

October 5, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 04-60765
Summary Calendar

DONALD GARNER

Plaintiff - Appellant

v.

ASHLEY FURNITURE INDUSTRIES INC

Defendant - Appellee

Appeal from the United States District Court
for the Northern District of Mississippi, Aberdeen
No. 1:03-CV-71-D-D

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before JONES, Chief Judge, and KING and DENNIS, Circuit Judges.

PER CURIAM:*

On June 30, 2006, the Supreme Court vacated the judgment of this court in this case and remanded the case to this court for further consideration in light of Burlington N. & S.F.R.Co. v. White, 548 U.S. ____ (2006). Upon reconsideration, we vacate the judgment of the district court and remand for reconsideration in the light of Burlington. VACATED and REMANDED.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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