

IN THE COURT OF APPEALS OF THE STATE
OF MISSISSIPPI

Anthony Swift

Appellant

v.

Cause no. 2007-CP-00790

COPY

State of Mississippi

Appellee

FILED

DEC 12 2007

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

Brief of Appellant

Statement of facts

Appellant Anthony Swift was arrested and charged by indictment with 3 counts sale of Cocaine. Count 1 and 2 alleged drug sales to Bobby Gaston and Count 3 of the indictment alleged a sale of drugs to Brenda Weaver. Appellant "Swift" was on probation during the time these charges were filed and a revocation hearing was held on November 22, 2005.

Appellants probation was revoked by the trial court at the conclusion of the hearing. No findings of fact were ever issued by the trial court and appellants 5 year probationary sentence was imposed. A January 19th 2006 trial date was set for the alleged sale of Cocaine that occurred on August 25, 2004 to Bobby Gaston.

The day of my scheduled trial after the district attorney found out that the Mississippi Bureau of Narcotics agents violated protocol by not searching his car after he left his home the state filed a motion to amend the indictment from sale of Cocaine to possession of Cocaine. Appellant "Swift" then entered a plea of Nolo Contendere which was not voluntary but induced by threats.

ON April 5, 2007 appellant "Swift" filed a motion to vacate conviction pursuant to the uniform Post-Conviction Collateral Relief Act. ON June 14, 2007 appellant also filed a motion for Summary Judgment to be amended with the Post-Conviction filed on April 5, 2007. The trial Court issued an order on July 20, 2007 denying appellants motions stating that appellants claims were without merit and dismissed Appellants motions. Appellant timely appealed and brings the following grounds to this Court for review.

Ground 1. The trial Court violated article 3 Section 27 of the Mississippi Constitution by allowing the state to amend the indictment from Sale of Cocaine to Possession of Cocaine thereby prejudicing appellants defense.

Ground 2. The trial Court and Prosecutor only reduced the charges in the context of getting a Plea. (Abuse of Authority)

Ground 3. The Plea was not voluntarily entered but induced by threats in violation of U.C.C.C. Rule 8.04(A)(3)

~~Ground~~ Ground 4. The trial Court actively participated in Plea discussions in violation of URCC P 8.04(B)(4)

Ground 5. That appellant never entered a guilty Plea and Mississippi does not accept Nolocontendere Pleas in Felonies.

Ground 6. Appellant was denied due-process of law in violation of the 5th and 14th amendment when the trial court revoked appellants probation without issuing findings of fact and conclusions as to evidence relied upon for revoking appellants probation.

Ground 7. Whether or not the State has violated appellants right to not be subjected to double jeopardy, in violation of the 5th amendment to the United States Constitution.

Ground 8. There are no facts to support a conviction due to the State Prosecutors Perjured testimony during the Plea hearing in violation of UCCCR. 8.04(A) (3)

Ground 9. The State Prosecutors and trial Court maliciously prosecuted appellant for a crime and sent appellant to prison on a made-up charge.

Ground 10. Whether or not the trial Court judge who issued an order allowing Breuck Weaver to work as an informant was an abuse of authority and in violation of the Anti-Peonage Act of 1864.

Ground 11. Whether or not the trial Court made improper comments during the Plea Qualification hearing.

ARGUMENT

GROUND I. Whether the trial Court erred in Granting the states Motion to Amend the indictment, in Violation of Article 3 Section 27 of the Mississippi Constitution.

The Legislature of the State of Mississippi has Mandated that an indictment May be Changed as to Form, but not as to the Substance of the offense charged.

Rhymes v. State, 638 So. 2d 1270, 1275 (Miss. 1994)

Chevalier v. State, 730 So. 2d 1111 (Miss. 1998)

Appellant "Swift" was indicted by the grand Jury for the Sale of Cocaine. See Volume ¹ of Supreme Court Record at Page 030 - 036. The trial Court dismissed appellants Motion for Post-Conviction Relief Petition by stating, "The Court Finds that the Petitioner was aware of this amendment to the lesser included offense at the time of the Plea hearing and had no objection to it." See Volume 2 of Clerk Papers at Page 067.

