberson's friends. The transcript from Landfair's plea hearing was admitted into evidence. Roberson's PCR motion was denied based upon the judge's finding that the result of his original trial would not have changed if the recanted testimony was accepted and believed by the court. Roberson then filed a motion to alter or amend the order denying his PCR or, alternatively, a new trial. The circuit court denied the motion. Roberson appealed.

ISSUE

Whether the circuit court erred by denying Roberson's PCR motion after finding that Roberson failed to meet his burden of proof regarding Love's recanted testimony.

HOLDING

Because the recantation was not material, and because the result of a new trial would not be different from the one reached, the circuit court did not err in finding that there was substantial evidence to support the decision to deny Roberson's PCR motion. Therefore, the Court of Appeals affirmed the judgment of the Attala County Circuit Court.

SPECIAL CONCURRENCE

Judge Westbrook argued that more objective guidance was needed to evaluate recanted testimony. She suggested that the Supreme Court look to the approach in New York, where factors were established to evaluate the credibility of recanted testimony. She wrote separately to spotlight the minimal guidance on recanted testimony and to offer a potential solution.

Affirmed - 2020-CA-01208-COA (June 28, 2022)

Opinion by Presiding Judge Carlton - Special Concurrence by Judge Westbrook

Hon. George M. Mitchell Jr. (Attala County Circuit Court)

William Scott Mullennix & Cody William Gibson for Appellant - Scott Stuart (Att'y Gen. Office) for Appellee

Briefed by [Elise Tucker](#)

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SIGGERS V. STATE

CIVIL - POST-CONVICTION RELIEF

POST-CONVICTION RELIEF - PROBATION REVOCATION - DUE PROCESS REQUIREMENTS -

The minimum due-process requirements for a final revocation hearing are: written notice of the claimed violations; disclosure to the probationer of the evidence against him; an opportunity to be heard in person and to present witnesses and documentary evidence; the right to confront and cross-examine adverse witnesses (unless a hearing officer finds good cause for not allowing such confrontation); a neutral and detached hearing body or officer; and a written statement by the fact finder as to the evidence relied on and the reasons for revoking probation

POST-CONVICTION RELIEF - PROBATION REVOCATION - PRELIMINARY HEARING - If no prejudice is found, and a formal revocation hearing was held that met the minimum due-process requirements, then failure to hold a preliminary hearing is harmless error

CRIMINAL PROCEDURE - INEFFECTIVE ASSISTANCE OF COUNSEL - BURDEN OF PROOF - A party claiming ineffective assistance of counsel bears the burden of proof to show that counsel's performance was deficient and the deficiency prejudiced his defense; allegations of ineffective assistance of counsel must be made with specificity and detail, and are assessed by the totality of the circumstances

FACTS

In 1995, Reno Siggers was sentenced to life imprisonment for murder. In 2011, the Parole Board granted Siggers conditional parole. In May 2018, Siggers was charged for simple domestic violence, and the Tunica County Justice Court issued an arrest warrant for Siggers for the charge on June 14, 2018. The next day, Siggers was involved in a second domestic-disturbance incident and was apprehended by police officers. Siggers was allowed to post a bond and was given a court date for July 19, 2018. A week later, the justice court issued a second warrant for Siggers's arrest for the second domestic-disturbance incident. While he was detained, Siggers claimed he signed "papers" on July 6, 2018, for a preliminary-revocation hearing that occurred on July 17, 2018, which he attended. Additionally, on July 17, 2018, the Parole Board issued a revocation warrant based on Siggers's violation of the terms of his parole. The next day, the Parole Board held a final parole-revocation hearing where Siggers's parole was revoked for 120 days. Siggers was again released on parole in November 2018. In February 2019, the justice court found Siggers guilty of the first simple-domestic-violence charge and sentenced him to thirty days in jail, with fifteen days suspended and fifteen days to serve. In August 2019, the Parole Board again revoked Siggers's parole for the second domestic violence charge. Siggers filed a post-conviction relief ("PCR") motion in December 2019 challenging the August 2019 parole revocation but was unsuccessful. The Parole Board again granted Siggers parole in March 2020, and then revoked his parole in March 2021 due to new charges of domestic violence. Siggers filed another PCR motion challenging the March 2021 parole revocation which was unsuccessful. Siggers appealed.

