IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

RIXXIE HARRIS — APPELLANT



VS. — NO. 2005-KA-2159-COA

STATE OF MISSISSIPPI — APPELLEE

# BRIEF FOR THE APPELLEE

## APPELLEE DOES NOT REQUEST ORAL ARGUMENT

JIM HOOD, ATTORNEY GENERAL

BY: W. GLENN WATTS
SPECIAL ASSISTANT ATTORNEY GENERAL
MISSISSIPPI BAR NO [redacted]

OFFICE OF THE ATTORNEY GENERAL
POST OFFICE BOX 220
JACKSON, MS 39205-0220
TELEPHONE: (601) 359-3680

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

### STATE CASES



### STATE RULES

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**RIXXIE HARRIS** **APPELLANT**

**VS.** **NO. 2005-KA-2159-COA**

**STATE OF MISSISSIPPI** **APPELLEE**

# BRIEF FOR THE APPELLEE

## PROCEDURAL HISTORY:

On February 22, 2005, Mr. Rixxie Harris, "Harris" was tried for possession of cocaine and marijuana with intent as an habitual offender before a Sunflower County Circuit Court jury, the Honorable Margaret Carey-McCray presiding. R. 1. Harris was found guilty of possession with intent and given a twenty year sentence as an habitual offender in the custody of the Mississippi Department of Corrections. R. 182. From that conviction, Harris, through his appeal counsel, filed notice of appeal to the Mississippi Supreme Court. C.P. 56-57.

## ISSUES ON APPEAL

I.

WAS THE VERDICT AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE?

II.

WAS THE JURY'S VERDICT PROPERLY RECEIVED?

III.

WAS THE VERDICT AGAINST THE SUFFICIENCY OF THE EVIDENCE?

## STATEMENT OF THE FACTS

In December 2003, Harris and co-defendant Joe Drisdell were indicted for possession of cocaine, and possession of marijuana with intent on June 15, 2003 in Sunflower County. C.P. 9.

On February 22, 2005, Mr. Harris was tried for possession of cocaine and marijuana with intent as an habitual offender before a Sunflower County Circuit Court jury, the Honorable Margaret Carey- McCray presiding. R. 1. Harris was represented by Mr. Mickey Mallette. R. 1.

Officer Jacob Lott, with the Mississippi Highway Patrol, testified that on June 15, 2003 he was patrolling on Highway 49. R. 64-65. He was driving South bound into Sunflower County. After seeing a vehicle with dark tint on its windows, he pursued it. The car stopped on the side of Highway 49. R. 65.

The driver got out and met Lott. Lott asked for his licence. Harris told him he did not have one. Lott, who had training in the smell of narcotics, smelled marijuana coming from Harris's breathe. Lott identified Harris in the court room as the person he encountered at the scene at that time. R. 66.

After speaking with Harris, Lott returned to the car. Mr. Drisdell, who was sitting in the passenger's seat, was openly smoking marijuana. Lott believed that he was "under the influence of marijuana." R. 81-82. Inside the car "in plain view" under the passenger seat, Lott found "a Crown Royal bag." R. 68. Inside the bag was what appeared to be packaged marijuana and crack cocaine in a pill bottle. R. 70. Inside the outer bag were "little bags"; some "34 total bags that was individually wrapped inside the bag." R. 70. Harris told Lott that the marijuana in the bag belonged to him, but not the cocaine. R. 72. Harris also told Lott "that they were headed to Sunflower and that he knew-Mr. Drisdell knew some people in Sunflower that he could sell the

marijuana drugs to."R. 96.

Co-defendant Mr. Joe Drisdell testified that he was a passenger in Harris's car. R. 99. He was sitting in the passenger seat smoking "a blunt." R. 101. A blunt is a large marijuana cigar. He had also previously been drinking cans of beer. When Harris left the car to met the patrolman, Drisdell testified that he threw a Crown Royal bag back into the car. R. 101. Although Drisdell did not recognize the bag, he felt what he thought were plastic bags inside it. R.102. He tried to conceal it in the car as best he could. However, Officer Lott found the bag on the floor board. R. 102. Drisdell told Officer Lott that the contents of the bag "belongs to Rixxie." R. 106.

Ms. Tara Milam with the Mississippi Crime Laboratory testified that she performed two separate scientific tests to determine the contents of State's exhibit 1-A. She determined through an ultraviolet spectrophotometer analysis and a gas chromatograph mass spectrometer analysis that one substance was cocaine, 1 gram, and the other was marijuana, 43.6 grams. R. 124.

