No. 2005-KA-00915-COA

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

WILLIAM G. SCOTT

Appellant,

vs.

STATE OF MISSISSIPPI

Appellee.

On Appeal From the Circuit Court of the
First Judicial District of Hinds County, Mississippi.

REPLY BRIEF OF APPELLANT

(ORAL ARGUMENT REQUESTED)

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Comes now the Appellant, hereafter "Scott", and replies to the State's brief as follows:

ARGUMENT

I. The trial judge erred in failing to grant trial counsel's motion to withdraw after revealing to the Court that his client had confessed, that he believed his client was going to offer false testimony and that an unresolveable conflict existed which would prevent counsel from being able to effectively represent the Defendant at trial.

In its brief, the State fails to address the beaming ethical conflict problem that is brought about by defense counsel divulging to the trial judge that Scott, during a privileged attorney/client meeting, allegedly confessed murder. It may be that it is impossible to get around the fact that Scott's right to loyalty of trial counsel and the protections of attorney client privilege are so squarely trounced that there is no satisfactory response. Presuming, for argument's sake, trial counsel's confessory statements to be true, violation of a client's trust in this manner calls into question any preceding or subsequent acts of a criminal defendant's lawyer.

Examined logically, trial counsel's statements to the trial court regarding Scott's confession can only be true or not. If the statements of trial counsel to the judge are to be taken at value and believed, trial counsel confessed to murder on behalf of Scott, outside of Scott's presence with no waiver of attorney client privilege and no one present to act in Scott's best interest. This shifts trial counsel from legal counsel to witness/adversary: a position from which counsel can never recover his status as protector and advocate. Who was representing Scott while his lawyer was revealing what can only be described as the zenith of client confidences? Every further step as trial counsel is called into question by this conflict. Counsel should never

have been asked, or permitted, by the trial court to continue to serve in a dual role of attorney and adverse witness.

Completing the logical analysis, the only other alternative is that the confession revealing statements of trial counsel to the trial judge were not in fact true; an even more disturbing alternative that would more strongly illuminate deprivation of adequate counsel at trial. This point is made only in reply to the State's assertion that Scott has denied confessing to his attorney.... as if that fact is a positive counterbalance trial counsel's revelations of the alleged confession to the court. (Appellee's Brief, p.16).

The State relies on the readily distinguishable case, Feazell v. State, 750 So.2d 1286, 1288 (Miss. App. 2001). In Feazell, the defendant wanted a new attorney and trial counsel also wanted out of the case for very different reasons than are presented here. Absent in Feazell are the ethical problems found in Scott's case. Feazell wanted a new attorney because he was unhappy with his attorneys performance. Feazell's lawyer wanted out because Feazell refused to cooperate. There is no indication that Feazell's counsel was faced with a comparable ethical dilemma or violated the attorney client privilege by telling the judge that his client had confessed to the contents of Feazell's indictment. In that instance the court cited gamesmanship of the defendant as valid purpose of denial of relief. In this case, the prejudice revealed itself during an *Ex Parte* communication by defense counsel with the trial judge, unbeknownst to Scott.

Unlike in Feazell, gamesmanship is not the issue here. Trial counsel stated that he did not believe Scott was trying to manipulate the system.

> **By Trial Counsel:** And then in closing when I don't even mention what he says, there's no doubt there's prejudice to him. The question is, is this a –I think he didn't know about these Canons until I showed him.
>
> **I think this time he may not have been trying to work the system** because I've gone over with him, I've got feelings and that—

(1st Sealed In Chambers Conference Transcript, p. 9).

It is difficult to conceive that an attorney who, on the morning of trial, confesses to murder on behalf of his client to the trial judge, outside of his client's presence, can be said to have presented insufficient reasons to be allowed to withdraw or given sufficient assurance that he can remain on the case as an effective advocate of his client.

II. The trial court erred in not recusing itself after defense counsel inappropriately revealed items of attorney client privilege that were prejudicial to the Defendant, thus depriving the Defendant of his due process right to a fair trial.

