

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

COPY

JEFFERY JONES

VS.

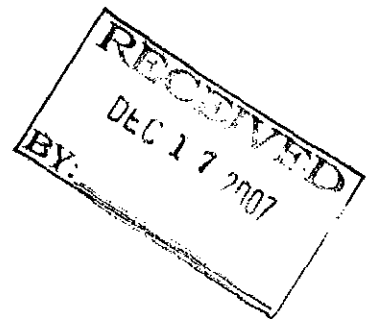
STATE OF MISSISSIPPI

APPELLANT

No. 2006-LP-1880

APPELLEE

REPLY BRIEF FOR THE APPELLANT



REQUEST FOR ORAL ARGUMENT

THE APPELLANT, JEFFERY JONES, RESPECTFULLY REQUEST ORAL ARGUMENT. THIS APPEAL BRIEFLY DESCRIBES WHAT ISSUES THE APPEAL PRESENTS TO THE CASE. ORAL DISCUSSION OF THE FACTS AND THE APPLICABLE PRECEDENT WOULD BENEFIT THE COURT, FOR CERTAIN TRANSCRIPTS OF A PREVIOUS HEARING COULD NOT BE FOUND BY THE CIRCUIT COURT CLERK OFFICE.

B48 JEFFERY JONES #R0964
PRO SE / APPELLANT

SCRCF

1420 INDUSTRIAL PARK RD.
WILLOW, MS. 39577

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE	1
STATEMENT OF FACTS	1
STATEMENT OF ISSUES	2
SUMMARY OF ARGUMENT	2
ARGUMENT	3
THAT THE CIRCUIT COURT DID ERR IN DENYING RELIEF ON THE APPELLANT'S MOTION IN POST-CONVICTION RELIEF (IN BRIEF) - - - - -	
CONCLUSION	13
CERTIFICATE OF SERVICE	14

TABLE OF AUTHORITIES

STATE CASES

ANDERSON V. ST.	1288 S.O. 2d 436 (MS. 1974)	11
CARTER V. ST.	754 S.O. 2d 1207, 1208 (MS. 2000)	8
CHANCELLOR V. ST.	1809 S.O. 2d 700, (MS. (T. App. 2001)	5
EPPE V. ST.	926 S.O. 2d 242 (MS. (T. App. 2005)	3, 6
ETHRIDGE V. ST.	1800 S.O. 2d 1221 (MS. App. 2001)	3, 11
JOHNSON V. ST.	260 S.O. 2d 436 (MS. 1972)	11
LEONARD V. ST.	271 S.O. 2d 445 (MS. 1973)	7
NORWOOD V. ST.	1846 S.O. 2d 1048, (MS. (T. App. 2005)	5
YOUNG V. ST.	264 S.O. 2d 821 (MS. 1972)	12
WATTS V. LUCAS	394 S.O. 2d 903 (MS. 1981)	11
WEAVER V. ST.	785 S.O. 2d 1085 (MS. (T. App. 2001)	5

FEDERAL CASES

U.S. V. KIRK	70 F.3d 791 (5th Cir. 1995)	12
--------------	-----------------------------	----

STATE STATUTES

MISS. CODE ANN. SECTION:

47-7-33	9
47-7-34	7, 8, 9, 10, 11
47-7-37	9, 10, 11
99-39-5 (2) (REV. 2007)	3
99-39-11 (2) (REV. 2007)	3
99-39-23 (6) (REV. 2007)	2, 3, 5

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

JEFFREY JONES

APPELLANT

VS.

CAUSE No. 2006-CP-D1880-LDA

THE STATE OF MISSISSIPPI

APPELLEE

RESPY BRIEF ON BEHAIF OF THE APPELLANT

STATEMENT OF THE CASE

THIS IS AN APPEAL AGAINST AN ORDER OF THE CIRCUIT COURT OF HINDS COUNTY, MISSISSIPPI, FIRST JUDICIAL DISTRICT, IN WHICH RELIEF ON THE PRISONER'S MOTION FOR POST-CONVICTION RELIEF RESULTED IN DENIAL.

