

COPY

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

---

DERRICK PAIGE

**FILED**

APPELLANT

VS.

**JAN 23 2007**

DOCKET NO. 2006-KA-01710-COA

STATE OF MISSISSIPPI

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

APPELLEE

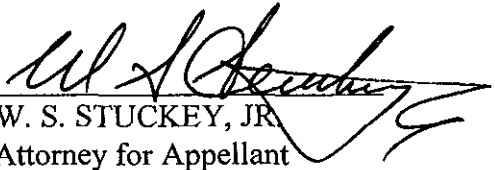
---

BRIEF OF APPELLANT

ORAL ARGUMENT NOT REQUESTED

---

Prepared by,

  
W. S. STUCKEY, JR.  
Attorney for Appellant

P. O. Box 1439

Greenwood, MS 38935- 1439

(662) 455- 4577

Ms Bar No. : 

## **TABLE OF CONTENTS**

Table of Authorities .....	i
Certificate of Interested Persons .....	ii
Statement of the Case .....	p. 1
Statement of the Facts .....	p. 2, 3
Statement of Appellant's Counsel .....	p. 4
Conclusion .....	p. 5
Certificate of Service. ....	p. 6

## **TABLE OF AUTHORITIES**

### **CASES**

### **PAGE**

Lindsey v. State, 2003-KA-0331-SCT, Mississippi Supreme Court,  
March 7, 2005, Slip Opinion, 2005-WL 613396

4

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

DERRICK PAIGE

APPELLANT

VS

DOCKET NO. 2006-KA-01710-COA

STATE OF MISSISSIPPI

APPELLEE

**CERTIFICATE OF INTERESTED PERSONS**

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

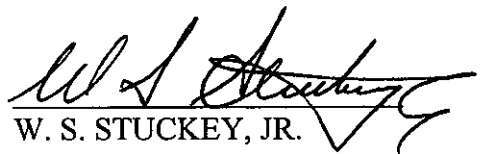
Derrick Paige, Appellant, MDOC# 122254,  
Marshall Correctional Facility,  
833 West Street, Holly Springs, MS 38635

W. S. Stuckey, Jr., Attorney for Appellant,  
P. O. Box 1439, Greenwood, MS 38935-1439

Honorable Jim Hood, Attorney General for the  
State of Mississippi, P. O. Box 220, Jackson, MS 39205-0220

Honorable Betty W. Sanders, Circuit Court Judge  
for the Fourth Judicial District of the State of  
Mississippi, P. O. Box 244, Greenwood, MS 38935-0244

Honorable Brad McCullouch, Assistant District Attorney  
for the Fourth Judicial District of the State  
of Mississippi, P. O. Box 463, Greenwood, MS 38935-0463



W. S. STUCKEY, JR.  
Attorney for Appellant  
P. O. Box 1439  
Greenwood, MS 38935- 1439  
(662) 455- 4577  
MSB# 8019

## **STATEMENT OF THE CASE**

### **A. NATURE OF CASE.**

This Appeal arises from a conviction of Robbery. Appellant, Derrick Paige, was sentenced to 7 years with 2 years suspended with said sentence running concurrent to the sentence in Leflore County Cause No. 2006-0039.(CP-94).

### **B. COURSE OF PROCEEDINGS AND DISPOSITION IN THE LOWER COURT**

On April 18, 2006, the Grand Jury of Leflore County, Mississippi, in cause numbered 2006-0038 returned an indictment charging Appellant, Derrick Paige, with Robbery.(CP-001). Derrick Paige was tried before a jury on July 20, 2006, in Leflore County, Mississippi, with the Honorable Betty W. Sanders, Circuit Judge, presiding. At the conclusion of the State's evidence, Derrick Paige moved for a directed verdict, which the Court denied.(R-160-164). The jury returned a verdict of guilty to Robbery.(CP-85). A Motion for a New Trial or Judgment Notwithstanding the Verdict was filed on behalf of Derrick Paige on July 24, 2006.(CP-92)., and was denied by Order dated August 15, 2006.(CP-96). On August 28, 2006, Derrick Paige filed his Notice of Appeal to this Court.(CP-100).

## **STATEMENT OF THE FACTS**

On April 4, 2005, Rob Walters, the manager of the Big Star grocery in Itta Bena, Mississippi, drove from the grocery store to the local bank to make a deposit.(R-81). The deposit consisted of money and checks from the weekends' business of the store. The deposit was in three blue bags inside of a brown paper bag and totaled over \$80,000.00 (R-83-86). When Walters approached the door to the bank, he spotted a man running toward him (R-87). The man forced the brown paper bag from him and during the struggle Walters was pushed through the glass door of the bank.(R-84). Walters testified that the person who took the money bags from him was not the Appellant, Paige.(R-87). Walters later identified checks that were found in a lake near Mississippi Valley State University in Itta Bena, Mississippi, as part of the deposit.(R-88-89).

