

**COPY**

*In the SUPREME COURT of the STATE of MISSISSIPPI  
In the COURT of APPEALS of the STATE of MISSISSIPPI*

**AMANDA ROCHELLE BROWN**

**FILED**

**APPELLANT**

**VS.**

**DEC 18 2006**

**NO. 2006-KA-00717-COA**

**STATE OF MISSISSIPPI**

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

**APPELLEE**

**BRIEF FOR APPELLANT**

**ORAL ARGUMENT REQUESTED**

---

**Honorable Michael Taylor  
Pike County Circuit Court Judge  
Post Office Drawer 1350  
Brookhaven, MS 39602**

**Honorable Charle E. Miller, MSB [REDACTED]  
Miller & Miller  
Attorney for Appellant  
Post Office Box 1303  
McComb, Mississippi 39649-1303  
Telephone: (601) 249-0017**

**Honorable Dewitt "Dee" Bates  
District Attorney  
284 E. Bay Street  
Magnolia, MS 39652**

**Honorable Jim Hood  
Attorney General  
Post Office Box 220  
Jackson, Mississippi 39205-0220**

***In the* SUPREME COURT *of the* STATE *of* MISSISSIPPI  
COURT of APPEALS of the STATE of MISSISSIPPI**

**AMANDA ROCHELLE BROWN**

**APPELLANT**

**VS.**

**NO. 2006-KA-00717-COA**

**STATE OF MISSISSIPPI**

**RESPONDENT**

**TABLE OF CONTENTS**

|  | PAGE |
|--|------|
| CERTIFICATE OF INTERESTED PERSONS..... | i    |
| TABLE OF AUTHORITIES .....             | ii   |
| STATEMENT OF ISSUES .....              | 1    |
| STATEMENT OF CASE.....                 | 2    |
| STATEMENT OF FACTS .....               | 3-5  |
| SUMMARY OF THE ARGUMENT .....          | 6-14 |
| CONCLUSION .....                       | 14   |

***In the SUPREME COURT of MISSISSIPPI  
In the COURT of APPEALS for the STATE OF MISSISSIPPI***

**AMANDA ROCHELLE BROWN**

**APPELLANT**

**VS.**

**NO. 2006-KA-00717-COA**


**STATE OF MISSISSIPPI**

**RESPONDENT**

**CERTIFICATE OF INTERESTED PERSONS**

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that Justices of this Court may evaluate possible disqualification or recusal.

| <b><u>NAME</u></b>           | <b><u>POSITION</u></b> |
|------------------------------|------------------------|
| Honorable Michael Taylor     | Circuit Court Judge    |
| Honorable Charles E. Miller  | Attorney for Appellant |
| Honorable Dewitt "Dee" Bates | District Attorney      |
| Honorable Jim Hood           | Attorney General       |

  
**CHARLES E. MILLER**

CHARLES E. MILLER, MSB #8330  
MILLER & MILLER  
116 FIFTH AVENUE (39648-4159)  
POST OFFICE BOX 1303  
McCOMB, MISSISSIPPI 39649-1303  
Telephone: (601) 249-0017

*In the* SUPREME COURT *of the* STATE *of* MISSISSIPPI  
COURT of APPEALS of the STATE of MISSISSIPPI

AMANDA ROCHELLE BROWN

APPELLANT

VS.

