

**IN THE CHANCERY COURT OF HINDS COUNTY, MISSISSIPPI
FIRST JUDICIAL DISTRICT**

GREG STEWART

PLAINTIFF

V.

NO. G2000-2310 S/2

**ADVISORY COMMISSION ON THE
MISSISSIPPI STATE FLAG AND
THE MISSISSIPPI COAT OF ARMS**

DEFENDANTS

DEFENDANT=S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW The Advisory Commission On The Mississippi State Flag And The Mississippi Coat Of Arms, by and through counsel of record, and files this its Answer and Affirmative Defenses and in support thereof would show unto the Court as follows, to-wit:

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendant upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over the parties.

THIRD AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over the subject matter.

FOURTH AFFIRMATIVE DEFENSE

Defendant affirmatively asserts insufficiency of process and insufficiency of service of process.

FIFTH AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against Defendant upon which relief may be granted and the Court lacks jurisdiction over the subject matter and the parties in that the issue is moot:

(1) Governor Musgrove=s May 5, 2000, Executive Order No. 833, attached hereto as Exhibit AA@, creating The Commission, recites in paragraph I. Purpose : AThe Advisory Commission On The Mississippi State Flag And The Mississippi Coat Of Arms shall be a time-limited commission with the sole purpose of proposing and reporting a design for the State Flag and for the State Coat-of-Arms to the Governor, Lt. Governor, and the Speaker of the House on or before May 4, 2001.@ (2) After holding five public forums in order to gather public comment on the flag issue throughout the State, and monthly Commission meetings in August, September, October, November and December, 2000, the Commission, at its December 12, 2000, meeting, unanimously voted to adopt the report of the Commission=s Design Committee and to transmit it, as directed by the Executive Order, to the Governor, the Lt. Governor and the Speaker of the House. After voting its recommendation, Chairman Winter, stating that the Commission, having fulfilled its duties and responsibilities, as charged it in the Executive Order, and that the Commission having no other business to attend to or before it, adjourned the meeting and the Commission disbanded. A copy of the minutes of the December 12, 2000,

meeting are attached hereto as Exhibit AB@ and a copy of the Commission=s Report to the Governor, Lt. Governor and the Speaker of the House, under transmittal letter of December ? , 2000, are collectively attached hereto as Exhibit AC@. (3) On Tuesday January 9, 2001, Governor Musgrove signed House Bill No. 524, to become effective immediately, setting a statewide election, to be held on April 17, 200, for the purpose of selecting the official flag of the State of Mississippi. A copy is attached hereto as Exhibit AD.@"

The Commission=s report has been delivered, the Commission has been disbanded, and the Legislature has set a date for an election, putting before the voters the question of whether to retain the 1894 flag or adopt a new flag. Interestingly, the new flag proposed in House Bill 524 is not the flag design proposed by the Advisory Commission in its report as the alternative to the 1894 flag for purposes of the proposed election. Nonetheless, the issues raised by the averments of the complaint are moot, and the Court therefore lacks jurisdiction over the parties and the subject matter and the complaint fails to state a claim upon which relief may be granted.

ANSWER

AND NOW, without waiving or in any way prejudicing its rights to be heard on any or all of the above enumerated defenses, The Advisory Commission On The Mississippi State Flag And The Mississippi Coat Of Arms now responds to the Complaint filed against it, as follows, to wit:

1. The first unnumbered paragraph of the complaint contains jurisdictional conclusions of law and requests for relief to which no response is required. To the extent a response is required, defendant denies each and every averment of the first unnumbered paragraph of the complaint.

2. Defendant denies the averments of paragraph two of the complaint except that defendant specifically admits that Greg Stewart is an adult resident of the State of Mississippi and had the right to have been [and was] in attendance at meetings of the Advisory Commission.

3. Defendant admits the averments of the first sentence of paragraph three of the complaint. Defendant denies the averments of the second sentence of paragraph three of the complaint.

4. Defendant denies the averments of paragraph four of the complaint.

5. Defendant denies the averments of paragraph five of the complaint.

6. Defendant denies the averments of paragraph six of the complaint.

7. Paragraph seven of the complaint deals with the Committee on Economic Development and not the Commission and the defendant does not have sufficient knowledge or information necessary in order to respond to paragraph seven of the complaint. To the extent a response is required, defendant denies each and every averment of paragraph seven of the complaint.

8. Defendant denies each and every averment of paragraph eight of the complaint.

9. Defendant denies that plaintiff is entitled to any of the relief prayed for in his unnumbered paragraph requesting relief.

AND NOW having fully answered, defendant submits that the complaint filed against it is totally without merit, moreover is moot in all respects, and that the complaint should be fully and finally dismissed and that all claims for relief should be denied, and that all costs and reasonable attorneys= fees assessed against Plaintiff.

Respectfully submitted,

ADVISORY COMMISSION ON THE
MISSISSIPPI STATE FLAG AND THE
MISSISSIPPI COAT OF ARMS

BY: MIKE MOORE, ATTORNEY GENERAL

BY: _____
EUGENE C. STONE, MSB No. 7947
SPECIAL ASSISTANT ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I, Eugene C. Stone, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this date, caused to be mailed, via United States Postal Service, postage prepaid, a true and correct copy of the above and foregoing **DEFENDANT=S ANSWER AND AFFIRMATIVE DEFENSES** to the following:

Greg Stewart, Esq.
Stewart Law Firm
Post Office Box 745
Tunica, Mississippi 38676

THIS the _____ day of January, 2001.

Eugene C. Stone