Ricardo Gonzales, the co-defendant, testified that he had already entered his guilty plea to the robbery charge.(R-92-93). Gonzales stated that Appellant and he drove to the bank in Itta Bena where Gonzales was dropped off.(R-95). The plan, according to Gonzales, was for him to snatch the money from the Big Star manager and to meet Appellant down the block.(R-95). Gonzales after grabbing the money bag from Walters, ran to the car where Appellant was waiting and they both drove off.(R-96). During the get away, Gonzales dropped the brown bag containing the three other money bags out of the car near a stop sign.(R-98). Gonzales stated that a short time later, they were stopped and arrested.(R-99). Deputy Ken Spencer of the Leflore County Sheriff's Department testified about how he assisted in the stop of the vehicle and the arrest of Gonzales and Appellant.(R-134-139).

Officer Stonewall with the Itta Bena Police Department read to the jury the statement of

Appellant that was introduced into evidence.(R-145-147). Appellant in his statement admits driving to a certain spot to pick up Gonzales. Gonzales got into the car with him and his hand was cut.(R-146-147). The statement indicates that the police stopped them.(R-147).

Appellant did not testify.(R-167).

## **STATEMENT OF APPELLANT'S COUNSEL**

Counsel for Appellant hereby states as follows in accordance with Lindsey v. State, 2003-KA-0331-SCT, Mississippi Supreme Court, March 7, 2005, Slip Opinion, 2005-WL 613396:

1. It is the opinion of counsel for Appellant that there are no arguable issues supporting Appellant's appeal, and that he has reached this conclusion after scouring the record thoroughly, specifically examining:

- (a) the reason for the arrest and the circumstances surrounding the arrest;
- (b) any possible violations of Appellant's right to counsel;
- (c) the entire trial transcript;
- (d) all rulings of the trial court;
- (e) possible prosecutorial misconduct;
- (f) all jury instructions;
- (g) all exhibits, whether admitted into evidence or not; and
- (h) possible misapplication of the law in sentencing.

2. Counsel for Appellant shall forward a copy of this Brief with advice to Appellant that counsel could find no arguable issues in the record, but that he has the right to file a pro se supplemental brief, if he desires.

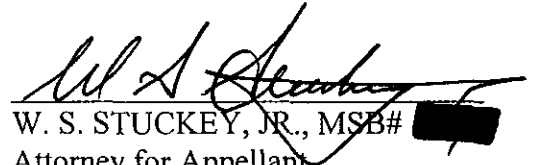
3. Counsel for Appellant requests this Court allow 30 days additional time for the Appellant to file said supplemental brief, should he so desire.



## CONCLUSION

Counsel for Appellant respectfully requests that this Court allow the Appellant 30 days in which to file a pro se supplemental brief, should he so desire. It is further requested that this Court review the appeal of the Appellant in accordance with Lindsey v. State, 2003-KA-0331-SCT, Mississippi Supreme Court, March 7, 2005, Slip Opinion, 2005-WL 613396.

Respectfully submitted,

  
W. S. STUCKEY, JR., MSB# [REDACTED]  
Attorney for Appellant  
P. O. Box 1439  
Greenwood, MS 38935-1439  
(662) 455-4577

**CERTIFICATE OF SERVICE**

I, W. S. Stuckey, Jr., counsel for Appellant, do hereby certify that I have this day mailed by United States Mail, postage pre-paid, true and correct copies of the above and foregoing Appellant's Brief to the following:

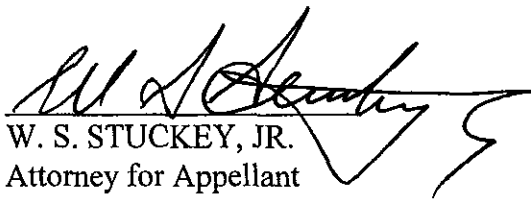
Honorable Betty M. Sanders  
Circuit Court Judge  
P. O. Box 244  
Greenwood, MS 38935-0244

Honorable Jim Hood  
Attorney General's Office  
P. O. Box 220  
Jackson, MS 39205

Honorable Brad McCullouch  
Assistant District Attorney  
P. O. Box 463  
Greenwood, MS 38935-0463

Derrick Paige, MDOC# 122254  
Marshall Correctional Facility  
833 West Street  
Holly Spring, MS 38635

This the 23<sup>rd</sup> day of January, 2007.

  
W. S. STUCKEY, JR.  
Attorney for Appellant  
P. O. Box 1439  
Greenwood, MS 38935-1439  
(662) 455-4577  
MSB# [REDACTED]