

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-CA-01054-COA

SHELBY L. DUNN

APPELLANT

v.

SYNCHRONY BANK

APPELLEE

DATE OF JUDGMENT:	08/28/2025
TRIAL JUDGE:	HON. KELLY LEE MIMS
COURT FROM WHICH APPEALED:	ALCORN COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	D. REID WAMBLE
ATTORNEYS FOR APPELLEE:	CHARLES EDWARD BYROM JASON BRADY PATRICK LESLIE HANCOCK CARBO
NATURE OF THE CASE:	CIVIL - CONTRACT
DISPOSITION:	AFFIRMED - 10/20/2026
MOTION FOR REHEARING FILED:	

BEFORE WILSON, P.J., LAWRENCE AND WEDDLE, JJ.

LAWRENCE, J., FOR THE COURT:

¶1. Shelby Dunn opened a credit account with Synchrony Bank (“Synchrony”) but failed to make payments on the account. Synchrony filed a complaint against Dunn. After approximately seven months without a response from Dunn, the circuit court clerk made an entry of default against Dunn, and upon motion, the court later entered a default judgment in favor of Synchrony. Soon after, Dunn filed a motion to set aside the default judgment and to dismiss Synchrony’s complaint. Dunn asserted that he was never served with process. The circuit court disagreed, denying Dunn’s motion to set aside and motion to dismiss. Aggrieved, Dunn appealed. After review, we affirm.

FACTUAL AND PROCEDURAL HISTORY

¶2. Dunn opened a credit account with Synchrony and failed to make his requisite payments. On June 14, 2024, Synchrony filed a complaint in the Alcorn County Circuit Court against Dunn, alleging that he had failed to make his credit card payments.¹ On July 19, 2024, Synchrony's process server Donna Reiselt returned proof of service of the executed summons to the court. Reiselt listed the date of service as July 16, 2024, and recounted the following:

I delivered the documents to Maddie Dunn who identified themselves as the subject's daughter, co-resident with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a brown-haired white female contact 18-25 years of age, 5'-5" tall and weighing 120-140 lbs.

Reiselt affirmed that "thereafter on the 18 day of July, 2024, copies of the documents listed above were mailed (by first class postage prepaid) to the person served at his/her place of abode where copies were left." On November 28, 2024, Synchrony filed an affidavit verifying Dunn's account balance.

¶3. On January 14, 2025, Synchrony requested an entry of default, averring that Dunn had not responded to the lawsuit in any form. On the same day, Synchrony filed a motion for a default judgment. The Alcorn County Circuit Court Clerk made a docket entry of default against Dunn on January 21, 2025. On March 17, 2025, the court granted Synchrony's motion and entered a default judgment against Dunn.

¹ The overdue payments totaled \$4,965.72.

¶4. On April 4, 2025, Dunn made his first filing in the case with a motion to set aside the default judgment and a motion to dismiss Synchrony’s complaint, attaching two affidavits of his own. Dunn maintained that he was never served a copy of the summons and complaint, and thus, the court lacked personal jurisdiction. The parties agreed to a hearing.

¶5. Before the hearing, on August 20, 2025, Synchrony filed documents from a process-recording database website² used by Reiselt, stating:

SHELBY L. DUNN was served by Substitute Service on 7/16/2024 at 3:24 PM CDT by process server Donna Reiselt.

One previous attempt was made at 13 County Road[,] 247 Glen, MS 38846-9739.

The subject’s address was provided by the customer. Residency was confirmed by property records confirming ownership, skip trace and review of credit headers.

The “event history” stated that Reiselt received the service documents for Dunn on July 13, 2024. Reiselt made an “attempt” to serve Dunn with process on July 15, 2024, but was “unable to access the address due to storm.” The document also listed three validation methods: “GPS, Photo Taken, [and] Home Ownership[.]”³

¶6. The court’s hearing between the parties took place on August 25, 2025. Both sides offered brief oral arguments; neither called any witnesses.⁴ On August 28, 2025, the circuit

² See ABC Legal, EvidenceChain, <https://www.evidencechain.com> (last visited Oct. 20, 2026) (“the nation’s leading service of process provider”).