At the conclusion of the State's case, the trial court denied a motion for a directed verdict. R. 129-130.

During jury deliberations, the jury sent a note to the trial court asking "can the jury be unanimous on one count and not unanimous on the other count." R.162. The trial court informed them that "yes. They are separate verdicts." See exhibit C-1 in manila envelop. R. 162. The jury sent out another note that: "We did not reach a unanimous decision on both counts. Count 1 not reached." C-2 See exhibits volume for jury's notes, exhibit C-1, C-2 and C-3. R. 164.

The trial court asked the jury if additional time would be helpful. C-2. When the jury indicated that it would not be helpful, the trial court brought the jury into the court room. R. 165. When asked if they had reached a unanimous verdict on count 2, they stated that they had. R. 165. The verdict was guilty. The jurors were questioned individually as to whether or not this was their verdict. They agreed that it was; each individually by answering yes when questioned by the trial court. R. 165.

Harris was found guilty of possession of marijuana with intent and given a twenty year sentence as an habitual offender in the custody of the Mississippi Department of Corrections. R. 182. From that conviction, Harris, through his appeal counsel, filed notice of appeal to the Mississippi Supreme Court. C.P. 56-57.

## SUMMARY OF THE ARGUMENT

1. & 3. There was credible, substantial, partially corroborated eye witness testimony in support of the denial of peremptory instructions and in support of the jury's verdict. The trial court denied a motion for a directed verdict, finding the prosecution had made out a prima facie case. R. 129-130.

Officer Jacob Lott identified Harris as the person who admitted he had been smoking marijuana. R. 66. He also identified him as the person who admitted, at least on one occasion, that "the 34 total bags that was individually wrapped" found inside a Crown Royal bag belonged to him. R. 72; 96-97. Harris also told Lott "that they were headed to Sunflower and that he knew-Mr. Drisdell knew some people in Sunflower that he could sell the marijuana drugs to."R. 96.

Co-defendant Drisdell testified that Harris threw the Crown Royal bag into the car. He did this when he got out to meet Officer Lott. R. 101. Drisdell told Lott, and testified at trial, that the contents of the bag "belongs to Rixxie", as best he knew. R. 106. In **Stewart v. State**, 921 So. 2d 1287, 1290 (¶ 11-¶13) (Miss. App. 2006), the Court found that proximity plus "an admission" by Stewart to an investigator was sufficient for establishing "constructive possession." In the instant cause, we have not only an admission of possession but also an admission of possession with intent. The individual packaging of the marijuana corroborated the fact that these drugs were not for individual consumption but for transfer and sale. R. 70.

2. The jury's verdict was properly received. The record clearly reflects that the jury unanimously found Harris guilty of possession of marijuana with intent. R. 165. They indicated to the trial court that this was their "unanimous" verdict. They each individually, when questioned indicated that this was there unanimous verdict. The fact that they did not actually write down this on a separate sheet of paper does not in any way indicate any ambiguity as to what their verdict was.

Additionally, on court's exhibit 2 the jury stated: "We did not reach a unanimous decision on both counts. Count I not reached." The record reflects that Harris was charged with two counts. C.P. 9; R. 62.

The first count was possession of cocaine; the second count was possession of marijuana with intent. Therefore, it is reasonable to infer from this hand written note that the jury had, as confirmed in court, reached a unanimous verdict on count 2.

In **Bowen v. State**, 177 Miss. 715, 718 (1936), Judge Ethridge stated for the Mississippi Supreme Court that it was not necessary to have a verdict written on a separate sheet of paper for it to be valid.

## ARGUMENT

## PROPOSITION I & III

### THERE WAS CREDIBLE, SUBSTANTIAL CORROBORATED EVIDENCE IN SUPPORT OF THE DENIAL OF ALL PEREMPTORY INSTRUCTIONS AND IN SUPPORT OF THE JURY'S VERDICT.

Harris's appeal counsel believes there was insufficient evidence for inferring that he was in possession of cocaine or of marijuana with intent. She believes that this is a constructive possession case since the alleged drugs were not found on Harris's person or near him in the car. In addition, she believes that co-defendant Mr. Joe Drisdell's testimony was unreliable given his alleged admission to having previously lied. Appellant's brief page 9-13; 15-17.

