

IN THE COURT OF APPEALS 06/04/96

OF THE

STATE OF MISSISSIPPI

NO. 95-CA-00498 COA

JENIFER CARSON WALLEY

APPELLANT

v.

JIMMY DOYLE WALLEY, JR.

APPELLEE

PER CURIAM AFFIRMANCE MEMORANDUM OPINION

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. STUART ROBINSON

COURT FROM WHICH APPEALED: CHANCERY COURT OF HINDS COUNTY

ATTORNEY FOR APPELLANT:

T. JACKSON LYONS

ATTORNEYS FOR APPELLEE:

DANNY E. CUPIT AND JENNIFER P. BURKES

NATURE OF THE CASE: DIVORCE PROCEEDINGS/CUSTODY DECREE

TRIAL COURT DISPOSITION: DIVORCE GRANTED APPELLEE ON GROUNDS OF
ADULTERY; PRIMARY CUSTODY AWARDED TO FATHER SUBJECT TO VISITATION
RIGHTS IN MOTHER

BEFORE THOMAS, P.J., BARBER, AND PAYNE, JJ.

PER CURIAM:

This is an appeal from a chancery court decree granting the Plaintiff/Appellee, Jimmy Doyle Walley, Jr., a divorce from Defendant/Appellant, Jenifer Carson Walley, on the ground of adultery. The decree also awarded primary custody of the couple's minor child, Morgan Richelle Walley, to Jimmy subject to liberal visitation rights in Jenifer. Jenifer now challenges the soundness of the chancellor's conclusions.

The scope of appellate review in domestic relations matters is limited by the familiar substantial evidence/manifest error rule. *Magee v. Magee*, 661 So. 2d 1117, 1122 (Miss. 1995). Thus, we will not disturb the conclusions of the chancellor unless it is found that he was manifestly wrong or an erroneous legal standard was applied. *Id.* After reviewing the record, we are of the opinion that, although this was a close case in that the chancellor would have been justified in awarding custody to either the mother or the father, the chancellor committed no manifest error and did not apply an incorrect legal standard in ultimately deciding to award custody to the father subject to liberal rights of visitation in the mother. Accordingly, we affirm the chancellor's final judgment, a copy of which is appended to this decision. We feel compelled, however, to emphasize that should a material change in circumstances that adversely affects the best interests of the child occur at some time in the future, the mother has open to her the option of bringing a motion for the modification of the custody award.

**THE JUDGEMENT OF THE CHANCERY COURT OF HINDS COUNTY IS AFFIRMED.
COSTS ARE ASSESSED TO THE APPELLANT.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.J.J., BARBER, COLEMAN, DIAZ, KING,
McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**