

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

COPY

NO. 2006-CP-01176-COA

FREDERICK ALEXANDER

APPELLANT

FILED

VS.

JUL 16 2007

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COURT OF APPEALS

STATE OF MISSISSIPPI

APPELLEE

REPLY BRIEF FOR APPELLANT

BY:

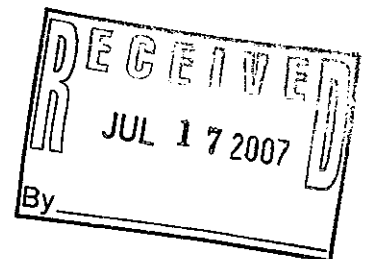
Frederick Alexander

Frederick Alexander, #67449

JFCF

279 Hwy. 33

Fayette, MS 39069



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APPELLANT'S REPLY BRIEF

The State of Mississippi has filed its brief in this case and has failed to refute Appellant's claims that:

- a) The order entered by the court in regards to Appellant's Motion to Reconsider was an appealable final order since it denied relief.
- b) The trial court reserved jurisdiction to review the sentence in accord with law. The review of the sentence was timely and such review thereby extended the finality of the sentence to the date in which the motion to reconsider was denied. Appellant was therefore directly appealing the decision rendered by the court in regards to the sentence. The cases cited by the State on this issue is therefore of no avail. While, statutorily speaking, there are only two avenues of appeal to this court. However, this court has recognized exceptions. Trotter v. State, 554 So. 2d 313, 86 A. L. R. 4th 327 (Miss. 1989).

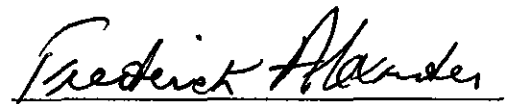
The state has said little to refute the points made by the Brief filed by Appellant.

Here the trial court did not conducted an evidentiary hearing on the Motion to Reconsider and failed to allow or require that Appellant be present. While the court had discretion in denying or granting the Motion, a hearing on such motion should have been conducted in view of the harsh sentence imposed upon a first-time offender. The purpose of the motion was to proceed before the court on the claim that the sentence was excessive. At the time such motion was filed Appellant was duly represented by counsel at the time such motion was filed. Failure to bring motion on for hearing constitute ineffective assistance of counsel. The motion was timely filed. This court should grant the relief requested in this case.

CONCLUSION

This court should reverse and remand this case to the trial court for proper hearing on the motion since jurisdiction of the court to review the sentence was requested and reserved and since there was no proper review by the trial court.

Respectfully submitted,

A handwritten signature in cursive script, reading "Frederick Alexander", is written over a horizontal line.

Frederick Alexander, #67449

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Fayette, MS 39069

CERTIFICATE OF SERVICE

This is to certify that I, Frederick Alexander, Appellant pro se, have this date delivered a true and correct copy of the above and foregoing Appellant's Reply Brief, to:

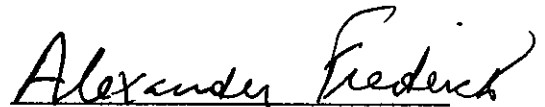
Honorable Jim Hood
P. O. BOX 220
Jackson, Ms 39205

Honorable Lamar Pickard
Circuit Court Judge
P. O. BOX 310
Hazelhurst, Ms 39083

Honorable Alexander Martin
District Attorney
P. O. BOX 396
Port Gibson, MS 39150

This, the 16 day of July, 2007.

By:



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