

COPY

IN THE
SUPREME COURT OF MISSISSIPPI

JULIUS HOLMES JR.
Petitioner, pro se

vs.

CP
NO. 2007-~~TS~~-00385

STATE OF MISSISSIPPI
Respondent

FILED

MAY 29 2007

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

BRIEF
ON APPEAL FROM THE WARREN COUNTY CIRCUIT
COURT

FOR PETITIONER

Julius Holmes Jr.
#115011
SMC
P.O. Box 1419
Leaksville, MS 39451

ISSUE ONE

WHETHER THE TRIAL COURT ERRED IN FAILING TO RECONSIDER THE REDUCTION OF PETITIONER'S SENTENCE TO A LEVEL WHICH IS MORE REPRESENTATIVE OF REHABILITATIVE GOALS OF THE CRIMINAL JUSTICE SYSTEM

The Petitioner submits that the facts of the present case were never established correctly, either as to the age or as to the criminal agency of the alleged intercourse with a minor.

The Petitioner stands convicted of statutory rape. In the case of *Lewis vs. State*, 724 So. 2d. 342 (Miss. 1998)

where a twenty-five-year old mother was sentenced to sixty years in prison. The Court remanded for resentencing, finding there was insufficient evidence in the record to support the maximum sentence allowable under the statute Id at 345.

"Incarceration in a State Corr. Facility is the penalty that society demands." However, the period of incarceration should be consistent with the gravity of the crime and should reflect the degree of criminal intent of the respective petitioner, while deterrence and community sentiment are

factors to be carefully consider, the sentencing equation should be dominated by consideration of fairness and justice.

"Judicial discretion is defined as a 'sound judgment which is not exercised arbitrarily, but with regards to what is right and equitable in circumstances and law, and which is directed by the reasoning conscience of the trial judge to just result'" **Black's Law Dictionary** §48 (6th ed 1990) (citing **Spa v. Craft**, 819 P. 2d 161 (Wash 1994), under the laws of this State **Osborn v. Bank of United States**,

The Petitioner asserts the Twenty-year sentence, in effect, amounts to a life sentence because he was fifty six at the time of sentencing, that a child was born, that prior to his incarceration he had no criminal history and was fulltime employed.

This apparent contradiction in behavior is unusual. The proper focus should not be upon such radical differences in his behavior, but rather upon which aspect of the Petitioner's personality will prevail, both society's and the Petitioner's best interest(s) will be served by a reduction of sentence.

In both of these matters, it becomes essential for the Petitioner to reconstruct his financial obligations to his child.

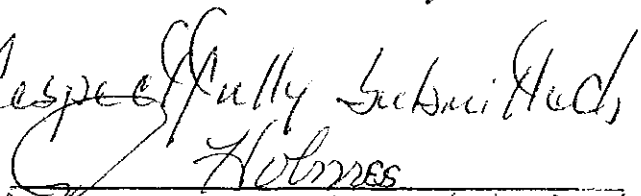
The Petitioner ask this Court to take into consideration the above factors, and respectfully urge this Court to re-examine the terms of imprisonment imposed with a conscious regard for his demonstrated ability for remorse, and with an awareness of the disparity problem, the Petitioner believes that such reduction of sentence will serve the best interest of justice and of society, while permitting time for meaningful

re-entry into his community following satisfaction of his obligation.

CONCLUSION

For the above reasons, the Petitioner faithfully to request this Honorable Court to grant the herein above relief sought in this appeal, or such other relief deemed proper and fit.

THIS, the 29th day of May, 2007.

Respectfully Submitted,

JULIUS HOLMES JR.
Petitioner, pro se.

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL DISTRICT
OF WARREN COUNTY, MISSISSIPPI

JULIUS HOLMES, JR.

v.

NO. 07,0054CI

STATE OF MISSISSIPPI

ORDER

CAME ON the Motion for Post-Conviction Collateral Relief of Julius Holmes, Jr. and the Court pursuant to Section 99-39-11 MCA has reviewed the motion and the Court finds that it plainly appears from the face of the motion and the prior proceedings that movant is not entitled to any relief.

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion for Post-Conviction Collateral Relief be dismissed.

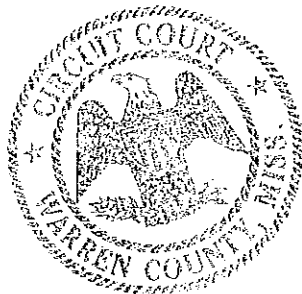
ORDERED AND ADJUDGED this the 13th day of February, 2007.


CIRCUIT JUDGE

FILED

2007 FEB 14 AM 10:32

SHELLY ASHLEY-PALMERTREE
CIRCUIT CLERK



CERTIFIED AND ATTESTED A TRUE COPY
This 14th DAY OF February 2007
SHELLY ASHLEY-PALMERTREE, CIRCUIT CLERK
BY  D.C.

CERTIFICATE OF SERVICE

This is to certify that I, Julius Holmes Jr., the Petitioner, pro se, have caused to be mailed via U.S. Mail, postage prepaid, the original and three (3) copies of this his BRIEF on appeal, to:

Betty W. Saphron, Clerk
MS-Supreme Court
P.O. Box
Jackson, MS

Hon. Tim Hood
Atty. General-MS
P.O. Box 110
Jackson, MS

AMS, the 19th day of May, 2007.


JULIUS HOLMES JR
#115011
SMCI-II, C-1
P.O. Box 1419
Leakesville, MS 39451