STATEMENT OF FACTS

THE APPELLANT, ON SEPTEMBER 26TH, 2001, ENTERED PLEAS OF GUILTY TO FIVE CHARGES UNDER THE UNIFORM CONTROLLED SUBSTANCES ACT, AFTER FIRST INFORMING IN CIRCUIT COURT OF COERCIVE AND ILLEGAL INDUCEMENTS INVOLVING BRIBERY ATTEMPTS AND THEORIES BY HIS ATTORNEY THE DAY BEFORE.

ON 9-26-2001, APPELLANT WAS CONVICTED OF FIVE CHARGES AND SENTENCES WERE ADDED COLLECTIVELY TO TOTAL 18 YEARS WITH A FIVE YEAR TERM OF POST RELEASE SUPERVISION ATTACHED. THE JUDGE THEN DECIDED THAT APPELLANT WOULD BE SUPERVISED BY MOBILE CO FOR FIVE YEARS DURING SUPERVISION.

IN AUGUST OF 2004, THE PRISONER FILED A MOTION IN POST-CONVICTION RELIEF IN THE TRIAL COURT. THE CIRCUIT COURT EVENTUALLY DENIED RELIEF AS THE APPELLANT WAS NOT ABLE TO PERFECT THE APPEAL OF DENIAL BY REASON TO PROCEED, IN FORMA PAUPERIS.

ON MARCH 13, 2006 THE APPELLANT FILED ANOTHER MOTION IN POST-CONVICTION RELIEF. HE CLAIMS ISSUES THAT HIS SENTENCE WAS AMBIGUOUS AND ILLEGAL THIS TIME. THE CIRCUIT COURT DID NOT HEAR ISSUES BUT LABEL DENIAL BY REASON OF A SUCCESSIVE WRIT (99-39-23 (6) (REV. 2007)).

APPELLANT'S MOTION CHALLENGE ISSUES DEALING WITH ILLEGAL INTERPRETATIONS, DOUBLE JEOPARDY, DUE PROCESS VIOLATIONS, WITH AMBIGUOUS SENTENCES AND PHRASES. APPELLANT BELIEVES HE HAD MERIT AND THAT HIS ISSUES HAPPEN TO BE EXEMPT TO THE PROCEDURAL BARS HE FACED.

APPELLANT'S MOTION WAS DENIED RELATING TO THE RIGHT TO PROCEED IN FORMA PAUPERIS. THOUGH IT WAS NEVER A ISSUE IN THIS CAUSE. APPELLANT NOW STRESSES ISSUES IN A REPLY BRIEF IN DEFENCE OF APPELLATE BRIEF.

STATEMENT OF ISSUES

DID THE CIRCUIT COURT ERR IN DENYING RELIEF ON THE PRISONER'S MOTION IN POST-CONVICTION RELIEF?

SUMMARY OF ARGUMENT

THAT THE CIRCUIT COURT DID ERR IN DENYING RELIEF ON THE PRISONER'S MOTION IN POST-CONVICTION RELIEF.

ARGUMENT

THAT THE CIRCUIT COURT DID ERR IN DENYING RELIEF ON THE APPELLANT'S MOTION IN POST-CONVICTION RELIEF.

THE APPELLEE'S FIRST STATED THAT THE CIRCUIT COURT DENIED RELIEF WITHOUT AN EVIDENTIARY HEARING UNDER MISS. CODE SECTION 99-39-11(2) (REV. 2007)

IN SUPPORT, APPELLEE QUOTED 2 PPS V. STATE, 926 SO. 2D 242 (MISS. CT. APP. 2005) WHICH EXPLAIN THAT ABSENT OF SHOWING THAT THE CIRCUIT COURT'S DECISION WAS CLEARLY ERRONEOUS, THE COURT WILL NOT DISTURB A DECISION TO DENY A POST CONVICTION RELIEF MOTION.

APPELLANT'S MOTION WASN'T HEARD, BECAUSE IT WAS DENIED UNDER THE 99-39-23 BAR AS A SUCCESSIVE WRIT. APPELLEE ALSO ADDED THAT IT WAS TIME BARRED 99-39-5(2) (REV. 2007) PAST THE THREE YEAR STATUS OF LIMITATION.

