

IN THE COURT OF APPEALS OF MISSISSIPPI

COPY

No. 2007-CP-00518-COA

TERRANCE GUINN

Appellant

vs.

STATE OF MISSISSIPPI

Appellee

BRIEF OF APPELLEE

ORAL ARGUMENT IS NOT REQUESTED

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FILED

AUG 14 2007

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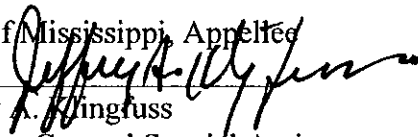
Certificate of Interested Parties

**Terrance Guinn, Appellant v. State of Mississippi, Appellee
No. 2007-CP-00518-COA**

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 the judges of the Court of Appeals may evaluate possible disqualification or recusal.

1. Appellant Terrance Guinn;
2. Appellee State of Mississippi, Mississippi Attorney General;
3. Honorable Judge Lamar Pickard;
4. Alexander Martin, District Attorney.

This the 14th day of August, 2007.

State of Mississippi, Appellee
By: 
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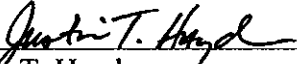
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IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

TERRANCE GUINN

APPELLANT

VS.

NO. 2007-CP-0518-COA

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

STATEMENT OF THE ISSUE

- I. WHETHER THE TRIAL COURT LACKED SUBJECT MATTER JURISDICTION TO HEAR THIS CASE.

STATEMENT OF THE CASE

Terrance Guinn appeals the denial of his motion for post conviction relief, alleging the trial court lacked the subject matter jurisdiction to hear this case. Guinn pled guilty to possession of cocaine, but claims that Title 41 was never lawfully enacted and is therefore invalid, hence no crime was committed, and if no crime was committed the court lacks subject matter jurisdiction.

STATEMENT OF FACTS

On January 12, 2007, Terrance Guinn (hereinafter “Guinn”) pled guilty to one count of possession of cocaine in the Clairborne County Circuit Court and was sentenced to served three years with the Mississippi Department of Corrections. (A.B. at 6.) On February 20, 2007, Guinn filed a motion for post-conviction relief, seeking to have his sentence vacated. That motion was denied in an order dated March 12, 2007. *Id.* Guinn filed this appeal on June 21, 2007, alleging the Circuit Court erred in denying his motion for post-conviction relief and averring that court did not have subject matter jurisdiction to hear the case.

SUMMARY OF THE ARGUMENT

The issues raised by the defendant in this appeal are without merit. Title 41 is a valid and constitutionally sound law. Guinn pled guilty to possession of cocaine in violation of that law. Thus, a crime was committed and the court below has sufficient subject matter jurisdiction.

STANDARD OF REVIEW

“This [C]ourt will not disturb the trial court’s decision to deny post-conviction relief, unless the trial court’s decision proves to be clearly erroneous.” *Johnson v. State*, 2007 WL 2034716 (Miss.App. 2007) *citing Arnold v. State*, 912 So.2d 202, 203 (Miss.App. 2005). “The decision of whether a circuit court had proper jurisdiction to hear a particular matter is a question of law and is, therefore, reviewed de novo.” *Caston v. State*, 949 So.2d 852, 854 (Miss.App. 2007) *citing Jensen v. State*, 798 So.2d 383, 385 (Miss. 2001).

ARGUMENT

I. THE TRIAL COURT HAS SUBJECT MATTER JURISDICTION.

It is Guinn's argument that no crime has occurred because Title 41 was never lawfully enacted into law." (A.B. at 10.) He further postulates that since no crime was committed, the court below lacks subject matter jurisdiction over this case.

The Uniform Controlled Substances Act:

was drafted to maintain uniformity between the laws of the several states and those of the federal government. It was designed to complement the federal law and provide an interlocking trellis of federal and state law to enable government at all levels to control more effectively the drug abuse problem. Furthermore, the purpose of the Uniform Controlled Substances Act has been said to prevent or reduce the risk to the public health and the potential abuse of addictive substances. By its own terms, the Uniform Act must be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the Act among states enacting it. Thus, state courts should construe the Uniform Controlled Substances Act in conjunction with decisions from other states that have enacted it. Furthermore, the provisions of the Uniform Act must be construed together.

25 Am. Jur 2d Drugs and Controlled Substances § 26. On April 16, 1971, the Uniform Controlled Substances Law was passed by the Mississippi Legislature and became effective ("lawfully enacted law") on the same date.

Pursuant to the Uniform Controlled Substances Law, "it is unlawful for any person knowingly or intentionally. . .to sell, barter, transfer, manufacture, distribute, dispense or possess with intent to create sell, barter, transfer, distribute or dispense a controlled substance. . ." Miss. Code Ann. § 41-29-139(a)(1). Under the same title and chapter, cocaine is defined as a controlled substance. Miss. Code Ann. § 41-29-105.

A crime was committed; Guinn pled guilty to possession of cocaine, in violation to the aforementioned statutes, on January 12, 2007. In a previous case (also involving the

possession of cocaine) this Honorable Court held “the circuit courts of this state have subject matter jurisdiction of prosecutions of criminal offenses.” *Edwards v. State*, 749, SO.2d 291, 293 (Miss.App. 1999) *citing Jefferson v. State*, 556 So.2d 1016, 1020 (Miss. 1989). “The circuit court obtains subject matter jurisdiction over a criminal offense when the defendant is served with an indictment issued by the grand jury.” *Caston v. State*, 949 So.2d 852 (Miss.App. 2007) *citing* West’s A.M.C. Const. Art. 3, § 27; West’s A.M.C. § 99-7-81. Accordingly, the court below carried adequate subject matter jurisdiction to hear this case. Consequently, the trial court was correct in denying Guinn’s motion for post-conviction relief.

CONCLUSION

This Honorable Court should find Guinn's challenge to the subject matter jurisdiction of the court below due to the illegitimacy of Title 41 to be without merit and affirm the trial court's decision to deny his Motion for Post Conviction Relief.

Respectfully Submitted,
State of Mississippi, Appellee

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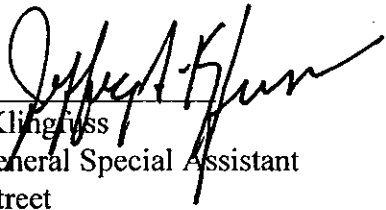
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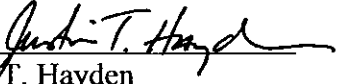
CERTIFICATE OF SERVICE

I, the undersigned counsel of record, do hereby certify that I have this day mailed, a true and correct copy of the attached and foregoing document, by U.S. Mail, first class postage prepaid, to the following persons:

1. Appellant Terrance Guinn, Unit 25, Zone C Bed #149, Parchman, MS 382;
2. Honorable Judge Lamar Pickard, P.O. Box 310, Hazelhurst, MS 39083;
3. Alexander Martin, District Attorney, P.O. Box 767, Hazelhurst, MS 39083.

This the 14th day of August, 2007.

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