

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2003-CP-00381-COA

JOSEPH DAVIS, JR.

APPELLANT

v.

**J.C. PENNEY COMPANY, INC., A FOREIGN
CORPORATION**

APPELLEE

DATE OF TRIAL COURT JUDGMENT: 2/7/2003
TRIAL JUDGE: HON. KOSTA N. VLAHOS
COURT FROM WHICH APPEALED: HARRISON COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT: JOSEPH DAVIS (PRO SE)
ATTORNEY FOR APPELLEE: THOMAS E. VAUGHN
NATURE OF THE CASE: CIVIL - TORTS-OTHER THAN PERSONAL
INJURY & PROPERTY DAMAGE
TRIAL COURT DISPOSITION: DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT GRANTED AND COMPLAINT
DISMISSED WITHOUT PREJUDICE.
DISPOSITION: AFFIRMED: 9/07/2004
MOTION FOR REHEARING FILED:
CERTIORARI FILED:
MANDATE ISSUED:

BEFORE KING, C.J., LEE, P.J. AND GRIFFIS, J.

KING, C.J., FOR THE COURT:

¶1. On February 20, 1998, Joseph Davis, Jr. went to the J. C. Penney store in Biloxi attempting to return some merchandise purchased at another J. C. Penney store. Davis claims that employees of J. C. Penney were hostile toward him and called the Biloxi Police Department resulting in his arrest for trespassing and resisting arrest. On June 8, 1998, Davis was convicted of resisting arrest and trespassing by the Biloxi Municipal Court. Davis appealed the conviction to the County Court of Harrison County. On December 2, 1998, the conviction was affirmed by the county court. Davis then appealed the

conviction to the Circuit Court of Harrison County. On March 20, 2000, the circuit court affirmed the conviction of the county court. Davis filed a notice of appeal with the Mississippi Supreme Court. That appeal was deflected to the Court of Appeals, which on July 17, 2001, dismissed Davis' appeal holding that it was without jurisdiction to consider the appeal pursuant to Mississippi Code Annotated Section 11-51-81 (1972).

¶2. On February 19, 1999, Davis filed a civil action in the Circuit Court of Harrison County against J.C. Penney and Steve Wright, an employee of J. C. Penney for damages arising out of the events of February 20, 1998. According to the record, service of process was served on J. C. Penney only.

¶3. On November 13, 2001, the defendant filed a motion for summary judgment and sanctions against Davis. The hearing on the motion was originally scheduled for July 2002, but due to scheduling conflicts, did not actually occur until August 7, 2002. On August 6, 2002, Davis filed a motion seeking to continue the hearing on the defendant's summary judgment motion.

¶4. On August 7, 2002, the date of the hearing, Davis filed his response to the defendant's motion for summary judgment. The trial court denied Davis' motion for a continuance and after the hearing, granted the Defendant's motion for summary judgment and sanctions against Davis.

¶5. Davis has now appealed from that decision to grant the motion for summary judgment and sanctions against him.

¶6. Pursuant to Mississippi Rule of Appellate Procedure 28, an appellant's brief must contain the following: (1) a certificate of interested persons, (2) tables, (3) a statement of the issues, (4) a statement of the case, (5) a summary of the argument, (6) an argument, and (7) a conclusion. The brief submitted by Davis fails to comply with M.R.A.P. 28. In the document filed with this Court, Davis declines to identify any issues, saying instead that he will make the Court aware of his issues upon oral argument. In the

absence of clearly identified issues, there is nothing for this Court to consider or address in an appeal. *Giuffria v. Concannon*, 851 So. 2d 436 (¶11) (Miss. Ct. App. 2003); *King v. State*, 857 So. 2d 702 (¶23) (Miss. 2003); *Jones v. Howell*, 827 So. 2d 691 (¶40) (Miss. 2002). On this basis, "the Court is not required to further consider this appeal." *Giuffria*, 851 So. 2d 436 at (¶11).

¶7. THE JUDGMENT OF THE CIRCUIT COURT OF HARRISON COUNTY IS AFFIRMED. COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.

BRIDGES AND LEE, P.JJ., IRVING, MYERS, CHANDLER AND GRIFFIS, JJ., CONCUR. BARNES, J., NOT PARTICIPATING.