APPELLEE DIDN'T CONSIDER ESTHINGS V. STATE, 800 SO. 2D 1221 (MS. APP. 2001) WHICH STATED THESE RULES:

[ENIT] THERE ARE CERTAIN EXCEPTIONS CARVED OUT TO PROCEDURAL BARS TO A MOTION FOR POST-CONVICTION RELIEF WHERE THERE IS A QUESTION THAT A DEFENDANT'S FUNDAMENTAL RIGHT HAVE BEEN VIOLATED.]

APPELLANT'S MOTION WAS FILED IN REFERENCE TO A ILLEGAL SENTENCE.

[[HN2] THE RIGHT TO BE FREE FROM AN ILLEGAL SENTENCE HAS BEEN FOUND TO BE FUNDAMENTAL.]

SO APPELLANT'S MOTION SHOULD OF BEEN HEARD AND THE CIRCUIT COURT COULD OF DETERMINE IF HIS CLAIMS HAD ANY MERIT UNDER THE EXCEPTION.

[[HN3] ERRORS AFFECTING FUNDAMENTAL CONSTITUTIONAL RIGHTS, SUCH AS THE RIGHT TO A LEGAL SENTENCE, MAY BE EXCEPTED FROM PROCEDURAL BARS WHICH WOULD OTHERWISE PREVENT THEIR CONSIDERATION IN A MOTION FOR POST-CONVICTION RELIEF.]

APPELLANT CLAIM DUE PROCESS, DOUBLE JEOPARDY AND ILLEGAL SENTENCE ISSUES WHICH ARE FUNDAMENTAL AND MAY BE EXCEPTED FROM MULTIPLE PROCEDURAL BARS WHICH OTHERWISE WOULD BE PREVENTED.

[[HN4] EVEN THOUGH A CHALLENGE TO AN IMPOSED SENTENCE IS OTHER WISE TIME-BARRIED, AN UNENFORCEABLE SENTENCE IS NEVER THE LESS PLAIN ERROR AND CAPABLE OF BEING ADDRESSED BY WAY OF A MOTION FOR POST CONVICTION RELIEF]

THE APPELLEE'S CHALLENGES OF TIME BARRIED HAS NO BEARING ON AN UNFORCEABLE SENTENCE THAT'S IN PLAIN ERROR AND CAN BE HEARD ON A MOTION OF POST CONVICTION RELIEF.

[[HN5] ONCE A CIRCUIT OR COUNTY COURT EXERCISE ITS OPTION TO IMPOSE A DEFINITE SENTENCE, IT CANNOT SUBSEQUENTLY SET THAT SENTENCE ASIDE AND IMPOSE A GREATER SENTENCE.]

APPELLANT HAD QUOTED THIS RULE SEVERAL TIMES IN HIS EARLIER MOTION AND BRIEF IN THIS CAUSE.

ALSO IN SUPPORT, NORWOOD V. ST., 846 SO. 2D 1048, MISS. CT. APP. 2005 HELD THAT A DEFENDANT'S SECOND MOTION TO CORRECT A SENTENCING ORDER WAS A SUCCESSIVE POST-CONVICTION COLLATERAL RELIEF ACT MOTION, BARRED BY MISS. CODE ANN. SECTION 99-39-23, BUT AS HIS MOTION INVOLVED A FUNDAMENTAL RIGHT TO BE FREE OF AN ILLEGAL SENTENCE, "... THE APPELLANT COURT WAIVED THE PROCEDURAL BAR OF SECTION 99-39-23."

IN CHANCELLOR V. ST., 809 SO. 2D 700, MISS. CT. APP. 2001 ENFORCES THE RIGHT TO BE FREE OF AN ILLEGAL SENTENCE IS A FUNDAMENTAL RIGHT AS REQUIRED FOR POST CONVICTION RELIEF.

WHILE WEAVER V. STATE, 785 SO. 2D 1085, MISS. CT. APP. 2001, ID. AT [HN-8] ENFORCES THAT: "ERRORS AFFECTING FUNDAMENTAL CONSTITUTIONAL RIGHTS, SUCH AS THE RIGHT TO A LEGAL SENTENCE, MAY BE EXCEPTED FROM PROCEDURAL BARS WHICH WOULD OTHERWISE PREVENT THEIR CONSIDERATION."