NO. 2006-KA-00717-COA

STATE OF MISSISSIPPI

RESPONDENT

**TABLE OF CASES AND AUTHORITIES**

**CASES**

**PAGES**

|   |        |
|---|--------|
| City of Revere v. Massachusetts General Hospital, 463 U.S. 239, 103 S. Ct. 2979,<br>77 L. Ed. 2d 605 (1983) ..... | 11.    |
| Davis v. State, 510 So. 2 <sup>nd</sup> 794, 797 (Miss. 1987) .....   | 14.    |
| Fleming v. State, 604 So. 2 <sup>nd</sup> 280 (Miss. 1992) .....  | 14     |
| Gavin v. State, 473 So. 2d 952 (Miss. 1985) .....   | 7      |
| Hale v. Fish, 899 F. 2d 390 (5 <sup>th</sup> Cir. 1990) .....   | 13     |
| Hickson v. State, 512 So. 2 <sup>nd</sup> 1 (Miss. 1987) .....  | 9, 13  |
| May v. State, 460 So. 2d 778 (Miss. 1984) .....   | 7      |
| McFee v. State, 511 So. 2d 130 (Miss. 1987) .....   | 6      |
| Murphy v. State, 566 So. 2d 1201 (Miss. 1990) .....   | 7      |
| Offor v. Scott, 72 So. 3 <sup>rd</sup> 30 (5 <sup>th</sup> Cir. 1995) .....                                       | 13     |
| Pipkins v. State, 592 So. 2d 947 (Miss. 1999) .....   | 8      |
| Preseley v. State, 474 So. 2 <sup>nd</sup> 612, 618 (Miss. 1985) .....  | 14     |
| Reed v. State, 637 So. 2d 194 (Miss. 1994) .....  | 8      |
| Stevenson v. State, (1975, Miss), 325 So. 113 .....   | 13     |
| Taylor v. State, 656 So. 2d 104 (Miss. 1995) .....  | 6, 7   |
| U.S. v. Jackson, 818 F. 2d 345 (5 <sup>th</sup> Cir. 1987) .....  | 9, 13. |
| Williams v. State, 784 So. 2d 230 (Miss. App. 2000) .....   | 14     |
| Mississippi Rules of Evidence, Rules 404(b)   |        |

## **STATEMENT OF ISSUES**

### **ISSUE ONE**

THE EVIDENCE IS INSUFFICIENT TO SUPPORT CONVICTION PURSUANT TO THE INDICTMENT AND RELEVANT LAW. THE LOWER COURT ERRED IN NOT GRANTING A JUDGMENT NOTWITHSTANDING THE VERDICT PURSUANT TO RULE 50 (B) OF THE MISSISSIPPI RULES OF CIVIL PROCEDURE ----- 6

### **ISSUE TWO**

THE LOWER COURT ERRED BY NOT DISMISSING THE INDICTMENT OR GRANTING A MISTRIAL WHEN IT ALLOWED TESTIMONY OF PRIOR BAD ACTS OF THE ACCUSED ----- 8

### **ISSUE THREE**

THE COURT SHOULD HAVE DISMISSED THIS CASE BASED ON ILLEGAL ARREST ..... 9

### **ISSUE FOUR**

THE COURT ERRED IN ITS DENIAL OF CERTAIN JURY INSTRUCTIONS ..... 9

### **ISSUE FIVE**

THE LOWER COURT ERRED IN ITS FAILURE TO DISMISS THE CASE BASED ON TORTURE ..... 11

### **ISSUE SIX**

THE LOWER COURT ERRED ON ITS FAILURE TO DISMISS THE CASE BASED ON THE PSYCHOLOGICAL REPORT ..... 11

### **ISSUE SEVEN**

THE COURT ERRED BY NOT SUPPRESSING THE EVIDENCE OF LATONYA McKNIGHT ..... 12

### **ISSUE EIGHT**

THE LOWER COURT ERRED ON ITS FAILURE TO DISMISS THE CASE BASED ON

|                                  |    |
|----------------------------------|----|
| THE SHACKLING OF DEFENDANT ..... | 13 |
|----------------------------------|----|

**ISSUE NINE**

|  |    |
|--|----|
| WHETHER THE SENTENCING CONSTITUTES CRUEL AND UNUSUAL<br>PUNISHMENT AND IS DISPROPORTIONATE UNDER THE EIGHTH<br>AMENDMENT ..... | 14 |
|--|----|

**STATEMENT OF THE CASE**

On or about the 19<sup>th</sup> day of July, 2005, Amanda Rochelle Brown, a 20-year-old female was indicted in Pike County in the State of Mississippi for the crime of murder. The Pike County cause number was 05-428-PKT.

The Honorable Michael Taylor, 14<sup>th</sup> Judicial District Circuit Judge heard this matter.

That trial lasted 5 days. The jury deliberated over several hours the first day; after they came out they said they could not agree; the Judge asked them to go home and return the next day for more deliberations. The jury then deliberated for another several hours then came out with a verdict of guilty of manslaughter. Amanda Brown was sentenced to a term of 20 years with 5 years suspended to serve in the Mississippi Department of Corrections.

A Motion for Judgment Notwithstanding the Verdict was timely filed and denied by said lower court judge.

Amanda Rochelle Brown timely filed her appeal to this Honorable Court.

