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ALABAMA COURT OF CIVIL APPEALS

SPECIAL TERM, 2009

2080371

Derrick Nelms

v.

Hillside Village Apartments d/b/a Hale Properties, et al.

**Appeal from Madison Circuit Court
(CV-07-1152)**

THOMAS, Judge.

AFFIRMED. NO OPINION.

See Rule 53(a)(1) and (a)(2)(E) and (F), Ala. R. App. P.; Parker Bldg. Servs. Co. v. Lightsey, 925 So. 2d 927 (Ala. 2005); Stovall v. Universal Constr. Co., 893 So. 2d 1090, 1097

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n.1 (Ala. 2004); Ex parte Kraatz, 775 So. 2d 801 (Ala. 2000); General Motors Corp. v. Hill, 752 So. 2d 1186 (Ala. 1999); Ex parte Mountain Top Indoor Flea Market, Inc., 699 So. 2d 158 (Ala. 1997); and West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989).

This appeal was transferred to this court by the Alabama Supreme Court, pursuant to § 12-2-7(6), Ala. Code 1975.

Thompson, P.J., and Pittman and Moore, JJ., concur.

Bryan, J., concurs specially.

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BRYAN, Judge, concurring specially.

The appellant, Derrik Nelms, makes no attempt to distinguish the facts in General Motors Corp. v. Hill, 752 So. 2d 1186 (Ala. 1999), from the facts in this case and, therefore, fails to demonstrate why the supreme court's holding in that case is inapplicable. Because Hill appears to control the resolution of the crucial issue in this case, I concur.