DESPITE THE RULES AND STATES WHICH SUPPORT'S APPELLANT'S CLAIMS. THE APPELLEE ADD THE QUESTION OF WHY WASN'T THESE ISSUES ADDRESS EARLIER AS IF THERE WASN'T ANY INTERFERENCE.

APPELLANT HAVE SUBMITTED A LETTER FROM THE CIRCUIT COURT CLERK (SEE EXHIBIT F) OF TRYING TO OBTAIN A COPY OF A TRANSCRIPT OF A PLEA HEARING BEFORE THE LAST, WHICH SOMEHOW BECAME LOST.

APPELLANT EVENTUALLY FILE HIS AFFIDAVIT (SEE EXHIBIT H) SUPPORTED WITH SEVERAL STATEMENTS FROM THE BEGINNING OF THE LAST PLEA HEARING (EXHIBIT B), WHICH MADE

MULTIPLE REFERENCE TO A HEARING THE DAY BEFORE. THE IMPOSSIBILITY FOR APPELLANT TO OBTAIN THIS TRANSCRIPT PLAYED A LARGE PART IN THE DELAY OF THE PRESENT ISSUES ADDRESSED.

CONSIDERING A LOST AND MISSING TRANSCRIPT OF THE HEARING BEFORE THE LAST WHICH RECORDED ILLEGAL AND COERCIVE BRIBERY CLAIMS AND THREATS MADE IN COURT, WHICH COULD POSSIBLY EASILY FURTHER APPELLANT PERSUIT TO RELIEF, IT IS SURPRISING TO APPELLANT THAT HE WAS FORTUNATE OR ABLE TO RAISE THESE ISSUES EVEN NOW, NOT TO MENTION ANY EARLIER?

THE APPELLEE IMPLY IN HIS BRIEF THAT AFTER SERVING A EIGHTEEN YEAR SENTENCE WITH A FIVE (5) YEAR TERM OF POST RELEASE SUPERVISION DURING A PERIOD OF FIVE (5) YEARS UNDER MDOL SUPERVISION, BEING SUBJECT TO TWO HUNDRED AND EIGHTY TWO (282) YEARS MORE UPON RELOCATION OF SUPERVISION IS STILL AND ONLY IN REFERENCE, A 18 (EIGHTEEN) YEAR SENTENCE (SEE EXHIBIT: B P. 23 LINE 5 - P. 24 LINE 4).

APPELLANT REMINDS THIS COURT OF THE SITE STATED BY APPELLEE IN EPPS VS STATE THAT THE COURT WILL NOT DISTURB A CIRCUIT COURT'S DECISION TO DENY RELIEF ON A MOTION FOR POST-CONVICTION RELIEF ABSENT A SHOWING THAT THE CIRCUIT COURT'S DECISION WAS CLEARLY ERRONEOUS.

Clearly the statement made in court during the plea hearing transcript (see exhibit B p. 23 line 5 - p. 24 line 4) by the judge is in plain error regarding his illegal construing of appellant's sentence.

° Each of these cases and each of the counts therein for which you have been sentenced will run consecutive to and not concurrent with one another for a total of 18 years.

[Once a court exercise its option to impose a definite sentence it can not subsequently set that sentence aside and impose a greater sentence.]

°°° LEONARD V. ST., 271 So. 2d 445 [Ms. 1973] °°°

So Leonard imply as long as appellant's sentence was considered as a eighteen (18) year sentence as stated verbally by the judge (with post release supervision attached), it can not be subsequently set aside and a greater be imposed. To do so would infringe into double jeopardy violations and be illegal. Matter of fact, the rule pertaining to revocation of post release supervision (47-7-34) states the circuit judge:

[May cause the sentence imposed to be executed or may impose, any part of the sentence which have been imposed at the time of the conviction.]

°°° 1995 Miss. Laws Ch. 590, § 11, codified as Miss. Code Ann. § 47-7-37 (Rev. 2000) °°°

SO SINCE APPELLANT SENTENCE WAS VERBALLY STATED TO TOTAL A 18 YEAR SENTENCE, ANYTHING IN ADDITION OF 18 YEARS COLLECTIVELY IS IN ERROR.