## **STATEMENT OF FACTS**

Amanda Rochelle Brown is an African American female, who has been charged with the crime of murder. She was convicted of manslaughter. Amanda Rochelle Brown is a 20-year-old minor. She was charged with the murder of her girlfriend Lakeisha Russ, a 29-year-old female.

Several officers presented their evidence. None of the officers were able to corroborate the testimony of the main witness Latonya McKnight. Ms. McKnight gave at least five different statements, each statement contradicted the other. The jury deliberated for over seven (7) hours before returning a verdict of manslaughter.

Latonya McKnight was the main witness for the prosecution. She gave several different statements to Detective Cowart and Detective Slipher (T-817-818). Detective Cowart threatened to place Latonya McKnight in jail and take her child away if she did not tell her what happened. This occurred after McKnight had informed Detective Cowart and Detective Slipher she did not see what happened (T-819-820). McKnight cried throughout the interrogation by Detective Cowart (T-819).

### **Latonya McKnight testified as follows:**

#### **Direct Examinations by Mr. Miller:**

Q When Detective Cowart told you that you were going to spend some time -- well, let me rephrase the question.

When Detective Cowart talked with you about taking your child from you, that didn't bother you at all?

A. No, sir.

Q. You were more worried about Amanda than someone taking your child from you?

A. No, sir.

Q Which were you more worried about, Amanda or your child?

A. My child.

Q. Then why were you crying, was it about Amanda or your child?

Ms. Jones: Asked and answered, Your Honor.

The Court: I am not going to sustain the objection, but I will instruct counsel to limit it to time. She was crying through a large part of the tape.

MR. MILLER: Yes, sir.

Q. The latter part of the tape, after Detective Slipper had indicated to you that she would take your child and that you wouldn't see your child, were you crying because of that, also?

A. Yes, sir.

Q. When Detective Cowart said to you, help me help you, what did that mean to you?

A. What you mean by help me help you?

Q. Well, did Detective Cowart say to you that in order for him to help you, you had to help him? Did you hear that on the tape?

A. Yes, sir.

Q. Okay. What did that mean to you?

A. Telling him the truth.

Q. And then after he said that to you, you told him that you did not – that you did not know what happened, right?

A. Yes, sir.

Q. Detective Cowart also talked with you about going to the District Attorney's office. You remember that?



A. Yes, sir.

Q. And he said that he could speak for you if you would speak to him; is that correct?

A. I don't know for sure.

Q. Okay. When he said District Attorney, do you know who he was talking about?

A. Yes, sir.

Q. Who is the District Attorney?

A. Down here in Magnolia.

Q. What does the District Attorney do?

A. Find out the truth.

Q. Find out the truth? Is that what the District Attorney does?

Do you know what it means to prosecute or bring a charge against a person?

A. No, sir.

Q. You do not? Do you know what it mean to go to jail?

A. Yes, sir.

Several documents were filed on behalf of Amanda Brown, including a report from Dr. Dave Hartson, a psychologist, and a letter from Yolanda Denman, an inmate in the Pike County Jail. Defendant was housed at the Pike County jail during the trial period. While she was there she was tortured along with other inmates - they were maced while behind bars by the Pike County Sheriff Department personnel. The Court denied these issues. Finally, a motion for Judgment Notwithstanding the Verdict was filed and denied by the lower court.

## **SUMMARY OF ARGUMENT**

Amanda Rochelle Brown is a 20-year-old female who was charged with the crime of murder and convicted of manslaughter.

There were several officers presenting evidence. None of the officers were able to corroborate the testimony of the main witness, Latonya McKnight.

### **ISSUE I**

**THE EVIDENCE IS INSUFFICIENT TO SUPPORT CONVICTION PURSUANT TO THE INDICTMENT AND RELEVANT LAW. THE LOWER COURT ERRED IN NOT GRANTING A JUDGMENT NOTWITHSTANDING THE VERDICT UNDER THE MISSISSIPPI RULES OF CIVIL PROCEDURE**

Amanda Rochelle Brown is a 20-year-old female who was charged with the crime of murder and convicted of manslaughter.

There were several officers presenting evidence. None of the officers were able to corroborate the testimony of the main witness, Latonya McKnight.

The standard of granting a judgment notwithstanding the verdict (JNOV) is well settled.