The State asserts waiver of this issue due to Scott's failure to object at trial. How could Scott be expected to object if he was excluded from the *ex parte* hearing during which his attorney did not act as counsel, but as an adverse witness to Scott? Again, who was representing Scott while his lawyer was revealing what can only be described as the zenith of client confidences? The State's waiver argument gives credence to Scott's argument that he was denied counsel. For, if Scott was either present during the *ex parte* hearing or in fact represented by an attorney acting as an advocate, not in an adversarial role, a request to recuse would have been made and preserved. Scott was not present or aware, until the sealed transcript was provided, of the substance of this ex parte hearing between defense counsel and the judge. He was therefore rendered unable to object. Alternatively, this point should be treated as plain error and therefore not waived by failure to object.

In McGee v. State, 820 So.2d 700, (Miss. App. 2000). The Court of Appeals, citing several Supreme Court cases, reversed because the judge had learned the facts of a criminal case during an *ex parte* meeting, before the trial. The gravamen of the shared information in the *ex parte* discussions in McGee do not begin to approach that of Scott's case. In McGee, the court

had *ex parte* communications with an investigator, consisting of second hand information that shots had been fired into the back of the deceased. Compared to Scott's case, the communications that deprived the judge of impartiality in McGee seem minor. Noteworthy is the fact that McGee was a jury trial, like Scott's. So, a judge sitting on a jury trial may be prejudiced to a degree requiring his recusal even though he does not make the ultimate fact determination of guilt or innocence in that particular case. The Court of Appeals held it was error for the McGee trial court not to step away from the case:

> After these statements were made by the trial judge, McGee filed a motion to recuse Judge Smith. This motion was denied. The case of Collins v. Dixie Transport, Inc., 543 So.2d 160 (Miss.1989), provides that a judge who is otherwise qualified to preside over a trial must be ***free of disposition and sufficiently neutral to be capable of rendering a fair decision. "If a reasonable person, knowing all the circumstances, would harbor doubts about a judge's impartiality, he is required to recuse himself.***" *711 Garrison v. State, 726 So.2d 1144, 1152 (Miss.1998). This is the only way to overcome the presumption that the trial judge acted in a fair and unbiased manner at trial. Id.

McGee v. State, 820 So.2d 700, (Miss.App.,2000). (Emphasis Added).

In Scott's case, the trial judge was told directly by defense counsel, before the trial started, that Scott had confessed. It is hard to imagine another communication that creates more potential for prejudice and loss of impartiality. The call of the Constitution is not just a fair jury, but a fair and impartial judge. Defense counsel's actions rendered the judge unable to be impartial no matter how hard she tried.

Scott's judge, sitting like the judge in McGee, as both a finder of fact on certain issues and finder of law, must be presumed to have been effected by the statement of defense counsel that Scott had confessed to the crime. Had defense counsel attempted to constrain his comments, for instance by only stating that he needed to withdraw due to a conflict, or even stating that he needed to withdraw because he feared Scott was going to offer false testimony,

the inherent generality of those statements may not have completely tainted the court. Either of these hypothetical statements may have adequately put the court on notice that there was potential for an ethical problem with legal representation.

The path chosen by trial counsel, an unequivocal announcement of an alleged confession of homicide by his client, revealed to the court, is analogous to, but even more detrimental than the court meeting *ex parte* with any material witness to the case. The fact that firsthand knowledge of an alleged confession came directly from defense counsel amplifies the likelihood that judicial impartiality was compromised.

A criminal defense lawyer should never breach the attorney client privilege in the scenario presented in this case. The comments to Rule 3.3 of the Mississippi Rules of Professional Conduct provide direction to defense lawyers on this specific issue:

> **Constitutional Requirements.** The general rule--that an advocate must disclose the existence of perjury with respect to a material fact, even that of a client--applies to defense counsel in criminal cases, as well as in other instances. ***However, the definition of the lawyer's ethical duty in such a situation may be qualified by constitutional provisions for due process and the right to counsel in criminal cases***. In some jurisdictions these provisions have been construed to require that counsel present an accused as a witness if the accused wishes to testify, even if counsel knows the testimony will be false. ***The obligation of the advocate under these Rules is subordinate to such a constitutional requirement.***

Mississippi Rules of Professional Conduct, Rule 3.3, Commentary. (Emphasis Added).

At the time trial counsel made the court aware of his Scott's alleged confession, Scott had not yet testified. The only ethical requirement of defense counsel was to advise the court that he feared false testimony could be offered if his client testified or called witnesses and that he needed to withdraw from representation. Trial counsel was not required and should not have revealed a client confidence such as he did. Once defense counsel told the judge that his client

admitted guilt, both defense counsel and the court should have stepped aside to avoid any appearance of partiality or prejudice.