To the contrary, the record reflects that there was sufficient credible evidence for inferring from the totality of the circumstance that Harris "had dominion and control" over the marijuana found in the Crown Royal bag. He possessed the small packaged bags of marijuana with intent to distribute or sell it.

Mr. Jacob Lott, with the Mississippi Highway Patrol, testified that on June 15, 2003 he was patrolling on Highway 49 going south. He was going into Sunflower County. After seeing a vehicle with dark tint on its windows, he pursued it. The car stopped on the side of highway 49. R. 65.

The driver got out and met Lott. Lott asked him for his licence. Harris told him he did not have one. Lott, who had training in the smell of narcotics, smelled marijuana coming from Harris's breathe.

Q. Do you see the driver of the vehicle in the courtroom today?

A. I do.

Q. Would you point him out and describe what he has on.

A. He has on a red shirt on and glasses.

Q. So you met you at the vehicle. What happened?

A. I asked the driver for his license. He stated he did not have a driver's license and he stated

his name was Rixxie Harris. **As I was talking to the driver, I could smell marijuana coming from his person.**

Q. Now, you say you could smell marijuana. How were you able to identify this smell as marijuana?

A. I've been trained in different drugs and the smells of the drugs when I went through the training academy to become a highway patrolman. R. 66.

...

Q. And you smelled marijuana. What did you do when you smelled marijuana?

A.....**I went back to the driver. I asked him if he had smoked marijuana today, and he advised me that he had smoked marijuana three hours prior to me stopping him. I placed the driver under arrest for smoking, under the influence of marijuana, and also he was unable to give me identification of who he was.** R. 67

...

Lott testified to finding the Crown Royal bag with packaged marijuana inside "in open view" inside the car.

Q. Can you describe for us where it was in the car?

A. **If you're sitting on the passenger side, it would be right down under the passenger seat right there, just in plain view. And at that time I opened the bag and saw what appeared to be marijuana in small bags, and I saw a pill bottle, what appeared to be crack cocaine.** R. 68. (Emphasis by Appellee).

Officer Lott did not know Harris or Drisdell. Since neither person initially admitted owning the drugs, Lott charged them both with possession of the drugs.

Q. So when you found the drugs, who did you charge with the drugs?

A. I charged both the driver and the passenger. R. 69.

Officer Lott testified that after Harris had been given his **Miranda** rights, he admitted that the packaged marijuana was his.

Q. So when you got Mr. Harris and Mr. Drisdell to the sheriff's department, did you read them their rights?

A. **Yes ... And Mr. Harris advised me that the marijuana that was in the Crown Royal bag was his, but he advised me that the cocaine, the crack cocaine, that was in the pill bottle was not his.** R. 72.(Emphasis by Appellee)

Officer Lott testified that although Harris's account of which drugs belonged to him varied, he admitted ,at one time, that he and Drisdell were going to Sunflower to sell the marijuana

Q. What different stories did he tell you?

A. **That they were headed to Sunflower and that he knew-Mr. Drisdell knew some people in Sunflower that he could sell the marijuana drugs to.** And then he came back and said that Mr. Drisdell had some drugs and wanted to got to Sunflower and see if they could find somebody to sell it too. R. 96.

...

Q. And on another occasion did he say something different?

A. **Yes. He said that they belonged to him, Mr. Harris**. R. 97. (Emphasis by Appellee).

Co-defendant Mr. Joe Drisdell testified that. when Harris exited the car, he threw him a Crown Royal bag back inside. While Drisdell did not recognize the bag, he could feel plastic bags inside it. This made him think that the bag contained drugs. He tried to conceal the bag inside the car unsuccessfully. Drisdell testified that he was a passenger in Harris, the driver's car. They were going to visit Harris's cousin in Sunflower County. R. 99-100.

Q. So we're going to start from the point that he gets out of the car, Mr. Harris gets out of the car. What happened when Mr. Harris got out of the car?

A. He threw me a Crown Royal bag, and I took the Crown Royal bag and stuck it beneath the door and the seat.

Q. **What was in it?**

A. **I felt plastic bags in the Crown Royal bag.**

Q. **And what did that mean to you when you felt plastic bags?**

A. **Drugs.** R. 101-102. (Emphasis by Appellee).

Drisdell testified that the only drugs he had with him in the car was the marijuana which he was

smoking in his "blunt."