The evidence must be considered in the light most consistent with the verdict. Further, the prosecution must be given the benefit of all favorable inferences that may be reasonably drawn from the evidence. Nonetheless, if the facts and inferences so considered point in favor of the accused with sufficient force that reasonable men could not have found beyond a reasonable doubt that he was guilty, reversal and discharge are required. Taylor v. State, 656 So. 2d. 104 (Miss. 1995) citing, McFee v. State, 511 So.

2d 130 (Miss. 1987) acting, Gavin v. State, 473 So. 2d 952 (Miss. 1985), May v. State, 460 So. 2d 778 (Miss. 1984).

A motion for JNOV attacks the sufficiency of the evidence. In Taylor v. State, supra, the Supreme Court reversed a conviction of possession of cocaine with intent to distribute holding that, “the fact that Taylor was in a drug area and leaning into a car may be indicative of a drug transaction, but gives no clue to the identity of the seller.” The court found the evidence to be insufficient to establish intent to distribute.

In the case sub judice, the State’s case rests entirely on the testimony of the witness, Latonya McKnight.

The State’s case is based entirely on circumstantial evidence. Where a case is based wholly on circumstantial evidence, the State must prove defendant’s guilt beyond a reasonable doubt and to the exclusion of every reasonably hypothesis consistent with innocence, the burden of proof is heavier than when direct evidence is offered. Murphy v. State, 566 So. 2d 1201 (Miss. 1990). In Murphy, the court held that the circumstantial evidence was insufficient to support defendant’s conviction of burglary.

The Murphy court stated that, “it is fundamental that convictions of crime cannot be sustained on proof which amounts to no more than a possibility or even when it amounts to a probability but it must rise to the height which will exclude every reasonable doubt that when in any essential respect the State relies on circumstantial evidence, it must be such as to exclude every other reasonable hypothesis than that the contention of

the State is true, and that throughout the burden of proof is on the State. It is our duty here to maintain these principles.”

In Pipkins v. State, 592 So. 2d 947 (Miss. 1991) the court reversed a conviction of possession of controlled substance based on the fact that the “informant’s reliable information had never been relied upon before.” Likewise in the instant case, the informants never been proven reliable.

## ISSUE II

### **THE LOWER COURT ERRED BY NOT DISMISSING THE INDICTMENT OR GRANTING A MISTRIAL WHEN IT ALLOWED TESTIMONY OF PRIOR BAD ACTS OF THE ACCUSED**

The misconduct of the District Attorney by eliciting testimony from Officers and other witnesses regarding alleged prior bad acts of Amanda Rochelle Brown violated Rule 404(b) of the Mississippi Rules of Evidence. The witnesses testified that Amanda Brown stabbed her stepfather. This was no arrest, indictment, nor was Amanda Rochelle Brown convicted. Testimony of said witnesses concerning prior bad acts not resulting in a conviction is prohibited by Rule 404(b) which states: “Evidence of other crimes or wrongs or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith....” The issue of introducing prior bad acts for rebuttal was addressed by the court in *Reed v. State*, 637 So.2d 194 (Miss. 1994), which held that, “the State could not introduce rebuttal evidence of additional uncharged sale of cocaine by defendant for the purpose of impeaching defendant’s statement elicited by the state during cross-examination.” Pursuant to *Reed*, supra, the State is prohibited from introducing evidence of the alleged prior bad act of Amanda Rochelle Brown.

### **ISSUE III**

#### **THE COURT SHOULD HAVE DISMISSED THIS CASE BASED ON ILLEGAL ARREST**

The arrest was illegal because of the lack of corroborative evidence and the unreliability of Latonya McKnight. Based on the prevailing law the evidence obtained from an unreliable person, the evidence should have been suppressed.

The arrest warrant, in this case, was not supported by testimony of a reliable person, nor was the warrant supported by independent corroboration testimony. *State v. Woods*, 2001-KA-01585-SCI (Miss. 12-05-2002) and *U.S. v. Jackson* 818 F 2d 345 (5<sup>th</sup> Cir. 1987).

Amanda Rochelle Brown was arrested, held and questioned without probable cause. Probable cause under Mississippi State Law is determined by the totality of the circumstances test, see *Hickson v. State*, 512 so 2<sup>nd</sup> 1 (Miss. 1987).

The totality of the circumstances in Amanda Rochelle Brown's case clearly provides that the uncorroborated testimony of Latonya McKnight was not sufficient to justify Amanda Rochelle Brown's arrest.