The error requires reversal for a new trial. This error has denied the Defendant's federal and state constitutional rights to a fair trial and due process under the 5th, 6th and 14th Amendments of the U.S. Constitution and those corollary rights under the Mississippi Constitution.

III. The Defendant was denied both counsel and the right to be present at a critical phase of the prosecution when the Court did not allow him to be present in chambers during the two *Ex Parte* hearings in which defense counsel acted as a witness against his client by telling the trial court that the defendant had confessed to him, that he did not believe he could continue to represent him, and that he believed the defendant was about to lie on the stand.

The State's waiver argument summons images of Captain Yossarian's circular conundrum in Heller's novel, *Catch-22*. Appellant Scott couldn't object because he was not present to object. But now he is to be deemed by the State to waive the objection to his forced absence because he was not present. The State's logic here is the icing on the Appellants' argument that he was, de facto, unrepresented by counsel at the moment his attorney was breaching attorney client privilege in an ex parte meeting with the judge. An attorney cannot wear the cloth of both advocate and adversary in the same proceeding.

The State's cited cases are easily distinguishable from Scott's. Strickland and Davis both concern preliminary questioning of prospective jurors. They are not analogous to Scott's lawyer's breach of client confidentiality and adversarial role in revealing an alleged confession to the court on the morning of trial. Strickland v. State, 477So.2d 1347, (Miss. 1985); Davis v. State, 767 So.2d 986, (Miss. 2000). The State cites Burns which concerns a failure of the court

reporter to record bench conferences at trial and is not analogous. Burns v. State, 729 So.2d 203, (Miss. 1998).

The State references Ormond, and its ancestors-in-precedent which are relevant in a way not addressed in their reply. Ormond v. State, 599 So.2d 951 (Miss. 1992).

> The sixth amendment right to counsel attaches once the state begins criminal proceedings by any means. At a pretrial proceeding, however, the law requires presence of counsel only if the proceeding constitutes a critical stage. Id. **A critical stage arises at any confrontation in which the results might affect the course of the later trial and in which the presence of counsel might avert prejudice at trial.** Coleman v. State, 592 So.2d 517, 520 (Miss.1991); Williamson, 512 So.2d at 875 (citing United States v. Wade, 388 U.S. 218, 227, 87 S.Ct. 1926, 1932, 18 L.Ed.2d 1149, 1157 (1967)).

Ormond at 956.

Here, the prejudice was multifaceted. First, a privilege (attorney client) belonging to Scott was violated without waiver or even notice. Had Scott been made aware that his lawyer had confessed on his behalf to the judge an the first morning of trial, he probably would have objected *pro se* or fired his attorney on the spot. Second, the court entertained an *ex parte* statement of confession from a witness (defense counsel) that was particularly damning to Scott. Third, Scott had no advocate to protect his legal rights during the ex parte hearing by asserting privilege and asking for a recusal. These are all items of "prejudice or adverse effect", any one of which should satisfy the "prejudice or adverse effect" requirement described in Ormond citing Williamson v. State, 512 So.2d 868, 875, 876 (Miss.1987).

IV. The trial court erred by not entertaining the Defendant's Motion to Dismiss for Failure to Grant a Speedy Trial and also for not actually dismissing the Defendant's case due to violations of his U.S. Constitutional right to a speedy trial under the 6th and 14th Amendment and Article II, Section 26 of the Mississippi Constitution.

The State failed to meet its burden of showing why Mr. Scott did not receive a speedy trial.

A. The State Failed To Meet Its Burdens To Rebut Presumptive Prejudice.

The trial court did not provide Mr. Scott with any type of a hearing on his speedy trial demands nor did it provide him any type of a hearing after he filed his *Motion to Dismiss* for lack of a speedy trial. Notably, the state never responded to the motions and there is no mention at all in the record, by the State, to challenge Mr. Scott's motion. The Mississippi Supreme Court has held that when the *Barker* factors are not addressed in the trial court then it is the job of the appellate courts to conduct a *de novo* review of the record and assess the four (4) factors to determine if anything is offered by the State to challenge the twin burdens (reason for the delay and presumptive prejudice) possessed by the State. See, *State v. Ferguson*, 576 So.2d 1252, 1255 (Miss. 1991).

