

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2006-CA-01882-COA

**COPY**

RAYMOND L. PANNELL

**FILED**

APPELLANT

vs.

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SUPREME COURT  
COURT OF APPEALS

STATE OF MISSISSIPPI

APPELLEE

**SUPPLEMENTAL BRIEF OF THE APPELLANT**

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**NO. 2006-CA-01882-COA**

**RAYMOND L. PANNELL**

**APPELLANT**

**vs.**

**STATE OF MISSISSIPPI**

**APPELLEE**

COMES NOW, the Appellant herein, Raymond L. Pannell, by and through counsel of record and files this Supplemental Brief as previously directed by this honorable Court by Order entered in this matter on November 26, 2007, in which the parties herein are “to file with the Court a brief addressing the time line of: 1) Pannell’s arrest on the charges in the indictment, 2) the Grand Jury proceedings and the No Bill/True Bill Results, and 3) his representation by the attorneys addressed within the briefs.” In response thereto, the Appellant would respectfully show unto this honorable Court the following facts, to-wit:

**Time line of events submitted by the Appellant**

**December 4, 2004:** Fire destroys home. Appellant arrested. (T. I. 25; II. 251, 276)

**December 6, 2004:** Initial appearance in Prentiss County Justice Court. Kevin Cavendar appears as attorney of record for the Appellant. (T. I. 22, 25, 142, 145, 251, 255, 276; CP. 21; Defense Exhibit 12 (for I.D.))

**January 4, 2005:** Appellant bound over to the Prentiss County Grand Jury after preliminary hearing in Prentiss County Justice Court. Bond reflects set at \$50,000.00 (over a “white-out”

mark) for the arson charge and \$500.00 on the trespass charge. (Def. Exh. 12)

February 28, 2005: February Term of the Prentiss County Circuit Court. (State of Mississippi Judicial Directory & Court Calendar)

(Date uncertain): “No True Bill” issued by Prentiss County Grand Jury. (T. I. 16-18) (*See also*, CP. 85-87, “Motion in Limine as to Actions By the Grand Jury” filed by the prosecution on October 2, 2006 [*ante*], alleging the date of the “No Bill” in the period of time between “March 28<sup>th</sup> and April 1, 2005.”) After scouring the trial transcript, Clerk’s Papers, and other documents in this cause, the Appellant can find no record confirmation of the range of dates alleged by the prosecution in the said Motion in Limine. Also, the basis for the *in limine* request by the State is noted in numbered paragraph “3)” of the said motion where it was alleged that at the suppression hearing held on March 12, 2005 [*ante*], the Appellant’s “attorney asked several questions of Officer Brian Taylor about the time of the confession in relationship to the meeting of the Prentiss Grand Jury and the number of times the case was reviewed by a grand jury.” (CP. 85) The State then moved the trial court to exclude such evidence of the first “no bill” at trial as “misleading and highly prejudicial. Its timing in regards [*sic*] to the confession given by the Defendant is not pertinent to the circumstances surrounding the voluntary nature of his statement.” (CP. 85-87) The trial court sustained the State’s motion the day of trial after the jury was empaneled to hear this case. (T. I. 108)

March 12, 2005: Statement to police at issue- Miranda form signed by the Appellant, “w/out attorney present March [illegible] 2005”. (State’s Exh. S-18 (in evidence), (T. I. 39-40))

May 1, 2005: Appellant released from the Prentiss County Jail on \$500.00 bond. (T. II. 279)

June 7, 2005: Appellant pleads "not guilty to trespass" in Prentiss County Justice Court. (Def. Exh. 12)

June 20, 2005: June 2005 Term of the Prentiss County Circuit Court. (State of Mississippi Judicial Directory & Court Calendar)

July 19, 2005: Trespass charge continued by the Prentiss County Justice Court "until the grand jury meets in Aug. [sic] 2005". (Def. Exh. 12, p. 2)

