

Serial: 204445

IN THE SUPREME COURT OF MISSISSIPPI

No. 2014-CT-00342-SCT

***CARDIE BLACKWELL a/k/a CARDIE B.
BLACKWELL***

Appellant

v.

HOWARD INDUSTRIES, INC.

Appellee

ORDER

The above-referenced matter comes before the *en banc* Supreme Court of Mississippi on Howard Industries' Petition for Writ of Certiorari from an opinion issued by the Court of Appeals of Mississippi on May 5, 2015. Blackwell appeals an order from the Circuit Court of Jones County issued on March 6, 2014, striking Blackwell's brief and reply brief from the circuit court record. Contrary to the language of Blackwell's brief and the opinion of the Court of Appeals, the order dated March 6, 2014, did not dismiss Blackwell's appeal from the Workers' Compensation Commission. The circuit court only ordered and adjudged "that the Brief of Appellant and Reply Brief of Appellant shall be stricken."

Clearly, the order from which Blackwell appealed was not a final judgment on the merits of the case and Blackwell's appeal therefrom is interlocutory in nature. Therefore, the Court of Appeals lacked appellate jurisdiction to issue its opinion, the Supreme Court similarly lacks jurisdiction to consider Howard Industries' petition for a writ of certiorari,

and Blackwell's appeal from the Circuit Court of Jones County must be dismissed. *See LaFontaine v. Holliday*, 110 So. 3d 785, 787 (¶ 10) (Miss. 2013).

It is, therefore, ORDERED that Cardie Blackwell's appeal from the Circuit Court of Jones County be DISMISSED for lack of a final, appealable judgment and that the opinion of the Court of Appeals be VACATED for the same reason. The above-styled matter is remanded to the Circuit Court of Jones County for proceedings consistent with the instant order. Each party shall bear its own costs.

SO ORDERED, this the 10th day of May, 2016.

/s/ Josiah Dennis Coleman

JOSIAH DENNIS COLEMAN, JUSTICE
FOR THE COURT

AGREE: WALLER, C.J., RANDOLPH, P.J., LAMAR, KING, COLEMAN AND BEAM, JJ.

DICKINSON, P.J., OBJECTS IN PART TO THE ORDER WITH SEPARATE WRITTEN STATMENT JOINED BY KITCHENS, J.; RANDOLPH, P.J., JOINS IN PART.

MAXWELL, J., NOT PARTICIPATING.

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v.

HOWARD INDUSTRIES, INC.

**DICKINSON, PRESIDING JUSTICE, OBJECTING IN PART TO THE
ORDER WITH SEPARATE WRITTEN STATEMENT:**

¶1. I agree with this Court’s decision to dismiss this appeal and vacate the Court of Appeals’ decision, but not because this Court lacks jurisdiction to hear the matter. This Court has no authority to increase or diminish its jurisdiction through rules, judicial declarations, or otherwise. The Mississippi Constitution grants this Court “such jurisdiction as properly belongs to a court of appeals”¹ That jurisdiction does not depend on a party’s compliance with this Court’s rules, and it exists even where, through the Rules, we refuse to exercise the jurisdiction we possess constitutionally.

¶2. Here, the trial court has yet to render a final, appealable judgment. That fact does not mean we lack jurisdiction to hear an interlocutory appeal from the trial court’s order striking the appellant’s briefs. If that were true, we would have no jurisdiction to hear any interlocutory appeal, and history and experience suggests otherwise.

¹ Miss. Const. art. 6, § 146.

¶3. Our procedural rules—which clearly recognize that we have jurisdiction to hear interlocutory appeals—require that the appellant obtain permission before filing.² Because no such permission has been granted, this appeal should be dismissed, but not based on lack of jurisdiction.

**KITCHENS, J., JOINS THIS SEPARATE WRITTEN STATEMENT.
RANDOLPH, P.J., JOINS THIS SEPARATE WRITTEN STATEMENT IN PART.**

² Miss. R. App. P. 5.