Q. Well, what I'm asking you is: Did you, in fact, possess marijuana when the trooper stopped you?

A. The blunt I was smoking.

Q. **And did you ever tell the police who the rest of the marijuana and the cocaine belonged to?**

A. **Yes.**

Q. **And who did you say it belonged to?**

A. **I told them it belongs to Rixxie.**

Q. And is that the truth?

A. Yes, it is. R. 106.

Ms. Tara Milam with the Mississippi Crime Laboratory testified that she used two separate scientific tests in analyzing the contents contained in exhibit 1-a. She determined that they were cocaine, one gram, and marijuana, 43.6 grams.

Q. And what were the results?

A. My results were that submission 1-A, which is the prescription bottle, contained cocaine and the ziplock bag contained marijuana.

Q. What was the weight of the cocaine?

A. It was 1 gram.

Q. And what was the weight of the marijuana?

A. 43.6 grams. R. 124.

The record reflects that the trial court denied a motion for a directed verdict. The Court found from the evidence we have summarized above that the prosecution had made out a prima facie case, and that it was for the jury to decide the guilt or innocence of Mr. Harris.

> Ms. White-Richard: Your Honor, the state has made out a prima facie case of possession of cocaine, and possession of marijuana with intent. **The defendant's own statement that it was his marijuana and that they had gotten it and that he was taking it to sell it in Sunflower, as far as the marijuana , is with the intent. As far as the possession of cocaine, the co-defendant, Mr. Drisdell, testified that they were in the vehicle together, he handed him the bag, both items were already in the bag but he did not know what was in the bag, and the items came from the defendant, Mr. Harris. Based on that, I believe it's a jury question to whether or not it did, in fact, belong to Mr. Harris.**
>
> Court: Well, taking the evidence in the light most favorable to the nonmoving party, and at his point that is the state , the Court finds that the evidence and all favorable inferences therefrom would establish a prima facie case both as to Count I and Count 2 of the indictment. So the motion for a directed verdict is denied. R. 129-130. (Emphasis by Appellee).

In **McClain v. State**, 625 So. 2d 774, 778 (Miss. 1993), the Court stated that when the sufficiency of the evidence is challenged, the prosecution was entitled to have the evidence in support of its case taken as true together with all reasonable inferences. Any issue related to credibility or the weight of the evidence was for the jury to decide, not this court.

> The three challenges by McClain (motion for directed verdict, request for peremptory instruction, and motion for JNOV) challenge the legal sufficiency of the evidence. Since each requires consideration of the evidence before the court when made, this Court properly reviews the ruling on the last occasion the challenge was made in the trial court. This occurred when the Circuit Court overruled McClain's motion for JNOV. **Wetz v. State**, 503 So. 2d 803, 807-08 (Miss. 1987). In appeals from an overruled motion for JNOV, the sufficiency of the evidence as a matter of law is viewed and tested in a light most favorable to the State. **Esparaza v. State**, 595 So. 2d 418, 426 (Miss. 1992); *Wetz* at 808; **Harveston v. State**, 493 So. 2d 365, 370 (Miss. 1986);...The credible evidence consistent with McClain's guilt must be accepted as true. **Spikes v. State**, 302 So. 2d 250, 251 (Miss. 1974). The prosecution must be given the benefit of all favorable inferences that may be reasonably drawn from the evidence. *Wetz*, at 808 , **Hammond v. State**, 465 So. 2d 1031, 1035 (Miss. 1985); *May* at 781. Matters regarding the weight and credibility of the evidence are to be resolved by the jury. **Neal v. State**, 451 So. 2d 743, 758 (Miss. 1984);..We are authorized to reverse only where, with respect to one or more of the elements of the offense charged, the evidence so considered is such that reasonable and fair-minded jurors could only find the accused not guilty. *Wetz* at 808; *Harveston* at 370; **Fisher v. State**, 481 So. 2d 203, 212 (Miss. 1985).

When the evidence summarized above was taken as true with reasonable inferences, there was credible, partially corroborated substantial evidence in support of the denial of peremptory instructions and in support of the jury' verdict.

Patrolman Jacob Lott identified Harris as the person from whom he could smell marijuana coming from his mouth. R. 66. Harris was the driver of the stopped car. He also found a Crown Royal bag in the car which contained what appeared to be both packaged marijuana and crack cocaine. R. 68. Drisdell testified that the Crown Royal bag was thrown back into the car when Harris left the car to met Officer Lott.R. 101-102. Although Drisdell had not noticed it before, he could feel plastic bags inside the bag. He told Lott that the contents of the bag "belongs to Rixxie." R. 106.