ISSUES

Whether (1) the Parole Board failed to comply with the procedures established in Miss. Code Ann. § 47-7-27; (2) the justice court, MDOC officials, Parole Board members, and various law enforcement officers violated Siggers's due process rights and other constitutional rights during the February 2019 justice court trial; and (3) Siggers's trial attorney provided ineffective assistance of counsel.

HOLDING

(1) Because the Parole Board held Siggers's revocation hearing within the provided twenty-one-day time frame, and because Siggers failed to identify any prejudice that arose from a delay in his preliminary hearing, the Parole Board did not fail to comply with the procedures established in Miss. Code Ann. § 47-7-27. (2) Because Siggers failed to meet his evidentiary burden and provide any meaningful argument to support his claims, Siggers waived his assignments of error regarding his 2019 trial. (3) Because Siggers failed to substantiate his claims of ineffective assistance with any supporting evidence or affidavits, and because Siggers's bare assertions failed to establish with any specificity that his trial attorney acted in a deficient manner or that any alleged deficiency prejudiced his defense, the issue lacked merit. Therefore, the Court of Appeals affirmed the judgment of the Tunica County Circuit Court.

Affirmed - 2021-CP-00985-COA (June 28, 2022)

Opinion by Judge Smith

Hon. Albert B. Smith III (Tunica County Circuit Court)

Pro se for Appellant - Ashley Lauren Sulser (Att'y Gen. Office) for Appellee

Briefed by [Meagan Guyse](#)

COURT OF APPEALS - CRIMINAL CASES

McCARTY V. STATE

CRIMINAL - FELONY

CRIMINAL PROCEDURE - RETROACTIVE MISJOINER - NEW TRIAL - To determine if the defendant was prejudiced by evidence admissible on a charge that failed or was invalid as a matter of law, the court employs a two-factor test: (1) was evidence admitted at trial on the vacated count that would not have otherwise been admissible on the remaining count and, if so, (2) can the defendant demonstrate clear prejudice as a result of the inadmissible evidence that was presented to the jury; the doctrine of retroactive misjoinder does not apply to other charges simply because the jury returns a split verdict resulting in acquittal

EVIDENCE - ADMISSIBILITY - CHARACTER EVIDENCE - Evidence of a person's character or character trait is admissible to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident; the court may exclude relevant evidence if its probative value is substantially outweighed by a danger of unfair prejudice

CRIMINAL PROCEDURE - SUFFICIENCY AND WEIGHT OF EVIDENCE - ACTUAL INNOCENCE - If a reasonable trier of fact could evaluate all the evidence and find the essential elements of the charged crime to be proven beyond a reasonable doubt, the court will uphold the jury's verdict; to demonstrate actual innocence, a defendant must show that, in light of all the evidence, it is more likely than not that no reasonable juror would have convicted him of the crime charged

CRIMINAL PROCEDURE - INEFFECTIVE ASSISTANCE OF COUNSEL - AFFIRMATIVE SHOWING - Claims of ineffective assistance usually will only be addressed on direct appeal when the record affirmatively shows ineffectiveness of constitutional dimensions, or the parties stipulate that the record is adequate, and the appellate court determines that findings of fact by a trial judge able to consider the demeanor of witnesses, etc., are not needed

