

March 8, 2004

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 03-30445

WILSON W. WILSON, appearing in his
capacity as the curator of
rpi Christel W. Fontenot,

Plaintiff - Appellee,

versus

STATE FARM FIRE & CASUALTY INSURANCE CO.,

Defendant - Appellant.

Appeal from the United States District Court
for the Middle District of Louisiana, Baton Rouge
USDC No. 96-CV-3345-C

Before JOLLY, DUHÉ, and STEWART, Circuit Judges.

PER CURIAM:*

We REVERSE and VACATE the judgment of the district court for
the following reasons:

First, the district court utterly failed to assign any written
reasons for its ruling in this bench trial. FED. R. CIV. P. 52(a).
We cannot affirm any such judgment without written reasons for the
rulings.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that
this opinion should not be published and is not precedent except
under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Second, the district court committed reversible error when it, sua sponte, excluded the testimony of Christel Fontenot, finding her to be incompetent to testify. From the record before us there is nothing to indicate, notwithstanding her particular mental diagnosis, that she was incompetent as a witness. LA. CODE EVID. ART. 601.

Finally, the evidence in this record will not support a judgment in favor of the plaintiff.

Accordingly, the judgment is REVERSED and VACATED and the case is REMANDED for further proceedings not inconsistent herewith, including a new trial if required.

REVERSED, VACATED, and REMANDED.