### **ISSUE IV**

#### **THE COURT ERRED IN ITS DENIAL OF CERTAIN JURY INSTRUCTIONS**

The court wrongly denied defense jury instructions which were tantamount to a violation of Amanda Rochelle Brown's constitutional rights.

The court denied the following instructions

#### **INSTRUCTION NO. \_\_\_\_**

A person criminally involved with others in a crime is an accomplice. The testimony of an

accomplice is to be considered and weighed with great care and caution [and suspicion].

**INSTRUCTION NO. \_\_\_\_\_**

The Court instructs the jury that in a circumstantial evidence case that the State is required to prove the accused's guilt not only beyond a reasonable doubt, but to the exclusion of every other hypothesis consistent with innocence.

**INSTRUCTION NO. \_\_\_\_\_**

The Court instructs the Jury that where the defendant, Amanda Rochelle Brown or the defendant's witnesses are the only eyewitnesses to the homicide, their version, if reasonable, must be accepted as true, unless substantially contradicted in material particulars by a credible witness or witnesses for the state, or by the physical facts or by the facts of common knowledge.

**INSTRUCTION NO. \_\_\_\_\_**

The testimony of an alleged accomplice, and the testimony of one who provides evidence against a defendant as an informer for pay or for immunity from punishment or for personal advantage or vindication, must always be examined and weighed by the Jury with greater care and caution than the testimony of ordinary witnesses. You, the Jury, must decide whether the witness's testimony has been affected by any of those circumstances, or by the witness's interest in the outcome of the case, or by prejudice against the defendant, or by the benefits that the witness has received either financially nor as a result of being immunized from prosecution. You should keep in mind that such testimony is always to be received with caution and weighed with great care.

You should never convict any defendant upon the unsupported testimony of such a witness unless you believe that testimony beyond a reasonable doubt.

## **ISSUE V**

### **THE LOWER COURT ERRED ON ITS FAILURE TO DISMISS THE CASE BASED ON TORTURE**

Prior to the date of testimony of Amanda Rochelle Brown, the Pike County Sheriff Department conducted an attack on Amanda Rochelle Brown and the other persons in the jail cell. Amanda Rochelle Brown was pregnant at the time of the incident. She was pregnant and attacked by officers and mace was sprayed in the jail cell. That the action of the local sheriff department violated Amanda Brown's due process rights, see **City of Revere v. Massachusetts General Hospital**, 463 U.S. 239, 103 S. Ct. 2979, 77 L. Ed. 2d 605 (1983), before finding of guilt duty owed a defendant to provide medical care arises out of the Due Process Clause and not the Eighth Amendment as is the case after guilt has been established. Due process requires the responsible government entity to provide medical care to persons injured while being apprehended by the police. How cost of the care is paid is not a federal question.

## **ISSUE VI**

### **THE LOWER COURT ERRED ON ITS FAILURE TO DISMISS THE CASE BASED ON MENTAL COMPETENCY**

Amanda Rochelle Brown is a 20-year-old minor was 6 months pregnant at the time. Defense counsel announced to the court that she was unable to stand trial based on her mental state. Said defense counsel asked for a dismissal or mistrial. Said Court denied request. Thereafter, an examination was completed suggesting lack of competency.

It was error to deny defendant's motion for his commitment and determination of his sanity where three witnesses had testified as to his unusual behavior and had given their opinions that he was

not sane, and a fourth witness, a psychiatrist, had testified, based on a limited examination, that defendant was incapable of making a rational defense and that he needed further examinations. **Stevenson v. State** (1975, Miss) 325 So 2d 113 ( **Jackson v. State** (1976, Miss) 337 So. 2d 1242).

Competency to stand trial in Mississippi is govern by Mississippi Code Annotated Section 99-13-11(1972), which requires a defendant be found capable of making a rational defense.

## **ISSUE VII**

### **THE COURT ERRED BY NOT SUPPRESSING THE EVIDENCE OF LATONYA**

#### **McKNIGHT**

The Court failed to suppress the physical evidence in this case including but not limited to the audiotape, knife, photographs, etc.

Detective LeeAnn Slipher testified that Latonya McKnight lied several times. Detective Slipher testified that she and Detective Cowart threatened Latonya McKnight to get the statement against Amanda Rochelle Brown. Therefore, the investigation leading to the arrest was illegal. Thus, the arrest was illegal. All such evidence illegally obtained should be suppressed as fruit of the poisonous tree.