The trial Court erred in stating Possession of Cocaine is a lesser included offense of Sale of Cocaine.

The Mississippi Supreme Court held that Possession of Cocaine is not a lesser included offense of Sale of Cocaine in the absence of failure to prove a Sale. Reynolds v. State, 658 So. 2d 852, (Miss. 1995) Mississippi law declares Void and of no effect a Plea of Guilty to a Crime separate and distinct from the crime charged in the indictment and not a Constituent offense thereof. Article 3 Section 27 of the Mississippi Constitution requires an indictment by a grand Jury before a Prosecution may be had. Graver v. State, 519 So. 2d 438 (Miss. 1998)

Article 3 section 27 of the Mississippi Constitution Permits a defendant to Waive Grand-Jury indictment and allow him/her to Plead Guilty to a bill of information, Gaskin v. State, 618 So. 2d 103 (Miss. 1993) A waiver is only valid if Made in open Court after the defendant has been advised of the Charges. Battaya v. State, 861 So. 2d 364 (Ms. Ct. App. 2003). A waiver of Grand-Jury indictment must be in open Court the defendant must be informed of the nature and cause of accusation and, the Court must be satisfied that the defendant waived rights knowingly, intelligently and voluntarily. Article 3 section 27 also requires that a bill of information be Filed by the district attorney when a defendant wishes to Plead to a separate offense from that of indictment, Jefferson v. State, 556 So. 2d 1016 (Ms. Supreme Ct. 1989) "See Dissent of Hawkins, Presiding Justice"

At no time during the Plea hearing did the trial Court or the Prosecutor ever explain to me that I was Pleading to a Charge that No indictment had been Presented on. See Volume 1 of Clerks Papers at Pg. 35 to 56.

When the trial Court allowed the State to amend the indictment by striking the word "sell" and inserting Possess and by striking the words "to Bobby Gaston" and inserting "in the amount of" my defense to the Charges as it stood vanished and was Prejudicial to my Case. Gillespie v. State, 221 Miss. 1161 118, 72 So. 2d 245, 246 (1954)

Jones v. State, 279 So. 2d 650; Miss. 1973

See Volume 1 of Clerk Papers at Pg. 024 and 025.

My defense to the Sale of Cocaine indictment was that MBN Agents Violated Protocol by Not searching its informant and that Bobby Gaston Went Home and got whatever it was that

He gave the agents on the day of this alleged sale of drugs. The trial court was aware of what occurred and so was the prosecution. My attorney told the trial court in the presence of the state's attorney that he and MS. Davis and appellant had spent an extensive amount of time preparing the defense in my case. See Volume 1 of Clerk's Papers at pages 49 and 50.

My lawyer also told the court that there were "problems with the case" and we both knew of them as well as counsel for the state. See Volume 1 of Clerk's Papers at Pg. 050 Lines 12 and 13. The record of the revocation hearing held on November 22, 2005 clearly shows the testimony of Trevis Anderson as stating that Bobby Gaston was not searched after leaving his home on either August 11, 2004 or August 25, 2004. See Volume 2 of Clerk's Papers at Pg. 251 26, 27 and 28. In *Bullins v. State*, 868 So. 2d 1045 (Ms. Ct. App. 2004) the appellant argued that the confidential informant had not been properly searched prior to the day of the alleged sale of drugs. However the agent testified that he was with the informant on the day in question and the sale of cocaine Bullins was charged with was made between Bullins and the agent. At the time of trial the informant had died but because Bullins made the sale to the agent the CI's testimony was not needed. *Bullins*, 868 So. 2d 1045 (Ms. Ct. App. 2004) In the case subjudice no agent was with Gaston during this alleged sale of drugs between appellant Swift and the state's confidential informant. The record of the revocation hearing shows that Bobby Gaston had his wife with him not an agent of M.B.N. See Volume 2 of Clerk's Record at Pg. 28 Line 4, 5, 6 and 7.