³ These records were not attached to any motion Synchrony filed. They just appear in the record on appeal. Why they were filed separately in anticipation of the upcoming hearing between the two parties and rather than as exhibits at the hearing itself is unclear.

⁴ Of note, counsel for Dunn stated that he was an “off-the-road truck driver” as an

court entered an order denying Dunn’s motion to set aside and motion to dismiss the complaint. On September 3, 2025, Dunn appealed from the court’s order denying his motion to set aside the default judgment.⁵

STANDARD OF REVIEW

¶7. “Service of process is the physical means by which personal jurisdiction is asserted.” *Miss. Dep’t of Hum. Servs. v. Johnson*, 396 So. 3d 1151, 1155 (¶7) (Miss. 2024) (quoting *Webster v. Fannings*, 311 So. 3d 1157, 1160 (Miss. 2021)). And “[i]n the absence of proper service of process, the court lacks jurisdiction, so any default judgment that it enters is void.” *S & M Trucking LLC v. Rogers Oil Co. of Columbia*, 195 So. 3d 217, 221 (¶16) (Miss. Ct. App. 2016) (citing *McCain v. Dauzat*, 791 So. 2d 839, 842 (¶7) (Miss. 2001)).⁶ Because “[s]ufficiency of service of process is a jurisdictional issue,” this Court must conduct a de novo review of the circuit court’s decision. *BB Buggies Inc. v. Leon*, 150 So. 3d 90, 95 (¶6) (Miss. 2014). Once the jurisdictional and “procedural issues are satisfied, we apply an abuse-of-discretion standard of review to the circuit court’s decision on a motion to set aside a default judgment.” *Smith v. First Bank*, 195 So. 3d 790, 793 (¶10) (Miss. Ct. App. 2015) (citing *Am. States Ins. Co. v. Rogillo*, 10 So. 3d 463, 467 (¶8) (Miss. 2009)).

explanation for his absence at home.

⁵ Dunn did not appeal the denial of his motion to dismiss.

⁶ Our courts do not favor default judgments, but “it does not follow that a party seeking relief from a default judgment is entitled to that relief as a matter of right.” *Villavaso v. S.H. Anthony Inc.*, 309 So. 3d 587, 595 (¶25) (Miss. Ct. App. 2020).

DISCUSSION

¶8. On appeal, Dunn argues that the circuit court erred by denying his motion to set aside the default judgment for a lack of personal jurisdiction due to insufficient service of process.⁷ Rule 4 of the Mississippi Rules of Civil Procedure governs service of process, providing in pertinent part:

The summons and complaint shall be served together. Service by sheriff or process server shall be made as follows:

- (1) Upon an individual other than an unmarried infant or a mentally incompetent person,
 - (A) by **delivering a copy of the summons and of the complaint to him personally** or to an agent authorized by appointment or by law to receive service of process; **or**
 - (B) if service under subparagraph (1)(A) of this subdivision **cannot be made with reasonable diligence**, by **leaving a copy** of the summons and complaint **at the defendant's usual place of abode with the defendant's spouse or some other person of the defendant's family above the age of sixteen years who is willing to receive service**, and by thereafter **mailing a copy of the summons and complaint** (by first class mail, postage prepaid) to the person to be served at the place where a copy of the summons and of the complaint were left. . . .