APPELLANT IS PRESENTLY ILLEGALLY SERVING HIS ENTIRE 18 YEARS SENTENCE INCARCERATED WITHOUT THE BENEFIT OF HAVING FIVE (5) OF THE YEARS HELD IN ORDER TO SPLIT THE SENTENCE AS DESCRIBE IN CARTER V. STATE.

(THE PROGRAM CREATES A SPLIT SENTENCING OPTION FOR REPEAT OFFENDERS)

ooo CARTER V. ST., 754 S.D. 2D 1207, 1208 (MISS. 2000) ooo

IF APPELLANT IS SERVING THE ENTIRE 18 (EIGHTEEN) YEARS SENTENCED WITHOUT THE OPPORTUNITY OF A FIVE (5) YEAR TERM AS PROVIDED UNDER § 47-7-34 (POST RELEASE SUPERVISION), THE APPELLANT MUST INTERPRET THAT HE IS IN SINCE SERVING HIS POST RELEASE TERM PREMATURELY AND ILLEGALLY, VIOLATING HIS DUE PROCESS BEFORE A CHANCE TO START ITS' CONDITIONING A CERTAIN TERM OF YEARS SPLIT FROM THE TOTAL SENTENCE IS A PREREQUISITE FOR THE PURPOSE OF THE SUPERVISION UPON REVOCATION.

THE JUDGE MISCONSTRUED THE INTENT ILLEGALLY DOING SENTENCING (SEE EXHIBIT B8 P. 23 LINE 14 - P. 24 LINE 4):

THERE WILL BE A NUMBER OF TERMS AND CONDITIONS OF YOUR POST-RELEASE SUPERVISION WHICH WILL BE SET FORTH IN A SEPARATE PROBATION ORDER, WHICH YOU NEED TO MAKE SURE THAT YOU UNDERSTAND, BECAUSE AFTER SERVING THIS LENGTHY

PERIOD OF TIME, YOU WILL STILL HAVE TO ABIDE BY THOSE TERMS AND CONDITIONS. AND IF YOU VIOLATE ANY ONE OF THESE TERMS AND CONDITIONS, THEN YOU ARE SUBJECT, WITHOUT BENEFIT OF TRIAL, OF BEING BROUGHT BACK BEFORE THE COURT AT THAT TIME, AND AT THAT TIME THE COURT COULD SENTENCE YOU TO ANYTHING IN EACH OF THESE CASES UP TO 60 YEARS OF INCARCERATION LESS WHATEVER TIME YOU'VE ACTUALLY SERVED ON EACH ONE OF THESE CASES. AND THESE SENTENCES HAVE ALREADY BEEN ORDERED TO RUN CONSECUTIVE TO AND NOT CONCURRENT WITH ONE ANOTHER.

THEIR ARE RULES WHICH MAKE REFERENCE TO THE APPELLANT THAT THE TERM OF POST RELEASE SUPERVISION WAS TO BE INCLUDED INTO WHATEVER THE SENTENCE FIRST WAS AS A PREREQUISITE OF POST RELEASE IN 47-7-34.

[THERE MUST FIRST BE A SENTENCE THAT INCLUDES A TERM OF INCARCERATION. WITH A TERM OF POST-RELEASE SUPERVISION STARTING AFTER INCARCERATION AT THE END OF THE SENTENCE.]

° ° ° MISS. CODE ANN § 47-7-34 (SUPP. 2003) ° ° °

APPELLANT ARGUE HIS POST RELEASE WAS NOT INCLUDED BUT BECAME EXCLUDED FROM THE SENTENCE. IT SEEMS CONTRARY TO THE EXPLANATION IN REFERENCE TO THE TOTALITY VIEWED IN CARTER WHICH QUOTES :

§ 47-7-33 IS A CONDITIONAL TERM NOT PART OF THE PRISON SENTENCE AND IS NOT THEREFORE SUBJECT TO THE

"TOTALITY OF SENTENCE CONCEPT FOUND IN "47-7-34."