The Mississippi Supreme Court has held that there is no merit to a claim that an amendment to an indictment has prejudiced the defendant if the defendant "Fails to offer evidence" that he could have produced a stronger defense had the amendment not been made. *Givens v. State*, 730 So. 2d 81, 87-88 (MS. Ct. App. 1998); *Hudson v. State*, 311 So. 2d 648, 649 (Miss. 1975)

Chandler v. State, 789 So. 2d 109 (MS. Ct. App. 2001)

Having presented sufficient evidence that I suffered actual prejudice due to the improper amendment of the indictment Appellant "Swift" ask this Court to reverse the conviction and order my immediate release from prison.

Griffin v. State, So. 2d 1274; (Miss. 1991)

The amendment of the indictment in this matter was substantive, prejudicial and NOT allowable under Mississippi Law.

Van Norman v. State, 365 So. 2d 644 (Miss. 1978)

After the amendment of the indictment was made from Sale of Cocaine to Possession of Cocaine the Circuit Court of Clay County lost Jurisdiction to proceed. *Ex Parte Baine*, 121 U.S. 1; 7 S. Ct. 781; 30 L. Ed. 849, 1889 (U.S. Supreme Ct.)

There was ample evidence before the trial court to indicate I had a valid defense to the charge I was indicted for and that once it was learned the State sought to reduce the charges to merit a conviction. *Lynch v. Overholser*, 369 U.S. 705 (1962). The Constitution would be of little avail if an indictment could be changed ~~to conform~~ by the prosecuting officer, with permission of the court to conform to their views of the necessity of the case. *Ex Parte Baine*, 121 U.S. 1; 7 S. Ct. 781; 1889 U.S. Supreme Ct.

A bill of information "Must be" filed by the district attorney if indictment is waived. *McCullen v. State*, 786 So. 2d 1069, 1073 (P.S.) MS. Ct. App. 2001
Foray v. Norris, 64 F. 3d 399 (8th Cir. 1995)
Miss. Const. Art. 3 Section 27; *Spearman v. State*, 840 So. 2d 823 (MS. Ct. App. 2003)

Ground 2.

Whether or not the trial Court and Prosecutors reduced the charges in the context of a Plea bargain agreement

Prior to appellants trial date of January 19, 2007, the State offered a Plea of 25 years for Sale of Cocaine. The day before appellants trial during a Preliminary defense hearing (January 18th, 2006) the Prosecutor who was to try my Case learned of my defense and immediately leaped from his seat and Shouted in a loud and boisterous Manner, I didn't know that! Had the State Bureau of Narcotics not violated Protocol by not Searching its Confidential informant the Prosecutors would not have reduced the charges. This was an abuse of authority. See, Young v. State, 797 So. 2d 239, (Ms. Ct. App. 2001)

In Young v. State, the appellant admitted that he was present at the Pawn Shop that was robbed and also that he carried a weapon. In the Case Sub-Judge at no time during the Plea hearing was I asked anything about the Charge I was indicted for which was Sale of Cocaine. After it was proven that Mississippi Bureau of Narcotics agents violated State Policy and Procedure by not Searching its Confidential informant all charges should have been dismissed. There must be a proper showing in the Chain of custody. White v. State, 722 So. 2d 1242, (Miss. 1998)
Insufficient evidence to show a sale of drugs results in discharge of a defendant. May v. State, 722 So. 2d 1242 (Miss. 1998)
Hemphill v. State, 506 So. 2d 207, 208 (Miss. 1990)
Doby v. State, 722 So. 2d 1242 (Miss. 1998)

Ground 3.