August 22, 2005: Arson case presented a second time to the Prentiss County Grand Jury by the prosecution. A "true bill" indictment filed with Prentiss County Circuit Clerk from a special "Vacation term, 2005" grand jury, charging the Appellant with arson. (CP. 3)

August 22, 2005: Capias issued to Prentiss County Sheriff for the arrest of the Appellant on the indictment, as aforesaid. (CP. 4)

September 26, 2005: Appellant re-arrested by the Prentiss County Sheriff for arson. (CP. 5; T. II. 279)

September 28, 2005: Entry of Appearance filed with Prentiss County Circuit Clerk by attorney Kevin Cavendar. (CP. 6-7)

December 8, 2005: Arraignment of Appellant by the Prentiss County Circuit Court, with attorney Kevin Cavendar present. (CP. 17)

February 10, 2006: Kevin Cavendar allowed to withdraw by the Prentiss County Circuit Court. (CP. 25)

February 10, 2006: Tommy Comer appointed by the Prentiss County Circuit Court as a public defender for the Appellant. (CP. 26)

March 9, 2006: Tommy Comer allowed to withdraw as attorney of record and John Helmert substituted as a public defender by the Prentiss County Circuit Court. (CP. 29)

September 26, 2006: “Motion to Suppress Statement” filed by the Appellant’s counsel, John Helmert. (CP. 49-54; T. I. 2-55)

October 2, 2006: October 2006 Term of the Prentiss County Circuit Court. (State of Mississippi Judicial Directory & Court Calendar)

October 2, 2006: “Motion in Limine as to Actions By the Grand Jury” filed by the prosecution. (CP. 85-87)

October 10, 2006: The trial in this matter. (*See* Issue Docket, p. 3, Clerk’s Papers)

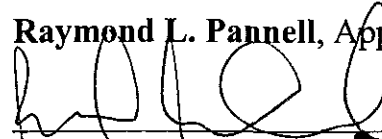
### **CONCLUSION**

The Appellant herein submits that based on the timeline cited and briefed hereinabove, the judgment of the trial court and the Appellant’s conviction and sentence should be reversed and vacated, respectively, for the reasons set forth in the Brief of the Appellant and the matter remanded with proper instructions to the lower court for a new trial on the merits of the indictment on the indicted charge of arson. In the alternative, the Appellant submits that the statement given by the Appellant to law enforcement be excluded, the indictment issued by the second grand jury, as aforesaid be quashed, and the judgment of the trial court and the conviction and sentence be vacated, this matter rendered, and the Appellant

discharged from the custody of the Mississippi Department of Corrections, as aforesaid.

Respectfully submitted,

**Raymond L. Pannell**, Appellant



**Phillip W. Broadhead**, [REDACTED]

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**CERTIFICATE OF SERVICE**

I, Phillip W. Broadhead, Criminal Appeals Clinic Professor and attorney for the Appellant herein, do hereby certify that I have this day mailed postage fully pre-paid/hand delivered/faxed, a true and correct copy of the foregoing Brief of Appellant to the following interested persons:

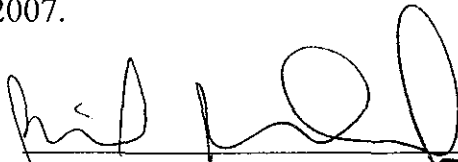

**Honorable Thomas J. Gardner III**, Circuit Court Judge  
FIRST JUDICIAL DISTRICT  
Post Office Drawer 1100  
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**John R. Young, Esq.**, District Attorney  
**Archibald W. Bullard, Esq.**, Assistant District Attorney  
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Jackson, Mississippi 39205; and,

**Mr. Raymond Pannell**, Appellant  
MDOC #124264  
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P.O. Box 1419  
Leakesville, MS 39451

This the 13th day of December, 2007.

  
PHILLIP W. BROADHEAD,   
Certifying Attorney