EVEN THOUGH THE JUDGE SUGGESTED HIS INTENT TO PRESCRIBE A 18 YEAR SENTENCE, VERBALLY. BY LAW, HIS CONFLICTING SENTENCING MUST BE VIEWED AS A 23 YEAR SENTENCE. BUT A 23 YEAR SENTENCE CONSTRUING IS ILLZDAL IN A 18 YEAR TOTAL, BECAUSE THE 5 (FIVE) YEAR TERM OF POST RELEASE CAN NOT BE ENFORCED UPON REVOCATION IN A 18 YEAR SENTENCE.

THE 1995 MISS. LAWS (CH. 596 § 11, CODIFIED AS MISS. CODE ANN § 47-7-37 [REV. 2000] STATES THAT A JUDGE MAY CAUSE THE (ENTIRE) SENTENCE IMPOSED TO BE EXECUTED OR MAY IMPOSE ANY PART OF THE SENTENCE (WHICH IS 18 YEARS IN THIS CASE) WHICH HAVE BEEN (OR WHICH WAS) IMPOSED AT THE TIME OF THE CONVICTION.

BESIDES ERRORS INVOLVING AMBIGUITIES, ILLZDAL CONSTRUING OF THE TWO, PREJUDICE BETWEEN THE TWO AND NOT BENEFITING FROM SERVING A PORTION OF THE DEFINITE 18 YEAR TOTAL AS A PREREQUISITE OF THE POST RELEASE SUPERVISION STATUS.

DURING THE SENTENCING PHASE THE JUDGE IMPLIED THAT VIOLATION OF THE SUPERVISION COULD SUBJECT THE APPELLANT UP TO 60 YEARS PER FIVE (5) CHARGES (SEE EXHIBIT B P. 23 LINE 14 - P. 24 LINE 4) CONSECUTIVELY, THOUGH ONLY ONE CHARGE (EXHIBIT A 01-0-970-00-LBH) WAS ATTACHED UNDER THE 47-7-34 STATUS.

SINCE 1995 MISS. LAWS CH. 596, § 11, CODIFIED AS MISS. CODE § 47-7-37 (REV. 2000) PERTAINS TO THE APPLYING BY A LIMIT UPON REVOCATION OF POST RELEASE SUPERVISION. APPELLANT COMPARES THERE'S A PROBABILITY THAT THERE'S A LIKELY-HOOD THERE'S A LIMIT TO WHICH SENTENCE REVOCATION CAN BE APPLIED TOO. ESPECIALLY, IF THE 47-7-34 STATUS WAS NOT ATTACH TO ALL, BUT ONLY ONE CHARGE.

THE APPELLANT SEEKS RELIEF THROUGH AND BECAUSE OF THE AMBIGUITY. WEBSTER DEFINES, AM-BIG/U-OUS (AMBIG' VOOS) [< L AMBI-AROUND + AGREE, TO DO] ADJ. 1 HAVING TWO OR MORE MEANINGS 2 NOT CLEAR / VAGUE ...

APPELLANT WAS MISLEAD, HE EXPECTED AS HE WAS TOLD, A 18 YEAR SENTENCE TOTAL ATTACHED WITH A 5 (FIVE) YEAR TERM OF POST RELEASE SUPERVISION INCLUDED. SINCE THE RECOMMENDATION WAS SO VAGUE AND BROAD, IT BECAME CONSTRUED IN THE MOST DAMAGING INTERPRETATION AGAINST THE APPELLANT.

ETHRIDGE VS. ST., 800 S.O. 2D 1221 (MS. 2001)

ANDERSON VS. ST., 288 S.O. 2D 852 (MS. 1974)

JOHNSON VS. ST., 260 S.O. 2D 436 (MS. 1972)

[THE AMBIGUITY MUST BE RESOLVED IN FAVOR OF THE ACCUSED.]
... WATTS VS. LUCAS, 394 S.O. 2D 903 (MS. 1981) ...

IN WATTS VS. LUCAS, THERE WERE FOUND CONFLICTING PHRASES DURING SENTENCING AS IN APPELLANT CASE. THE COURTS RESOLVED THE AMBIGUITY IN FAVOR OF THE ACCUSED DOING APPEAL, AS APPELLANT

HOPES. APPELLANT CONSIDERS THAT HIS CONFLICTING PHRASES SHOULD BE RESOLVED IN HIS FAVOR ALSO.