Whether or not the trial Court violated Uniform Circuit and County Court Rule 8.04(A)(3)

Rule 8.04 of the Uniform Rules of Circuit and County Court Practice States in Pertinent Part: Before the trial Court may accept a Plea of guilty, the Court must determine that the Plea is voluntarily and intelligently made and that there is a Factual basis for the Plea. A Plea of guilty is Not Voluntary if induced by Fear, violence, deception or improper inducements. *Austin v. State*, 734 So. 2d 234; (MS. Ct. App. 1999)

During the Plea hearing in the case Sub Judge Appellant "Swift" told the trial Court when asked if anybody had threatened me to Cause me to ~~enter~~^{plead guilty} that I had been told by my Probation Officer that if I didn't Plead guilty he would make sure I got life. See Volume 1 of Clerk Papers at Pg. 046. As soon as I made it known to the trial Court that I had been threatened the Plea hearing should have come to an end. *Grimes v. State*, 812 So. 2d 1094; MS. Ct. App. 2001.

In *Grimes v. State* the appellant was asked by the trial Court if he had committed the crime described in the indictment to which Grimes responded "NO Sir". The trial Court immediately halted the proceedings to allow Grimes' attorney to speak with him privately. Grimes was also asked if he had been pressured into Pleading guilty to which he replied "NO Sir". In appellant "Swifts" case even after it was made known to the trial Court that my Probation Officer had said he would "Make sure" I got life the Judge stated that appellant was facing

60 Years for 3 Counts Sale of Cocaine and asked How Old I was. See Volume 1 of Clerks Papers at Pg. 46, and 47. (transcripts of January 19th 2006 Plea Hearing)

Even when appellant "Swift" was asked if what the Probation Officer said had anything to do with me Pleading and I replied "It does have some bearing, but you know, you just asked me, and I just wanted to answer the question honestly, the trial Court simply said "Sure" and continued to ask me after I had acknowledged the reason for entering the Plea. After telling the trial Court this and seeing nothing was going to be done about it, fear of the possible consequences of not entering a Plea destroyed my ability to balance the risks and legal benefits of going to trial. *Fountain v. U.S.*, 411 U.S. 213 (1973) U.S. v. Card, 997 F.2d 657 (9th Cir. 1993)

When an appellant enters a Plea out of fear it cannot be said to be voluntarily made. *Hannah v. State*, 2004-CT-00725-SC. (decided July 20, 2006) MS. Supreme Court.

In order for a Plea/Confession to be admissible it must be intelligently, knowingly and voluntarily given and not a product of Police threats or improper inducements. *Manix v. State*, 895 So. 2d 167, 180 (Miss. 2005)

And where in the record can it be said that my Plea was voluntarily made. The record reflects that when appellant Swift was asked by the Prosecuting Attorney how did I wish to Plead to Possession of Cocaine, guilty or not guilty I simply answered "in my best interest". See Volume 1 of Clerks record at Page 040. The transcript of the Plea Hearing clearly shows that when appellant Swift was given an opportunity to speak up and bring to the trial Courts attention that I had been threatened I did so. See Volume 1 of Clerks Papers at Pg. 046-047.

There is a strong presumption of the validity of an individual's statement made under oath. *Mowdy v. State*, 638 So. 2d 738, 743 (Miss. 1994)

A trial judge can only disregard the assertions made by a post-conviction movant when they are substantially contradicted by the court record of proceedings that led up to the entry of a judgment of guilt. *Herbert v. State*, 864 So. 2d 1041, 1045 (P11) (Ms. Ct. App. 2004)

In the trial court's ruling denying appellant's motion for post-conviction relief it failed to address this issue which was properly brought before. ~~it~~ See appellant Exhibit "A" at Pg. 4 and 5. See also volume 1 of Clerk's record at Pg. ~~066~~ 067. When an appellant brings up grounds in his/her motion for post-conviction relief, even if the trial court does not mention or address them this court has the authority to do so.

Haynes v. State, 944 So. 2d 121; Ms. Ct. App. 2006

Further review of the plea transcripts also reveal that the plea was not knowingly or intelligently entered. The trial court during examination explained to me that I could be taken to trial on either the sale of cocaine or the charge of possession of cocaine. See Volume 1 of Clerk's record at Pg. 043 and 044. This was in violation of my constitutional right to due-process under the 14th amendment. Due-process requires that a defendant not be sentenced based on materially untrue assumptions or misinformation.