Evidence should be suppressed based on the lack of reliability of Latonya McKnight. No evidence has been offered indicating that this particular witness had ever provided information to the officers in the past. Nor was the evidence offered showing that the witness was truthful or reliable.

There was no independent corroboration of the evidence given by Latonya McKnight.

The arrest was illegal because of the lack of corroborative evidence and the unreliability of Latonya McKnight. Based on the prevailing law the evidence obtained from an unreliable person, the evidence should have been suppressed.



The arrest warrant, in this case, was not supported by testimony of a reliable person, nor was the warrant supported by independent corroboration testimony. *State v. Woods*, 2001-KA-01585-SCI (Miss. 12-05-2002) and *U.S. v. Jackson* 818 F 2d 345 (5<sup>th</sup> Cir. 1987).

Further, courts have held that search warrant law is applicable to arrest warrants. See *Hale v. Fish*, 899 F 2d 390 (5<sup>th</sup> Cir. 1990).

The Court admitted testimonies of Latonya McKnight concerning this matter over the objection of the defense. In *Offor v. Scott*, 72 S. 3<sup>rd</sup> 30 (5<sup>TH</sup> Cir. 1995), the admission of the video tape violated the confrontation clause. The court erred in admitting said statements.

#### **ISSUE VIII**

#### **THE LOWER COURT ERRED BY NOT DISMISSING THE INDICTMENT WHEN IT ALLOWED THE MEMBERS OF THE VENIRE TO VIEW AMANDA BROWN IN SHACKLES**

The Court should have dismissed said case based on the shackling of defendant in presence of members of the venire. The uniformed officers escorted Amanda Brown into the courtroom in the presence of a number of jurors. Amanda Brown was shackled at the time while jurors were present until the officers removed the shackles.

Under Mississippi law the accused is protected from appearance before the jury in shackles or cuffs unless special security considerations dictate such restraint is necessary, see *Hickson v. State*, 472 So. 2<sup>nd</sup> 379 (Miss. 1985).

#### **ISSUE IX**

#### **WHETHER THE SENTENCING CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT AND IS DISPROPORTIONATE UNDER THE EIGHTH AMENDMENT**

The jury deliberated and returned a verdict of guilty of manslaughter. The judge sentenced Amanda Rochelle Brown to serve 20 years with 5 suspended in the Mississippi Department of Corrections.

### CONCLUSION

The jury deliberated and returned a verdict of guilty of manslaughter. The judge sentenced Amanda Brown to serve 20 years with 5 suspended in the Mississippi Department of Corrections.

The sentence of Amanda Brown constitutes cruel and unusual punishment and is disproportionate under the Eighth Amendment to the United States Constitution.

In *William v. State* 784 So. 2<sup>nd</sup> 230 (Miss. App. 2000), the court held that a sentence is subject to review, however, when it is alleged that the penalty imposed is disproportionate to the crime charged. *Fleming v. State*, 604 So.2<sup>nd</sup> 280 (Miss. 1992); *Davis v. State* 510 So. 2<sup>nd</sup> 794, 797 (Miss. 1987); *Preseley v. State*, 474 So. 2<sup>nd</sup> 612, 618 (Miss. 1985).

The lower court judged ignored available options and sentenced Amanda Brown to what amounts to an excessive sentence.

RESPECTFULLY SUBMITTED, this the 18<sup>th</sup> day of December, 2006.

Amanda Rochelle Brown

BY:

CHARLES E. MILLER  
Attorney for Appellant  
Miller & Miller  
Post Office Box 1303  
McComb, MS 39649

**CERTIFICATE OF SERVICE**

I, Charles E. Miller, counsel for appellant, do hereby certify that I have this day hand delivered to the Clerk's office and mailed by United States mail, postage prepaid, a true and correct copy of the above and foregoing Brief for Appellant to:

**Honorable Michael Taylor  
14<sup>th</sup> Judicial Circuit Court Judge  
Post Office Drawer 1350  
Brookhaven, MS 39602**

**Dewitt Bates, Esquire  
District Attorney  
284 E. Bay Street  
Magnolia, Mississippi 39652**

**Jim Hood, Esquire  
Attorney General  
Post Office Box 220  
Jackson, Mississippi 39205-0220**

**DATED this the 18<sup>th</sup> day of December, 2006.**

  
**CHARLES E. MILLER**