

IN THE COURT OF APPEALS 3/25/97

OF THE

STATE OF MISSISSIPPI

NO. 95-CC-00709 COA

DIANE PATTERSON

APPELLANT

v.

MISSISSIPPI EMPLOYMENT SECURITY COMMISSION AND WAL-MART

APPELLEES

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. KATHY KING JACKSON

COURT FROM WHICH APPEALED: JACKSON COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

J. BRICE KERR

ATTORNEY FOR APPELLEES:

JAN D. GARRICK

NATURE OF THE CASE: EMPLOYMENT

TRIAL COURT DISPOSITION: BENEFITS DENIED

BEFORE BRIDGES, C.J., DIAZ, AND KING, JJ.

PER CURIAM:

On July 12, 1994, Patterson quit her job at the Wal-Mart in Pascagoula, Mississippi, citing difficulties in balancing her responsibilities to her family with the hours she was required to work in her current employment. She had performed her duties as department manager at least satisfactorily for seven (7) years. Just prior to her quitting, it became obvious to her and her employer that she could not consistently report to work at 6:00 A.M., the time all department managers were required to report. This was because she had a child who could not be at school until 7:15 A.M. and an elderly, infirm father who required care.

Her employer accommodated her by allowing her to come in late for her shift at 7:30 A.M. This time also proved to be too early for her, and put an unfair strain on other department managers. Her employer then suggested that she take another, slightly less paying job in the same store; a job which had hours more consistent with her schedule. It was at this point that Patterson quit, saying that the reduced pay made her employment less than feasible in light of her overwhelming family requirements. The Mississippi Employment Security Commission Referee upheld the denial of unemployment benefits to Patterson because she quit voluntarily and without good cause pursuant to Miss. Code Ann. § 71-5-513 (A)(1)(a). The Circuit Court of Jackson County affirmed the decision of the Board. Patterson appeals this decision.

Our standard of review in this case is quite limited. It is codified in the Mississippi Code as follows:

In any judicial proceedings under this section, the findings of the board of review as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive, and the jurisdiction of said court shall be confined to questions of law.

Miss. Code Ann. § 71-5-531 (Supp. 1996). We agree with the opinion of the Circuit Court that the board's decision is supported by the evidence. Section 71-513(A)(1)(a) of the Mississippi Code of 1972 says specifically that "marital, filial and domestic circumstances and obligations shall not be deemed good cause within the meaning of this subsection." Patterson's circumstances certainly fall within this category and, therefore, she is disqualified from unemployment compensation. *See Donald v. Mississippi Employment Security Commission*, 253 So. 2d 534 (1971). Patterson may have made a better case had she brought forth testimony specifically concerning the pay differential between her job and the one she was offered. We affirm.

THE JUDGMENT OF THE CIRCUIT COURT OF JACKSON COUNTY IS HEREBY AFFIRMED. ALL COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANT.

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