B. All Four *Barker* Factors Weigh In Favor Of Mr. Scott

1. The Length of The Delay

The State does not challenge that Mr. Scott's trial was delayed for more than eight months. As such, this factor appears to be confessed by the State. Once a determination has been made that presumptive prejudice exists this Court is required to conduct a balancing test of all of the *Barker* factors based on the totality of the circumstances.

> *We regard none of the four factors identified above as either a necessary or sufficient condition to the finding of a deprivation of the right to a speedy trial. Rather they are related factors and must be considered together with such other circumstances as may be relevant. In sum, these factors have not talismanic qualities; courts must still engage in a difficult and sensitive balancing process.*

Barker v. Wingo, 407 U.S. 514, 533 (1972) (emphasis supplied).

After the time for the continuances is subtracted from the total delay there are still three hundred ninety-two days that are attributable to the State. It only takes eight months, which are two hundred and forty days to trigger the presumptive prejudice for a constitutional speedy trial violation. In this case some one hundred and fifty extra days passed the presumptive amount exists. This factor of presumptive prejudice weighs in favor of Mr. Scott and the State offers nothing in its brief to challenge this factor, therefore it weighs in favor of Mr. Scott.

2. Reason For Delay

The State at the time of trial offered no reason at all for the delay in this case. The State clearly bares this burden and remained silent during the proceedings at the trial court. Only now on appeal does the State attempt to offer some words to show a reason for the delay. In a quote that provides no citation and that undersigned must speculate are words from the trial court, the State offered:

> 2. Trial date was set for March 28, 2005, in a timely manner, with consideration of the court's overcrowded docket and the time needed for preparation of defendant's defense. Speedy trial is moot.

(See *Brief of the Appellee* at p. 27).

There is nothing in this language that says that a continuance was granted as a result of an overcrowded docket. The above language merely disposes of the speedy trial issue without addressing the factors at all. Nothing at all was even suggested about a continuance being granted for Mr. Scott's trial due to an overcrowded docket.

The State also cites *McGehee v. State*, 657 So.2d 799 (Miss. 1995) to support the assertions that overcrowded dockets should be weighed only slightly against the State. (See Brief of Appellee at p. 28). Well, whether the weight is slight or heavy the scales are still tipped in favor of the accused. The State has cited nothing to support that this factor should be weighed

in its favor, especially when it remained silent throughout the trial court proceedings on these issues.

Three hundred and ninety-two days are attributable to the State in this case and it has no explanation, at trial or now, showing any good cause. This factor must also weigh in favor of Mr. Scott.

3. Assertion Of The Speedy Trial Right

Mr. Scott unequivocally asked for a speedy trial in his June 7, 2004 motion to the trial court. The State cited to *Perry v. State*, 637 So.2d 871 (1994) for support that a demand for dismissal is not the same as demanding a speedy trial. However the state fails to recognize the request that Mr. Scott made by telling the Court, *pro se,* that he was ready to go to trial in his June 7th motion. This request was plainly not made in the *Perry* case and distinguishes it from the facts in *Perry.*

It is quite clear from the record that Mr. Scott was having tremendous trouble with his trial counsel. As a result he filed the only motions that he as a lay person knew to file. He asserted his rights by filing the June 7th motion before trial and still never got a trial until March 28, 2005. Not one continuance was filed after Mr. Scott asked for a speedy trial on June 7, 2004 yet over nine months passed before he received a trial. All of these motions went unopposed by the State as it never filed a single motion to challenge Mr. Scott's sworn statements to the trial court.

Even the *Motion to Dismiss* slightly weighs in Mr. Scott's favor. While filing a motion to dismiss is not the equivalent to filing a motion demanding a speedy trial the Mississippi Supreme Court does slightly weigh it in favor of the accused. See, *Jasso v. State,* 655 So.2d 30, 34 (Miss. 1995), where Jose Luis Jasso and Juan Vela Sanchez, Jr. were arrested for possession of

narcotics with the intent to distribute. Their counsel filed a **motion to dismiss** sixty-two (62) days before trial and this Court held that the factor of assertion weighed slightly in his favor. *Id.* The Court certainly did not weigh this factor in favor of the State. How can a Court reward a party in the wake of its silence?