M.R.C.P. 4(d)(1) (emphasis added). Dunn argues that Synchrony did not act with reasonable diligence to serve him personally before serving a family member at his residence. In order to determine whether Dunn is correct, we must address what exactly constitutes “reasonable

⁷ Dunn only argues a lack of personal jurisdiction to this Court. Dunn does not argue that the default judgment should be set aside in accordance with the three-pronged test set forth in *BB Buggies*, 150 So. 3d at 101 (¶23), relating to Mississippi Rules 55(c) and 60(b) of the Mississippi Rules of Civil Procedure. Therefore, we address only whether the default judgment is void for lack of personal jurisdiction.

diligence.”⁸

¶9. Black’s Law Dictionary defines “reasonable diligence” as “[a] fair degree of diligence expected from someone of ordinary prudence under circumstances like those at issue.” *Reasonable Diligence*, Black’s Law Dictionary 573 (12th ed. 2024).⁹ Our appellate courts, however, have not provided a precise blueprint for determining whether a party acted with reasonable diligence before initiating substitute service.¹⁰ For example, we have no

⁸ It is worth noting that “reasonable diligence” is not required by the Federal Rules of Civil Procedure:

Unless federal law provides otherwise, an individual--other than a minor, an incompetent person, or a person whose waiver has been filed--may be served in a judicial district of the United States by:

- (1) following state law for serving a summons in an action brought in courts of general jurisdiction in the state where the district court is located or where service is made; or
- (2) doing any of the following:
 - (A) delivering a copy of the summons and of the complaint to the individual personally
 - (B) leaving a copy of each at the individual’s dwelling or usual place of abode with someone of suitable age and discretion who resides there; or
 - (C) delivering a copy of each to an agent authorized by appointment or by law to receive service of process.

F.R.C.P. 4(e).

⁹ Black’s Law Dictionary also lists “due diligence” as a synonym: “[t]he diligence reasonably expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.” *Due Diligence*, Black’s Law Dictionary 573 (12th ed. 2024).

¹⁰ It is also worth noting that Rule 4 discusses service by publication, which requires a “diligent inquiry” into a defendant’s whereabouts before service by publication can occur. Our state’s caselaw reveals numerous cases addressing “diligent inquiry” but is somewhat

“minimum” number of attempts required or a clear line of what steps must be taken in order to constitute an “attempt” at service. Reviewing precedent, it appears that “reasonable diligence” is generally determined on a case-by-case factual basis.

¶10. In *Smith v. First Bank*, 195 So. 3d 790 (Miss. Ct. App. 2015), a defendant (Mitchell) appealed a default judgment, arguing, among other things, that the plaintiffs (the Ferrells) “did not use reasonable diligence in serving personal process before using secondary service.” *Id.* at 794 (¶13). The Ferrells attempted to serve Mitchell in a lawsuit in 2007 based upon a certain set of facts; Mitchell was not in the country and was dismissed from the action. *Id.* at (¶15). Two years later, the Ferrells initiated a second action based upon the same set of facts. *Id.* at (¶16). The Ferrells’ process server went to Mitchell’s address to serve the summons and complaint. *Id.* However, Mitchell “was not available,” so he left the papers with Mitchell’s nineteen-year-old son. *Id.* The court consolidated the 2009 action with the 2007 action. *Id.* at 793 (¶5).

¶11. On appeal, Mitchell contended that the process server did not act with reasonable diligence to locate him before serving his son. This Court cited caselaw stating simply: “after the process server is unable to locate the party, it is proper to leave summons with a family member over the age of sixteen.” *Id.* at (¶17) (citing *McDaniel v. Burroughs*, 739 So. 2d 461, 463 (¶6) (Miss. Ct. App. 1999)). This Court found that the process server’s attempt “used reasonable diligence before leaving process with Mitchell’s son[.]” *Id.*

lacking as to reasonable diligence, and whether those different terms mean the same thing.

¶12. In *McDaniel*, 739 So. 2d at 463 (¶6), *McDaniel* appealed a default judgment entered against him for alleged defective service of process. The facts showed that Burroughs filed a complaint on November 14, 1995, and attempted to serve *McDaniel* at his home on the same day. *Id.* However, “the process server was unable to locate *McDaniel*,” so he instead left *McDaniel*’s wife with a copy of the summons and complaint. *Id.* On the following day, Burroughs mailed a copy of the summons and complaint to *McDaniel*’s home. *Id.* This Court found that the service of process was valid. *Id.* Unlike *Smith*, however, *McDaniel* did not directly address “reasonable diligence” as a concept.

