

Cite as 2009 Ark. App. 634

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA09-150

AT&T ADVERTISING,
SOUTHWESTERN BELL YELLOW
PAGES

APPELLANT

V.

C.B. MCBRYDE, RELIABLE AUTO
CARE, LLC

APPELLEE

Opinion Delivered SEPTEMBER 30, 2009APPEAL FROM THE WASHINGTON
COUNTY CIRCUIT COURT,
[NO. CV-08-1258-2]HONORABLE KIM MARTIN SMITH,
JUDGE

AFFIRMED

RITA W. GRUBER, Judge

AT&T Advertising L.P. appeals from an order of the Washington County Circuit Court dismissing its complaint against C. Bryan McBryde for breach of contract. AT&T filed a posttrial motion with the circuit court, which was deemed denied when the court failed to act within thirty days. AT&T contends on appeal that the circuit court erred in denying its motion for new trial on the basis of newly discovered evidence. We affirm the denial of the posttrial motion by memorandum opinion. *See In re Memorandum Opinions*, 16 Ark. App. 301, 700 S.W.2d 63 (1985).

We have held that memorandum opinions may be issued in any or all of the following cases:

- (a) Where the only substantial question involved is the sufficiency of the evidence;

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(b) Where the opinion, or findings of fact and conclusions of law, of the trial court or agency adequately explain the decision and we affirm;

(c) Where the trial court or agency does not abuse its discretion and that is the only substantial issue involved; and

(d) Where the disposition of the appeal is clearly controlled by a prior holding of this court or the Arkansas Supreme Court and we do not find that our holding should be changed or that the case should be certified to the supreme court.

Id. at 302, 700 S.W.2d at 63.

The only issue involved in this case is whether the circuit court abused its discretion in denying AT&T's motion for new trial based on newly discovered evidence. *See Roetzel v. Brown*, 321 Ark. 187, 190, 900 S.W.2d 185, 186 (1995) (holding trial court did not abuse its discretion in denying motion for new trial). We hold that the circuit court did not abuse its discretion, and we affirm by memorandum opinion.

Affirmed.

VAUGHT, C.J., and HART, J., agree.