Comically, the State attempts to shift the burden onto Mr. Scott by declaring:

> The record reflects that Scott filed two motions to dismiss for alleged speedy trial violations of his speedy trial rights. C.P. 82-96, 116-131. Neither motion requested a different trial date or any legitimate reason for a trial date. While both motions mention possible missing witnesses, there were no names or addresses included. Moreover, the alleged missing witnesses are mentioned as grounds for charges of alleged ineffective assistance against his counsel and as grounds for his need to substitute counsel. There was no proffer about what they would testify to in the instant cause. C.P. 85-86; 120-121.

(See Brief of Appellee at p. 28).

Mr. Scott is under no duty to bring himself to trial! The State alleges that is some way Mr. Scott's fault because he did not seek out prosecution, this is ludicrous. Additionally, Mr. Scott set forth numerous reasons for the dismissal but the State never said a single word in response to these motions until its brief to this Court. Mr. Scott's sworn motions to the Court certainly carry more weight than the continuous silence by the State.

Mr. Scott, pro se, asserted his rights to a speedy trial in the only manner that he knew how. He filed a motion on June 7, 2004 which informed the State and the trial court that he was prepared to go to trial and he filed a motion to dismiss asking the court to dismiss his charges. He plainly said, ***"Scott is prepared to go to trial."*** (See R.E. p. 59).

Mr. Scott is a layman and does not know the complexities or differences of filing a motion demanding a speedy trial or a motion to dismiss for lack of speedy trial. Simply put, he

filed these motions and asserted his rights in the best manner that he knew how. This factor must weigh in his favor against the deafening silence of the State.

4. Prejudice

"A defendant does not bear the burden of proving actual prejudice. When the length of the delay is presumptively prejudicial, the burden of persuasion is on the State to show that the delay did not prejudice the defendant." Biggs v. State, 741 So.2d 318, 330 (Miss. Ct. App. 1999) (emphasis supplied). The State was silent during the trial court proceedings and only now alleges that Mr. Scott was not specific enough in his *pro se* motion to show "actual prejudice." See Brief of Appellee at p. 29). The State is attempting to mislead the Court and confuse the burdens in this case.

First, the burden is on the State to show that prejudice did not exist. It is not on Mr. Scott. Since the State never said one single word, then there is nothing in the record to support an appellate court's ruling that the State met its burden.

Second, Mr. Scott set forth five reasons in his *Motion to Dismiss* that amount to prejudice in his Motion for Speedy Trial and in his principal brief to this Court. (See Brief of Appellant p. 31). The State never addressed the anxiety and concern of Mr. Scott, the fact that Mr. Scott was unable to work during this time, that Mr. Scott was prevented from attending college, and he was not able to see his mother and child who resided outside of Mississippi. Assuredly, these are all prejudices. As such, the State confesses that they were reasons amounting to prejudice. Failing to address crucial parts of an oppositions brief are equivalent to confession.

> The state did not respond to this argument in its brief. Its failure to respond is tantamount to confession of error and will be accepted as such. The reason for the rule is that an answer to appellant's brief cannot be safely made by this Court, without our doing what appellee should

> have done, namely, brief the appellee's side of the case. This we are not called on to do. Stampley v. State, 284 So.2d 305 (Miss.1973); Lawler v. Moran, 245 Miss. 301, 148 So.2d 198 (1963); Gulf, M. & O. R. Co. v. Webster County, 194 Miss. 660, 13 So.2d 644 (1943). See also, other cases cited in Stampley. Although these cases dealt with the failure of an appellee to file any brief, the rule applies where appellee fails to respond to a part of appellant's brief.

Turner v. State, 383 So.2d 489, 491 (Miss. 1980).

This factor weighs in favor of Mr. Scott and against the State. Mr. Scott has shown that all four *Barker* factors weigh in his favor and that his charges should be dismissed *with prejudice* as he has sustained a violation of his Sixth and Fourteenth Amendment rights to a speedy trial.

V. The Court erred by failing to suppress the alleged statement of the Defendant after the State failed to meet its burden of proof under *Agee* by not producing all parties who were witnesses to the custodial statement.

During the Motion to Suppress his statement prior to trial, Scott presented evidence of duress and coercion in obtaining a statement. (Tr. 91-99). Appellant believes that that the prosecution failed to meet its burden of proof in response to the rebuttable presumption that rose once Scott testified. Scott believes the State has incorrectly interpreted the case law in its brief and stands on the assertions and analysis presented in the Appellant's Brief.

VI. Trial counsel's case preparation, investigation, and trial performance were insufficient and thus ineffective, depriving the Defendant of his right to effective assistance of counsel when considered cumulatively.