¶13. The case before us bears similarities to *Smith* and *McDaniel*. Reiselt, on Synchrony’s behalf, first attempted to serve Dunn at his home on July 15, 2024, but logged that she was unable to access the property due to the “storm.” Reiselt returned on July 16, 2024, and found Maddie Dunn¹¹ at the residence. According to Reiselt, Maddie identified herself as Dunn’s “daughter” and “co-resident” and accepted the service of process. Reiselt logged both attempts at personal service in her online records. In *Smith*, the process server attempted to serve Mitchell in 2007 and was unsuccessful, and after a new action was filed in 2009, attempted service once, locating Mitchell’s son who accepted the service. *Id.* at

¹¹ While there might be some discrepancy as to how old Maddie was at this time and whether she was actually Dunn’s granddaughter, we will not address those questions here. The rule requires substitute service to be made on someone over sixteen years old (and Maddie was, at a minimum, sixteen years old at this time), with a spouse, or “some other person of the defendant’s family” (it is inconsequential whether Maddie was Dunn’s daughter or granddaughter) “who is willing to receive service.” M.R.C.P. 4(d).

(¶17).¹² The same is true of *McDaniel*: the process server left a copy of the summons and complaint with McDaniel’s wife instead of McDaniel. *McDaniel*, 739 So. 2d at 463 (¶6). The instant case shows that Reiselt made an attempt to serve Dunn but instead found a family member who accepted the service.

¶14. While this Court found reasonable diligence was achieved in *Smith* and *McDaniel*, we have also decided cases with the opposite result. In *S & M Trucking*, the company Rogers Oil filed a lawsuit against S & M—a trucking company comprised of the Lees, a husband and wife—in circuit court to collect a debt. *S & M Trucking*, 195 So. 3d at 218 (¶1). Rogers Oil was unable to serve the Lees with process. *Id.* The court gave Rogers Oil an additional 180 days to serve S & M. *Id.* During that time, Rogers Oil did not make any attempts to explain why it had not been able to serve S & M or why it needed additional time to do so. *Id.* at (¶6). That December, Rogers Oil again was unable to serve S & M. *Id.* Soon after, Rogers Oil filed an affidavit from a private-investigations firm that had been hired “after service of process through a standard process server . . . was unsuccessful” but stated that the firm had also been unsuccessful in serving S & M. *Id.* at (¶7).

¶15. “Months later,” Rogers Oil filed an unverified invoice from the private investigations firm with no affidavit attached with an explanation. *Id.* at (¶8). The invoice indicated that the private investigator went to an address four times, other “unspecified addresses” twice,

¹² *Smith* does not address the effect of the first attempt of service in 2007 and whether it was considered in determining service was proper two years later.

“canvassed” an area near one of the S & M owners’ parents, and “performed unspecified online research[.]” *Id.* Rogers Oil finally served S & M by serving the Secretary of State with an alias summons from the court.¹³ *Id.* No answer having been filed, the clerk entered a default judgment against S & M Trucking. *Id.* at 220 (¶10). Rogers Oil then filed a motion for a judgment debtor examination against S & M and personally served S & M just eight days later. *Id.* at (¶11). S & M filed a motion to set aside the default for lack of jurisdiction, but it was denied by the circuit court, which found that “S & M was adequately and properly served with process according to law[.]” *Id.* at (¶15).

¶16. S & M appealed and alleged, among other things, the default judgment was void for want of personal jurisdiction because Rogers Oil failed to establish it had exercised “reasonable diligence in its efforts to serve S & M’s governors[.]” *Id.* at 221 (¶18). This Court recounted the record evidence of Rogers Oil’s attempts at service: two proofs of service indicating that the first process server was unable to serve S & M, an affidavit from

¹³ “Rogers Oil contend[ed] that it properly served S & M through the Secretary of State pursuant to section 79-35-13(b), which provides in relevant part:

If an entity that previously filed a registered agent filing with the Secretary of State no longer has a registered agent, or if its registered agent cannot with reasonable diligence be served, the governors of the entity will be treated as the entity's agent for service of process who may be served pursuant to the provisions of the Mississippi Rules of Civil Procedure. . . . If the governors of the entity cannot with reasonable diligence be served, service of process against the entity shall be upon the Secretary of State in accordance with the Mississippi Rules of Civil Procedure.”

