

COPY

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

LERDY CAMPBELL

FILED

APPELLANT

v.

FEB 27 2007

CP
NO. 2006-~~FB~~-02090

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SUPREME COURT
COURT OF APPEALS

STATE OF MISSISSIPPI

APPELLEE

BRIEF OF APPELLANT

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IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

LEROY CAMPBELL

APPELLANT

V.

NO. 2006-TS-02090

STATE OF MISSISSIPPI

APPELLEE

CERTIFICATE OF INTERESTED PARTIES

The undersigned, Leroy Campbell, Appellant pro se, certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this Court may evaluate possible disqualifications or recusal.

1. State of Mississippi
2. Leroy Campbell

Done this 27th day of February, 2007.

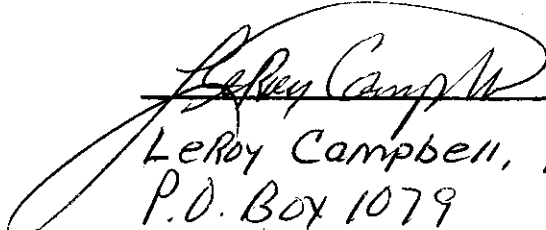

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TABLE OF AUTHORITIES

CASES:

Taylor v. State, 726 So.2d 227 (MS 1998)

II, III

STATUTES:

MCA Section 99-19-23 (Rev. 1994)

II,

MCA Section 99-23-25 (1972)

I,

STATEMENT OF THE ISSUES

ISSUE NO. 1: WHETHER THE COURT ERRED IN GRANTING JAIL CREDIT FOR PRE-SENTENCE CONFINEMENT AND THEN DENIED AMENDED NUNC PRO TUNC MOTION REQUESTING SPECIFICATION AS TO EXACTLY HOW MUCH PRE-SENTENCE CONFINEMENT TIME DEFENDANT WAS ENTITLED?

STATEMENT OF THE CASE

This appeal proceeds from the Circuit Court of the First Judicial District of Harrison County, Mississippi, and a November 3, 2006, denial of Amended Nunc Pro Tunc Motion requesting pre-sentence confinement jail credit.

FACTS

On November 5, 2004, defendant was arrested by the Gulfport Police and charged with one(1) count of embezzlement in violation Section 97-23-25, Miss. Code of 1972.

On November 23, 2004, defendant posted bond and was released. Subsequently, defendant was indicted

April 11, 2005, by a Harrison County Grand Jury. On August 15, 2005, a warrant for defendant's arrest was issued by the Circuit Court of Harrison County.

On October 17, 2005, defendant was arrested by the Sheriff's Department, Ouachita Parish, Louisiana, charging the defendant with Fugitive From Justice. Defendant signed and executed a waiver of extradition voluntarily returning to the State of Mississippi, on the 18th of October, 2005.

SUMMARY OF THE ARGUMENT

The defendant contends that for him to be denied pre-sentence credit for confinement while awaiting extradition to Mississippi after having signed and executed the waiver of extradition will enable the Mississippi Department of Corrections to extend his sentence beyond its expiration date.

ARGUMENT

The issue of pre-sentence confinement was addressed by the Court in Taylor v. State, 726 So.2d 227

(Miss. Ct. App. 1998), where defendant was incarcerated in Louisiana with a detainer lodged against him from Mississippi. In quoting Miss. Code Ann. Section 99-19-23 (Rev. 1994), held, "The number of days spent by a prisoner in incarceration in any municipal or county jail while awaiting trial on a criminal charge, or awaiting an appeal to a higher court upon conviction, shall be applied on any sentence rendered by a court of law or on any sentence finally set after all avenues of appeal are exhausted."

In Taylor, supra, the Court held, id., at 228, "[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."

Taylor's situation virtually identical to that complained of by the defendant herein. Defendant was arrested October 17, 2005, by Ouchita Parish, Louisiana, Sheriff's Department and executed a waiver of extradition on October 18, 2005. (See Exhibit "A" attached to Nunc Pro Tunc Motion which is attached to Exhibit "A" of the Amended Nunc Pro Tunc Motion).

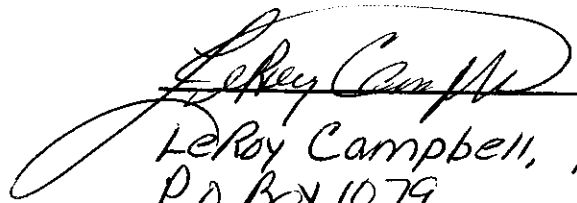
Also, at a hearing conducted by Circuit Court Judge Jerry O. Terry, June 26, 2006, in which Judge Terry inquired of the State as to how long the defendant had been incarcerated, Joel Smith,

Assistant District Attorney answered in the affirmative that defendant was arrested on October 17, 2005, and had remained in custody since.

CONCLUSION

Appellant was sentenced to serve two (2) years in MOOC with credit for all pre-sentence confinement relevant to said case. Accordingly, he is entitled to be given the 30 days jail credit for the time spent in Louisiana while awaiting extradition to Mississippi after having executing said waiver of extradition.

Respectfully submitted,


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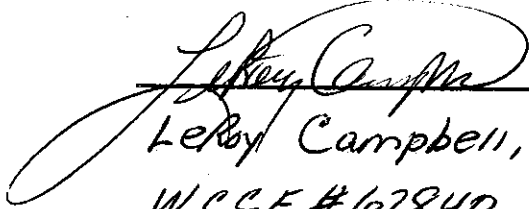
CERTIFICATE OF SERVICE

I, Leroy Campbell, do hereby certify that a true and correct copy of the above and foregoing Brief of Appellant, was deposited in the U.S. mail, postage prepaid, this 27th day of ~~March~~^{February}, 2007, and properly addressed to:
file

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