U.S. v. Pugliese, 805 F. 2d 1117, 1124 (2^d Cir. 1986)

Erroneous information during the plea process is automatic grounds for reversal. *Haynes v. State*, 944 So. 2d 121 (Ms. Ct. App. 2006)
Fairley v. State, 834 So. 2d 704, 707 (P8) (Miss. 2003)

This Court has a solemn duty to review the Plea Colloquy and affirm only when the appellants assertions are contradicted by the record. Schmitt v. State, 560 So. 2d 148 (MS. Supreme Ct. 1990)

Swift v. State, 815 So. 2d 1230 (MS. Ct. App. 2001)

Ray v. State, 876 So. 2d 1032 (MS. Ct. App. 2004)

Hull v. State, 933 So. 2d 315 (MS. Ct. App. 2006)

If a defendant is able to prove that his plea was ~~in~~ voluntarily entered then his plea is not binding on him. M.C.A. 99-39-23(1) (Revised 2000). White v. State, 921 So. 2d 402 (MS. Ct. App. 2006)
Courtney v. State, 704 So. 2d 1352 (MS. Ct. App. 1997)
Boykin v. Alabama, 395 U.S. 238, 244, 23 L. Ed. 2d 274, 89 S. Ct. 1709 (1969)

It is the duty of this Court to reverse the trial Courts ruling denying Post-Conviction relief if it is against the overwhelming weight of the evidence or if it constitutes an abuse of discretion. Davis v. State, 723 So. 2d 1197 (MS. Ct. App. 1998)

Billiot v. State, 655 So. 2d 1, 12 (Miss. 1995)

It was extremely prejudicial and improper for the trial court to sit back and simply do nothing after appellant "Swift" stated under oath that threats had been made which caused appellant to enter the plea. This Court takes Rule 8.04(A)(3) seriously and will not hesitate to reverse when it has been violated. Vittitoe v. State, 556 So. 1062, 1065 (Miss. 1990)

A rule that is not enforced is not a rule. Box v. State, 437 So. 2d 19 (Miss. 1983)

Appellant "Swift" ask this Court for reversal on the 8.04 rule violation.

Ground # 4

Whether or Not the trial Court Violated Uniform Circuit and County Court rule 8.04(B)(4) by actively Participating in Plea discussions.

Rule 8.04(B)(4) of the Uniform Circuit and County Court Rules expressly Prohibit a trial Judge from Participating directly in Plea discussions. *Courtney V. State*, 704 So. 2d 1352 (Ms. Ct. App. 1997) The Circuit Court Violated this rule when it made the Statement that the Fine of \$5000⁰⁰ would not be imposed if the Plea goes through. See Volume 2 of Clerks record at Pg. 039 Lines 20121 and 22.

The trial Court stated that the Fine would only be \$250⁰⁰ per count so as to Coerce me into entering a Plea by making it appear as though I was getting a deal.

The trial Court also had before it the Plea Petition that was altered by having the word "guilty" marked through and "IN Best interest of Client" wrote in its Place. See Appellants Motion For Post-Conviction relief Filed April 5th 2007, EX. "A" (Post conviction motion EX. 11) The trial Court also Committed Perjury during the Plea Hearing by stating I would be allowed to see my family at the Jail. See Volume 1 of Clerks record at Pg. 050. Lines 16 to 23. UPON CONCLUSION of the Hearing I was taken From the Courthouse to Rankin County Correctional Facility. See appellants affidavit of Oath Filed with the April 5th 2007 Motion for Post Conviction relief (EXhibit "A") (At Pg. 6) (See affidavit of Oath from Ade Swift, Exhibit A)

This shows a bad faith effort on the trial Court and appellant Swift ask this Court for Reversal on this Ground as well. See, *United States V. Gilligan* 256 F. Supp. 244; 1966 U.S. Dist. Ct.

Ground 5.

Whether or not the trial Court erred in accepting a Plea of Nolo Contendere When Mississippi does Not Accept No-Contest Pleas in felonies.

