IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

RODERICK REED — APPELLANT

VS. — NO. 2006-KA-01935-COA

STATE OF MISSISSIPPI — APPELLEE

REPLY BRIEF OF APPELLANT

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The Appellee, in his argument, asserts that the verdict is supported by the weight of the evidence, and that it is not opposed by the great weight of the evidence. To say this shows a total disregard for the cumulative affect, which the rulings of the Court below had upon this case. In this case it was shown, and was never shown to the contrary, that the Appellant did not have gonorrhea, as did this child, the victim; whereas, her Uncle Peewee was known to have gonorrhea. It seems very likely that he would have been the one to have infected the child with the venereal disease.

This is not a clear case of what went on, but here we have a case where a man was arrested solely on the word of a young child, and even though the detective in this case had knowledge, although secondhand, that persons other than the Appellant had molested this young child, he did not, under the guise of his business schedule and the assertion that she never told him of the attacks of the other persons, he put this Appellant through the ordeal of defending himself for a sex crime, thereby showing himself neglectful in carrying out his duties. The Court, in not allowing a probe into this, very effectively throttled a large portion of the defenses of the Appellant. No one particular error probably would be enough to reverse this decision, however when you have a case where the police did not properly investigate, refusing to for very shallow reasons, where there is contradiction by the complaining witnesses as to who had actually molested her, and the disallowance of certain testimony, then this could certainly put this in the position of being against the great weight of evidence, and further, puts the Appellant in the position of not being able to use certain defenses. The Court overruled the Motion For Directed Verdict and the Motion For J.N.O.V., Or In The Alternative, Motion For New Trial. The only thing proven in this case was that this child had been molested by someone, at some time, who had gonorrhea. There is nothing to show that the Appellant ever had a venereal disease, other than chlamydia, but certainly not

gonorrhea. That a firm assertion on his part, that he had never touched his niece, and that he didn't know where she had gotten the idea was obviously ignored.

The Appellee cites four cases in the Brief For The Appellee. In May v. State, 460 So.2d 778 (Miss.1984) in which a woman show her husband and then later stated that she did it in self-defense. This case has no bearing whatsoever in the case at bar. In the May case, the Defendant's testimony was contradictory and certainly not apropos for a rape case. The Parker v. State, 825 So.2d 59 (Miss.Ct.App. 2002) case dealt with two unrelated cases of abuse, but was not like the case at bar, in that one prime factor in the case at bar was that the person afflicting the abuse had gonorrhea, inasmuch as it was transmitted to the child. The Appellant was never shown to have suffered from gonorrhea, and in view of the fact that the child named four or five different people as her abusers, this became germane to a defense that certainly should have been of interest to the prosecution. The Appellee cites Brown v. State, 868 So.2d 1027 (Miss.Ct.App.2004), which is a robbery case arising out of Rankin County. In this case, the hearsay issues were simply on testimony furnished at trial by a Detective Hirschfield, when there is nothing to show in said case that the people actually knowing about it could not testify. In the case at bar, what was ruled as hearsay, had direct bearing on who had actually molested this child. Mingo v. State, 944 So.2d 18 (Miss.2006) sustains the idea that an uncorroborated statement of a child victim may be used as probable cause. This would be true where there is only one person mentioned, but where several persons are mentioned, the writer submits that this is done in the case at bar, in an attempt to circumvent conflicting evidence given by the child.

CONCLUSION

In the interest of justice, this case should be reversed, and if not rendered, the Appellant should be granted a new trial.

RESPECTFULLY SUBMITTED, this the 9th day of January, 2008.

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CERTIFICATE OF SERVICE

I, Sidney F. Beck, Jr., Attorney at Law, certify that I have this date mailed, postage prepaid, a true and correct copy of the foregoing Reply Brief Of Appellant to the following:

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