Officer Lott testified that Harris admitted that the marijuana found in the bag belonged to him on at least one occasion. R. 72; 97. Officer Lott also testified that Harris stated that he was planning on selling the packaged marijuana with Drisdell's assistance. R. 96.

This was sufficient evidence for inferring that Harris had "possession and control" over the pre-packaged marijuana found in the Crown Royal bag. It was found inside the car Harris was driving. There was also sufficient evidence for inferring that Harris possessed the marijuana with the intent to transfer or sell it to others.

In **Curry v. State** 249 So.2d 414, *416 (Miss. 1971), the Mississippi Supreme Court stated that to establish constructive possession there must be sufficient evidence for finding "that defendant was aware of the presence and character of the particular substance and was intentionally and consciously in possession of it."

> What constitutes a sufficient external relationship between the defendant and the narcotic property to complete the concept of 'possession' is a question which is not susceptible of a specific rule. However, there must be sufficient facts to warrant a finding that defendant was aware of the presence and character of the particular substance and was intentionally and consciously in possession of it. It need not be actual physical possession. Constructive possession may be shown by establishing that the drug involved was subject to his dominion or control. Proximity is usually an essential element, but by itself is not adequate in the absence of other incriminating circumstances. In the instant case, all of the circumstances and these criteria were sufficient to warrant the jury in finding that appellant was in possession of

the marijuana. Annot., 91 A.L.R.2d 810 (1963); 25 Am.Jur.2d, Drugs, Narcotics and Poisons s 45 (1966); Cf. **Boyd v. State**, 204 So.2d 165, 173 (Miss.1967).

In **Stewart v. State**, 921 So. 2d 1287, 1290 (¶ 11-¶13) (Miss. App. 2006), the Court found that proximity plus "an admission" by Stewart to an investigator was sufficient for establishing "constructive possession. " While Stewart like Harris gave contradictory accounts of what belonged to him, as opposed to Drisdell, he admitted at least on one occasion that the marijuana belonged to him and at least once that he intended to sell it.

> ¶ 11. Second, as previously stated, actual physical possession need not be established by the State. It is sufficient that the substance is within the defendant's dominion or control. **Curry**, 349 So. at 416. Testimony was presented at trial which established more than mere proximity to the cocaine. Officer Thompson testified that Stewart admitted to him that he was the owner of the cocaine.

In **Jones v. State** , 635 So. 2d 884, 887 (Miss. 1994), the Court found that the decision to grant a motion for a new trial was in the sound discretion of the trial court. At challenges to the weight of the evidence should be denied except where necessary to prevent "an unconscionable injustice."

> Our scope of review is well established regarding challenges to the weight of the evidence issue. Procedurally, such challenges contend that defendant's motion for new trial should have been granted. Miss. Unif. Crim. R. of Cir. Ct. Prac. 5.16. The decision to grant a new trial rests in the sound discretion of the trial court, and the motion should not be granted except to prevent "an unconscionable injustice." **Wetz v. State**, 503 So. 2d 803, 812 (Miss. 1987).We must consider all the evidence, not just that supporting the case for the prosecution, in the light most consistent with the verdict." **Jackson v. State** , 580 So. 2d 1217, 1219 (Miss. 1991), and then reverse only on the basis of abuse of discretion.

The Appellee would submit that we have cited sufficient, credible evidence for showing that the trial court did not abuse its discretion in denying a motion for a directed verdict. In addition, there was sufficient evidence in support of the jury's verdict. There was no "unconscionable injustice" involved in denying a motion for a new trial.

The admission of lying by Drisdell was based upon cross examination about when, where and how he realized that the contents of the Crown Royal bag belonged to Harris. R. 107-121 Drisdell testified that

he did not recognize the bag when Harris threw it back into the car. Although he did not look inside the bag, he could feel bags inside that felt like packaged drugs. He also admitted that when he was arrested he was "under the influence of marijuana and alcohol."R. 111. Consequently, any ambiguity about what Drisdell knew about the contents of the Crown Royal bag was not as significant as was the fact that whatever its contents and weight, he knew that it "belongs to Rixxie." R. 106. Harris corroborated this when he admitted to Lott that the marijuana belonged to him, as well as he was using Drisdell to provide him buyers of marijuana in Sunflower County. R. 72; 96.