APPELLANT CONSIDERS THAT THE ERRORS OF HIS ILLEGAL SENTENCE IS A RESULT OF IT'S AMBIGUOUS NATURE. IF REPRESENTATIVES OF THE LAW: ATTORNEY, ASSISTANT DISTRICT ATTORNEY AND A JUDGE HAD TROUBLE RIGHTEOUSLY DIVIDING, UNDERSTANDING, RECOMMENDING AND SENTENCING THE APPELLANT. WHAT CHANCES DID THE APPELLANT EFFECTUALLY HAVE EXAMINING THE SENTENCE AND CONSEQUENCES OF IT.

BY DEVOTION, DEDICATION AND TIME IN STUDING AND LEARNING LITTLE ABOUT THE LAW BECAUSE OF THE PREJUDICE OF SUFFERING A ILLEGAL SENTENCE. THE APPELLANT CONSIDERS HIS REASONING WAS MORE LOGICAL AND PRATICAL TO THE LAW THAN THE SENTENCE IMPOSE BY THE COURT.

APPELLANT'S SEEK'S RELIEF BY WAY OF THE AMBIGUITY BETWEEN HIS SENTENCES OF ENFORCING HIS 18 YEAR SENTENCE AND RECOMMENDATION INCLUDED WITH A 13 YEAR TERM OF INCARCERATION AND A 5 YEAR TERM OF POST RELEASE SUPERVISION, TOTALING A 18 YEAR SENTENCE.

(GOVERNMENT MUST STRICTLY COMPLY WITH PLEA AGREEMENTS IT MAKES WITH DEFENDANTS.)

... U.S. VS. KIRK, 70 F.3d 791 [5th Cir. 1995] ...

(AT THE OUT SET WE NOTE THAT [HNI] COURTS MUST LOOK TO THE SUBSTANCE OF ANY PETITION FILED SEEKING A POST CONVICTION REMEDY RATHER CONSIDERING SUCH PETITION BY IT'S TITLE.)

... YOUNG V. STO, 264 So. 2d 821 (MS. 1972) ...

SINCE APPELLANT IS NOT SEEKING IMMEDIATE
RELEASE, BUT ONLY A JUDICIAL DETERMINATION OF THE
CONSTRUING OF HIS POST RELEASE TERMS IN HIS FAVOR
IN ORDER TO KNOW WHEN HE WILL BE ELIGIBLE TO BE
RELEASED ON SUPERVISION. REGARDLESS OF THE FACT
THAT HIS SENTENCE IS ILLEGAL UNDER IT'S PRESENT CONDITIONS,
AS VIEWED BY LAWS COURTS CAN CONSIDER APPELLANT'S
PLEADINGS AS A PETITION TO MODIFY HIS AMBIGUOUS SENTENCES.

CONCLUSION

THE COURT SHOULD EITHER REVERSE OR MODIFY
APPELLANT'S SENTENCE RESULTING IN A TOTAL OF A 18 YEAR SENTENCE
SPLIT BY A 13 YEAR INCARCERATION TERM WITH A 5 YEAR POST RELEASE
SUPERVISION AT THE END.

RESPECTFULLY SUBMITTED,

B48 Jeff Jones - 12/13/07
JEFFREY JONES #R0964
PRO SE / APPELLANT

STACEY
1420 INDUSTRIAL PARK RD.
WIGGINS, MS 39577

CERTIFICATE OF SERVICE

I, JEFFERY E. JONES, PRO SE APPELLANT, DO
HEREBY CERTIFY THAT I HAVE THIS DAY MAILED, POSTAGE PREPAID,
A TRUE AND CORRECT COPY OF THE ABOVE AND FOREGOING
REPLY BRIEF FOR THE APPELLANT TO THE FOLLOWING:

HONORABLE BOBBY B. DELAUGHTER
CIRCUIT COURT JUDGE
P.O. Box 27
RAYMOND, MS. 39154

HONORABLE ELEANOR FAYE PETERSON
DISTRICT ATTORNEY
P.O. Box 22747
JACKSON, MS. 39225-2747

HONORABLE JOHN R. HENRY # 2349
SPECIAL ASSISTANT ATTORNEY GENERAL
P.O. Box 220
JACKSON, MS. 39205-0220