

COPY

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

LEROY CAMPBELL,

Appellant,

v.

No. 2006-CP-02090-COA

STATE OF MISSISSIPPI,

Appellee.

FILED

JUN 19 2007

REPLY BRIEF OF APPELLANT

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SUPREME COURT
COURT OF APPEALS

LEROY CAMPBELL, PRO SE,

W.C.F. # 62840

POST OFFICE BOX 1079

2999 US HIGHWAY 61 NORTH

WOODVILLE, MS 39669

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ARGUMENT

The State thru mischaracterization of legal and factual argument enlist this Court to adopt a position dispositive of clearly established laws of the State of Mississippi as enacted by the legislature (Miss. Code Ann. Section 99-19-23 (Rev. 1994)) and enforced by this Court in Taylor v. State, 726 So.2d 227, 228 (Miss. 1996). Where it was established that a prisoner shall be credited for all time spent incarcerated in a municipal or county jail . . . And that an inmates time commence to run the date he signs or executes a waiver of extradition respectively. Not the date prisoner is taken into custody by Mississippi authorities.

The State in their Brief For The Appellee contends that in Taylor, supra, Taylor was taken into custody on the date he signed or executed a waiver of extradition. However, An examination of Taylor reveals Taylor executed a waiver of extradition on August 13, 1996," and was then taken to Walthall County, Mississippi on August 15, 1996 for a guilty pleading and sentencing that same day. (Own emphasis added). Taylor, Id. at 227. Accordingly, this Court held: "A review of the record reveals that Taylor's

Mississippi sentence commenced to run on August 13, 1996, the date he executed his waiver of extradition, rather than on August 15, 1996, the date of his pleading and sentencing." *Id.* at 228.

Equally contradictory of the State's assertion in Boutwell v. Nage, 861 F.2d 1530 (11th Cir. 1998) citing, Palmer v. Dugger, 833 F.2d 253 (11th C.A. (Fla. 1987), in that what distinguishes Taylor, *supra* and the instant case from the dispositive position of this Court's application of Miss. Code Ann. section 99-19-23 (1972) in Holland v. State, 418 So.2d 73 (Miss. 1982) is that Holland sought his extradition whereas Taylor and the Appellant voluntarily signed and executed a Waiver of extradition; the appellant on October 18, 2005, (C.p. 17+26).

Thus, although Appellant remained in the physical custody of the State of Louisiana constructive custody was transferred to the State of Mississippi on October 18, 2005, the date appellant executed the waiver of extradition.

In his Amended Nunc Pro Tunc Motion (C.p. 20+25) and pursuant to the Circuit Court's Order dated July 10, 2006 (C.p. 11-12), Appellant sought Clarification from the Circuit Court dates of pre-sentence confinement. It is the State and not the trial court or the appellant who chose to characterize

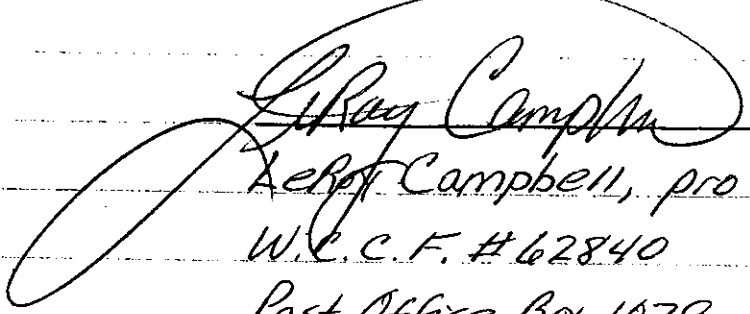
Appellant's request as a Motion For Post-Conviction Collateral Relief as another alternative to the State's meritless position.

Legally and factually this case is relatively straightforward; Appellant is entitled to credit toward his sentence in B2401-05-00179 from October 18, 2005 to November 17, 2005, which represents the date Appellant executed a Waiver of extradition to return to the State of Mississippi and the actual date the State of Mississippi took actual custody of Appellant physically. For this Court to hold otherwise would require this Court to overrule *Taylor, Supra, Id.* 726 So.2d at 227-228.

CONCLUSION

WHEREFORE, due to the seriousness in the nature of Appellant's claim in that if this Court decide in Appellant's favor Appellant's release date would be moved back to September 30, 2007. Accordingly, Appellant seeks to endorse this Court to grant an expedited hearing in this matter.

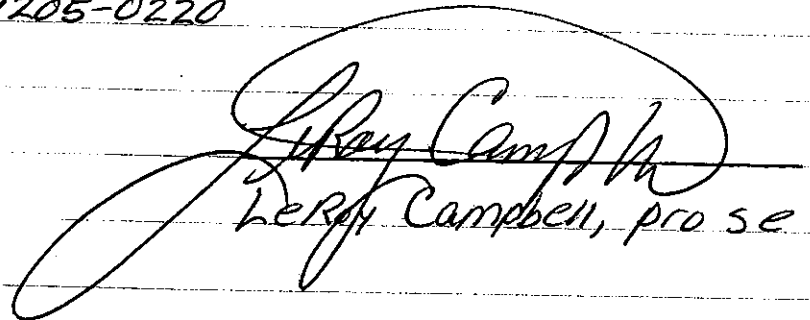
Respectfully submitted,


Leroy Campbell, pro se
W.C.F. #62840
Post Office Box 1079
2999 US Highway 61 North
Woodville, MS 39669

CERTIFICATE OF SERVICE

I, LeRoy Campbell, do hereby certify that a true and correct copy of the above and foregoing Reply Brief of Appellant was deposited in the U.S. mail, postage prepaid this 19th day of June, 2007, properly addressed to:

Jeffrey A. Klingfuss
Special Assistant Attorney General
Office of the Attorney General
Post Office Box 220
Jackson, MS 39205-0220


LeRoy Campbell, pro se