Issues regarding the credibility of Harris, and Drisdell, given differences in their admissions to investigators or testimony, was for the jury to resolve along with all the other evidence presented to them. **Neal v. State**, 451 So. 2d 743, 758 (Miss. 1984)

These issues regarding the sufficiency and the weight of the evidence are lacking in merit.

## PROPOSITION II

### THE JURY'S VERDICT WAS PROPERLY RECEIVED.

Harris believes that the verdict was flawed in the instant cause. It was flawed because the jury did not write their verdict on a separate sheet of paper. By not doing so, Harris believes that doubt was created as to what their verdict was. Appellant's brief pages are illegible as to page numbers in my copy.

To the contrary, the record indicates that the jury stated in open court before the trial court, attorneys and the defendant that they had reached a unanimous verdict on count 2. R. 165. Likewise, the jury was questioned individually as to whether they had reached a consensus that this was their unanimous verdict. The record reflects that the each of the twelve jurors stated on the record that it was their individual and unanimous verdict as to count 2. Therefore, it is clear from the record that the jury had unanimously found that Harris was guilty of possession of marijuana with intent to deliver or sale.

The colloquy over the jury and its deliberations as shown by three separate notes to the trial court was as follows:

> Court: Yes. I mean, they are clear that additional time will not be helpful and they already have a verdict on the second count, so I think I just need to bring them .
>
> Court: Does anyone have an objection to that, to the jury being brought?
>
> Mallette: No, ma'am. R. 164-165.
>
> Court: Okay. And from your note back to me, you didn't feel that additional time would be helpful to you on that count?
>
> (No juror responds affirmatively)
>
> Court: Okay. **As to Count 2: We, the jury, find the defendant guilty as charged as to count 2, possession of marijuana with intent. Now I'm going to ask each of you to respond to whether or not that is your verdict. Is this your verdict?**
>
> Jury: **Yes. Yes, it is. Yes. Yes. Yes. Yes. Yes. Yes. Yes. Yes. Yes.** R. 165.

...

> Court: Okay. On count 2 the verdict will be filed of record. As to Count I, the court declares a mistrial due to the jury's inability to reach a decision on that count, and that count will be restored to the Court's trial calender for a trial on that issue during my next term. The jury is discharged. Are there any other matters before I discharge the jury? Is there anything further from the State?
>
> Ms. White-Richard: No, Your Honor.
>
> Mallette: Not tonight. R.165. (Emphasis by Appellee).

In **Bowen v. State**, 177 Miss. 715, 718 (1936) , Judge Ethridge for the Mississippi Supreme Court stated that it was not necessary to have a verdict written on a separate sheet of paper for it to be valid.

> The law does not require verdicts to be written upon a separate sheet of paper. The verdict as originally returned in this case written upon one of the instructions was a valid verdict, and the reassembling of the jury did not affect the legality in any respect. It having been rendered before the jury was discharged.

Additionally, on court's exhibit 2 the jury stated: "We did not reach a unanimous decision on both counts. Count I not reached." The record reflects that Harris was charged with two counts. C.P. 9; R. 62. The first count was possession of cocaine; the second count was possession of marijuana with intent. Therefore, it is reasonable to infer from this writing that the jury had, as confirmed in court, reached a unanimous verdict on count 2.

The Appellee would submit that this issue is also lacking in merit.

## CONCLUSION

Harris's conviction and sentence should be affirmed for the reasons cited in this brief.

Respectfully submitted,

JIM HOOD, ATTORNEY GENERAL

BY: W. Glenn Watts

W. GLENN WATTS
SPECIAL ASSISTANT ATTORNEY GENERAL
MISSISSIPPI BAR NO. [redacted]

OFFICE OF THE ATTORNEY GENERAL
POST OFFICE BOX 220
JACKSON, MS 39205-0220
TELEPHONE: (601) 359-3680

## CERTIFICATE OF SERVICE

I, W. Glenn Watts, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing **BRIEF FOR THE APPELLEE** to the following:

Honorable Margaret Carey-McCray
Circuit Court Judge
Post Office Box 1775
Greenville, MS 38702-1775

Honorable Joyce I. Chiles
District Attorney
Post Office Box 426
Greenville, MS 38702

Alicia L. Thomas, Esquire
Attorney At Law
Post Office Box 912
Rosedale, MS 38769

This the 26th day of September, 2007.

W. Glenn Watts

W. GLENN WATTS
SPECIAL ASSISTANT ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL
POST OFFICE BOX 220
JACKSON, MISSISSIPPI 39205-0220
TELEPHONE: (601) 359-3680