

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

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No. 98-6404  
Non-Argument Calendar

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**FILED**  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
MAY 5 2000  
THOMAS K. KAHN  
CLERK

D. C. Docket No. CV-98-G-117-S

BILL HARBERT CONSTRUCTION COMPANY,  
a division of Bill Harbert International, Inc.,

Plaintiff - Counter-Defendant,  
Appellee,

versus

CORTEZ BYRD CHIPS, INC.,

Defendant - Counter-Claimant,  
Appellant.

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Appeal from the United States District Court  
for the Northern District of Alabama

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**(May 5, 2000)**

ON REMAND FROM THE SUPREME COURT OF THE UNITED STATES

Before TJOFLAT and EDMONDSON, Circuit Judges, and RONEY, Senior Circuit  
Judge.

PER CURIAM:

This case comes before us by order of the United States Supreme Court, which has reversed the judgment of this Court and remanded the case for our reconsideration. *See Cortez Byrd Chips, Inc. v. Bill Harbert Constr. Co.*, 529 U.S. ---, (Mar. 21, 2000).

The judgment of the district court is, pursuant to the mandate of the Supreme Court, reversed, and this case is remanded to the district court for further proceedings consistent with the Supreme Court's opinion.

REVERSED AND REMANDED.