The State correctly refers to Ferguson v. State, 507 So.2d 94 for the proposition that:

> Although **it need not be outcome determinative in the strict sense**, 466 U.S. at 687, 104 S.Ct. at 2068, 80 L.Ed.2d at 697-98, **it must be grave enough to "undermine confidence" in the reliability of the whole proceeding**. 466 U.S. at 694, 104 S.Ct. at 2068, 80 L.Ed.2d at 698.

Ferguson v. State, 507 So.2d 94, 97.

The relief requested in this assignment of error would usually come in the form of a Motion for Post Conviction Relief. As was stated in appellant's Brief, this issue is raised now since appellate counsel is different from trial counsel and Scott did not wish to potentially waive these claims. The State cites to the fact that the only evidence presented thus far by Scott is an Affidavit attached to the Appellant's Brief. While the State is correct in its limited statement, it does not present the whole story. Scott's Appellate Brief is replete with requests to this Court that the case be remanded for an evidentiary hearing. (Appellant's Brief 16, 35, 36, 39). Scott's affidavit alone may or may not be enough to prevail on a PCR, but that is not the issue. The Affidavit is sufficient to make a prima facie showing of the need for remand for evidentiary hearing. Scott renews this request.

Scott believes that the effect of trial counsels deficiencies cited in the Appellant's Brief coupled with trial counsels actions in the two ex parte hearings constitute actions which "undermine confidence in the reliability of the whole proceeding." Ferguson at 97. the State's proposition that a defendant must show a different outcome had counsel not been deficient is not wholly accurate. It only needs to be demonstrated that there was an impact that cast doubt on the overall proceeding. For the reasons previously stated in the Appellant's brief, Scott argues this to be the case and references Ferguson:

> **How can a trial be called fair when the defendant's own attorney is attacking him**?.....We have great faith in Mississippi's trial judges, but it is no great disparagement of them to doubt that any of them could have retrieved this situation. We are certain that the trial judge made every effort to consider the evidence impartially and render a fair verdict. However, he would have to have been more than human to be *98 entirely unaffected by incidents of this type. He should have declared a mistrial immediately after trial counsel's first outburst.

Ferguson at 97-98. (Emphasis Added).

Finally, Scott wishes to point out to the Court that he specifically requested the notary that witnessed his statement be summoned for the purposes of his suppression hearing. Additionally, Scott requested that the video tape from the business next to the scene of the homicide be produced. Neither of these two reasonable requests were completed though pro se motions were filed to that end. These are issues that need to be addressed as regards the post conviction issues presented in this assignment of error and will be part of the requested evidentiary hearing.

VII. The trial court erred in not granting a mistrial after the prosecutor repeatedly called the defendant a shyster and con artist.

Scott believes the State has incorrectly interpreted the case law in its brief and stands on the assertions and analysis presented in the Appellant's Brief.

IV. CONCLUSION

For the reasons set forth above, the Defendant believes that he was denied his constitutional rights to counsel and his constitutional rights to due process and a fair trial. Respectfully, the Defendant prays for this court to reverse and render this case. Alternatively, he requests a reversal for a new trial with new trial counsel and a new trier of law. Additionally, Scotts requests a remand for an evidentiary hearing on those issues cited herein that usually take the form of a Motion for Post Conviction relief in issue VI and elsewhere.

Respectfully submitted,

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WILLIAM SCOTT **APPELLANT/DEFENDANT**

VS. **No. 2005-KA-00915-COA**

STATE OF MISSISSIPPI **APPELLE/PLAINTIFF**

CERTIFICATE OF SERVICE

The undersigned counsel of record certifies that the following listed persons have BEEN SERVED Via US mail, postage prepaid with a copy of the Appellant's Reply Brief into he above cause.

1. Honorable Judge Tommie Green, Hinds County Circuit Court Judge, Post Office Box 327, Jackson, MS 39205

2. Faye Peterson, Office of the Hinds County District Attorney, Post Office Box 39225, Jackson, MS 39225

3. Michael Knapp, Counsel for Appellant during the trial court proceeding while at Hinds County Public Defender, Now has his own practice, 405 Tombigbee Street, Jackson, MS 39201

4. William LaBarre, Office of the Hinds County Public Defender, Post Office Box 23029, Jackson, MS 39225

7. Jim Hood, Attorney General, State of Mississippi

This the 27th day of June, 2007.

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