S & M Trucking, 195 So. 3d at 221 (¶18) (quoting Miss. Code Ann. § 79-35-13(b)).

the second process server, and the unverified invoice. This Court stated:

[The first process server]’s affidavit is conclusory and devoid of factual support. The [private investigation firm]’s invoice—if we credit it, even though it is not verified or otherwise supported—adds little. As described above, for the period of December 2013 to January 2014, it appears to reflect four trips to the Lees’ home, three trips to other unspecified addresses possibly associated with them, and internet and public records research. It also indicates that phone calls to Michael Lee were attempted in February 2014. While the invoice suggests some efforts at service, without competent evidence to explain it, it is entitled to little, if any, weight. [The Lees] are the sole members of a trucking business, and the . . . address is both their home and their business address. All we know is that [two process servers] went by their house several times and found no one home. Without knowing more, that is hardly surprising. Nor, in and of itself, does it establish reasonable diligence.

Id. at 221-22 (¶19). We ultimately found that “[t]he facts in the record do not demonstrate that Rogers Oil exercised reasonable diligence in attempting to serve S & M’s members, [the Lees], prior to attempting service through the Secretary of State pursuant to Mississippi Code Annotated section 79-35-13(b).” *Id.* at 224 (¶26).

¶17. We find Dunn’s appeal distinguishable from the one in *S & M Trucking*. First, *S & M Trucking* is a case concerning service of process on a legal entity through the Secretary of State pursuant to a Mississippi statute. *Id.* at 218 (¶1). This case concerns personal service of process on an individual rather than a legal entity. Second, in *S & M Trucking*, the issue was whether the party proved reasonable diligence was taken before service of process could be executed on the Secretary of State under section 79-35-13(b). *Id.* In the case before us, the issue was whether the plaintiff proved reasonable diligence owed to Dunn occurred before service of process was executed upon a family member of Dunn. Further, this Court

found that Rogers Oil did not meet its burden to show reasonable diligence had been exercised before involving the Secretary of State because the record maintained inadequate proof on that issue. *Id.* at 222 (¶21). In the instant case, Synchrony presented an affidavit and records from Reiselt, the process server, certifying service had been accomplished.

¶18. In this case, there was a factual dispute as to the exercise of reasonable diligence and the subsequent delivery of service to Dunn’s family member. We addressed the trial court’s role in resolving factual disputes related to service of process in *Havard v. Hart*, 393 So. 3d 1144 (Miss. Ct. App. 2024). In that case, Havard initiated an action against Hart following an automobile accident. *Id.* at 1147 (¶2). Havard’s process server left the summons and complaint at Hart’s “usual place of abode” with Anderson, an alleged family member. *Id.* After Hart failed to respond, Havard moved for a default and default judgment. *Id.* Hart responded to the motion, asserting service was improper with affidavits attached from herself and her father stating Hart had “never resided” at the address and that Anderson “was not a member of their family.” *Id.* at (¶3). Havard filed an affidavit from her process server stating he obtained a public record report with Hart’s alleged address at a trailer park where he was told she lived elsewhere, went to the address, and served Anderson after recognizing him from a social media search he had conducted. *Id.* at 1148 (¶5). The circuit court found, among other things, that “the process server relied solely on social media posts to deduce that Anderson and Hart were related” and dismissed Havard’s suit. *Id.* at (¶6).