FACTS

In 2018, police arrested and charged Douglas McCarty for assaulting, kidnapping, and raping his estranged wife, Penny. A grand jury indicted McCarty for the following: Count I: Aggravated Assault (choking); Count II: Aggravated Assault (extreme indifference); Count III: Possession of a Weapon by a Convicted Felon (Browning twelve-gauge shotgun); Count IV: Possession of a Weapon by a Convicted Felon (Winchester rifle); Count V: Armed Robbery; Count VI: Kidnapping; and Count VII: Rape. For Counts II and V, the trial court entered an order of nolle prosequi per the State's request. For Counts III and IV, the parties reached an agreement that McCarty's prior felony conviction would be stipulated. In addition, the trial court granted the State's motion to have McCarty charged as a habitual offender. Also, the trial court granted McCarty's motion to sever Count IV from the indictment since the Winchester Rifle was not used during the other charged crimes. The trial court allowed the State's admission of three prior domestic incidents between McCarty and Penny for evidence under Miss. R. Evid. 404(b). At trial, McCarty's defense again moved for severance of Count III, which the trial court denied. Lawrence County Sheriff, Ryan Everett offered extensive testimony regarding McCarty's beating of Penny and his finding of the Browning shotgun in the trunk of Penny's car. Deputy Anthony Sims also testified to a previous incident between McCarty and Penny. Penny's landlord, Jeff Farnham, provided detailed testimony regarding the altercation between McCarty and Penny. Joseph Heflin, a forensic biologist, testified that the results of Penny's sexual assault examination showed that Penny's vaginal swab contained McCarty's DNA. Penny's testimony included descriptions of previous altercations between the couple, which eventually led them to sign a joint complaint for divorce. Afterwards, Penny obtained an ex parte emergency-domestic-abuse protective order against McCarty. She further testified about the altercation in question that occurred days later. First, she disclosed that McCarty entered her home and physically beat and raped her. Then, she corroborated Farnham's testimony about his arrival at the home and her mouthing for help. Next, she asserted that McCarty loaded the Browning shotgun in

front of Penny and made her leave with him until he ultimately let her go in Monticello. The jury convicted McCarty on the counts of aggravated assault, kidnapping, and rape, but acquitted him for the possession of a weapon by a felon. The trial court sentenced McCarty as a violent habitual offender. For each count, McCarty received life imprisonment without eligibility for parole with the sentences to be served consecutively. The trial court denied McCarty's motion for judgment notwithstanding the verdict, for judgment of acquittal or, in the alternative, for a new trial. McCarty appealed.

ISSUES

Whether (1) McCarty was entitled to a new trial under the doctrine of retroactive misjoinder; (2) McCarty was unfairly prejudiced by the admission of certain character evidence; (3) McCarty's sentence should have been set aside due to actual innocence; (4) judicial misconduct occurred; (5) prosecutorial misconduct occurred; and (6) defense counsel rendered ineffective assistance.

HOLDING

(1) Because McCarty was validly indicted, tried, and acquitted for unlawfully possessing a firearm as a felon, and because retroactive misjoinder would only apply in instances where a defendant's charge failed or was invalid as a matter of law, McCarty was not entitled to a new trial on the other counts. (2) Because evidence of the prior incidents enabled a showing of motive, intent, and a rational and coherent story, because the evidence rebutted McCarty's defenses, and because the court gave limiting instructions concerning the evidence, McCarty was not unfairly prejudiced and the evidence was admissible. (3) Because ample testimony provided sufficient evidence to support a guilty verdict for each count, McCarty failed to prove his sentence should have been set aside due to actual innocence based on the weight and sufficiency of the evidence. (4) Because McCarty failed to support his claim, and because no reversible error occurred, no judicial misconduct occurred. (5) Because the issue was procedurally barred since the defense did not object to any of the cited instances of prosecutorial misconduct, and because, notwithstanding the procedural bar, McCarty failed to prove that the alleged prosecutorial misconduct prejudiced the proceedings, this issue lacked merit. (6) Because the trial record on its face did not reflect an affirmative showing of ineffective assistance of counsel, because the allegations concerned the defense counsel's trial strategy, and because such strategy was not present in the record before the court, defense counsel did not render ineffective assistance. Therefore, the Court of Appeals affirmed the judgment of the Lawrence County Circuit Court.

Affirmed - 2021-KA-00418-COA (June 28, 2022)

Opinion by Chief Judge Barnes

Hon. Claiborne McDonald (Lawrence County Circuit Court)

George T. Holmes (Pub. Def. Office) for Appellant - Alexandra Rodu Rosenblatt (Att'y Gen. Office) for Appellee

Briefed by [Katie Lee Crockett](#)

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