¶19. Havard appealed, contending the circuit court abused its discretion by finding that

Hart had not been properly served. *Id.* at (¶¶6-7). This Court presumes that proper service of process has occurred “[i]f a process server has executed a return properly[.]” *Id.* (quoting *Collins v. Westbrooks*, 184 So. 3d 922, 929 (¶18) (Miss. 2016)). This presumption is “rebuttable through the use of extrinsic evidence, including the testimony of the party who is contesting service.” *Id.* at 1149 (¶9) (quoting *Collins*, 184 So. 3d at 929 (¶18) (citing *McCain v. Dauzat*, 791 So. 2d 839, 842 (Miss. 2001))). “[T]estimony by the contesting party, if believed, is sufficient to overcome the presumption and to support a finding that she was not served.” *Long v. Vitkauskas*, 228 So. 3d 302, 305 (¶9) (Miss. 2017) (quoting *Lampton-Reid Co. v. Allen*, 177 Miss. 698, 714, 171 So. 780, 783 (1937)). This Court has repeatedly stated that “[w]hen service of process is contested, the **trial court must make findings to resolve disputed issues of fact.**” *Havard*, 393 So. 3d at 1149 (¶8) (emphasis added) (quoting *Villavaso v. S.H. Anthony Inc.*, 309 So. 3d 587, 594 (¶20) (Miss. Ct. App. 2020)).

¶20. The question of whether Hart had been properly served was one of fact, and “[t]he trial court is permitted to make findings of fact regarding service of process based on affidavits with or without live testimony or depositions.” *Id.* This Court recognized that Hart’s affidavits stated that she did not live in either of the places Havard attempted to serve her and that the process server had “relied solely on social media to form his assumption” that Hart and Anderson were related. *Id.* at 1150 (¶12). Ultimately, the trial court found the affidavits from Hart and her father more persuasive than that of Havard’s process server and

ruled that Hart had not been properly served. *Id.* Our “supreme court has clearly stated that appellate courts should give deferential treatment to a trial court’s findings of fact.” *Id.* (citing *Crawford ex rel. Hodge v. E. Miss. State Hosp. Inc.*, 397 So. 3d 871, 877 (¶20) (Miss. Ct. App. 2024)); *see also Univ. Med. Ctr. v. Martin*, 994 So. 2d 740, 746 (¶24) (Miss. 2008). This Court found that the record contained substantial evidence supporting the circuit court’s decision to dismiss Havard’s case. *Id.*

¶21. Here, Synchrony presented documents from Reiselt’s attempts at service. It submitted proof of service to the court certifying that after serving Maddie Dunn, she mailed a copy of the summons and complaint to Dunn’s address. Dunn also attached an affidavit to his motion to set aside the default judgment swearing that he “never received a copy of the summons and complaint” and “was not mailed a copy of the summons and complaint.” From this point, it was the trial court’s responsibility to “make findings to resolve disputed issues of fact.” *Havard*, 393 So. 3d at 1149 (¶8) (quoting *Villavaso*, 309 So. 3d at 594 (¶20)). The court here evidently found Reiselt’s affidavit more persuasive than Dunn’s and ruled in favor of Synchrony. Again, “[w]ith regard to service of process, appellate courts apply an abuse-of-discretion standard of review to the trial court’s findings of fact.” *Vanaman v. Am. Pride Props. LLC*, 287 So. 3d 251, 254 (¶11) (Miss. Ct. App. 2018) (quoting *Long*, 228 So. 3d at 304 (¶5)).

CONCLUSION

¶22. After a de novo review, we find service of process was proper, as the affidavit of

Reiselt (the process server) indicated that copies of the summons and complaint were left with a family member and then mailed to Dunn. Since reasonable diligence is not defined in the Mississippi Rules of Civil Procedure, its mandate before secondary service is achieved must be determined on a case-by-case basis. Here, we find, as the trial court did, that two trips to Dunn's home constituted reasonable diligence in light of Dunn's being away from home for long periods of time due to his work obligations. We affirm the circuit court's decision to deny Dunn's motion to set aside the default judgment.

¶23. **AFFIRMED.**

BARNES, C.J., CARLTON AND WILSON, P.JJ., WESTBROOKS, McDONALD, EMFINGER, WEDDLE AND LASSITTER ST. PÉ, JJ., CONCUR. McCARTY, J., CONCURS IN RESULT ONLY WITHOUT SEPARATE WRITTEN OPINION.