ON the day of appellants trial, the prosecutors were doing all they could to get me to enter a guilty Plea to Possession of Cocaine. My attorney approached me several times informing me that the state was anxious to get me sent to prison. After I repeatedly told my lawyer I was not going to Plead guilty he relayed my message to the trial Court and prosecutors and they informed him I could enter a Plea in which I didn't have to say I was guilty. The ~~plea~~ Plea was accepted as a best interest Plea. See Volume 2 of Clerks Papers at Pg. 052 lines 4, 5, 6 and 7.

The Plea that appellant "Swift" entered is Void. Appellant was told by the trial Court that the Plea was under North Carolina v. AKE but apparently the trial Court meant North Carolina v. Alford 400 U.S. 25, 27 L. Ed. 2d 1621 91 S. Ct. 160 (1970)

The State of Mississippi does Not Permit a Plea of Nolo-~~into~~ Contendere in Felonies. Keys v. State, 312 So. 2d 7, 10 (Miss. 1975) A Conviction on Such a Plea is Void.

A Plea of Nolo Contendere is the defendants declaration in Court that he will Not Contend with the Prosecuting Power. It is Pleadable only by leave of Court, and in light misdemeanors. Williams v. State, 130 Miss. 827, 94 So. 882 (1922) Murphy v. Hudwall, 278 So. 2d 427 (Miss. 1973) See Clerks Papers at Pg. 034. (Letter From appellants Attorney Stating Nolo Contendere Plea had been entered)

In *Bush v. State*, 922 So. 2d 802 (Ms. Ct. App. 2005) the appellant alleged that he had entered a Plea under North Carolina v. Alford. After review of the record this Court held that Bush had entered a valid Guilty Plea. Before the trial court accepted Bush's Plea the Prosecutor stated in detail what he intended to prove and how he intended to prove it. At any rate, Bush entered a Plea ~~of~~ under Alford to the crime he was "indicted on" not a made up charge as Appellant Swift is. See Volume 1 of Clerk's record at Pg. 048 Lines 5 through 16.

Appellant Swift was simply left dumbfounded ~~after~~ after the Prosecutor made the statement that I was in possession of Cocaine at an apartment on August 11, 2004 and further on August 25, 2004. I knew I was getting railroaded so I just responded as my attorney told me to by saying "I Plead in my best interest". A State is prohibited from knowingly using perjured testimony. *Napue v. Illinois*, 360 U.S. 264, 269, 79 S. Ct. 1173, 1177, 3 L. Ed. 2d 1217 (1959)

Appellant Swift has presented a record certified by law to show this Court of the violations committed ~~as~~ and ask for reversal on this ground as well. *Colenberg v. State*, 735 So. 2d 1099, 1102 (P. 6) (Ms. Ct. App. 1999)

Appellant "Swift's" claims on appeal are supported by the record. The letter from Swift's attorney is sufficient indeed, more than enough to support my contentions of what took place and the type of Plea that was entered. See Volume 2 of Clerk's Papers at Pg. 034. *Haynes v. State*, 944 So. 2d 121 (Ms. Ct. App. 2006). In *Haynes v. State* the appellant submitted a letter from his ~~law~~ lawyer to show that he was led to believe that he was to receive a sentence to run concurrently with his Probation.

Appellant Swift has presented the same documentation to the lower court and this court as evidence to show the type of plea that was entered is void under Mississippi law and only acceptable in petty and light misdemeanor cases.

Bush v. State, 922 So. 2d 802 (Ms. Ct. App. 2005)

Keys v. State, 312 So. 2d 7, 10 (Miss. 1975)

In North Carolina v. Alford the United States Supreme Court held that Alford's guilty plea to murder together with "evidence" from three witnesses formed a sufficient factual basis for accepting Alford's plea even though it was accompanied by Alford's protestation of innocence. In the case sub-judice once the state amended the indictment by striking sale and inserting possess and striking to Bobby Gaston and inserting an amount, no one was left to testify as to a crime being committed. The crime the grand jury indicted me on were dismissed and the trial court allowed the prosecution to substitute one in its place. See Volume 1 of Clerk's record at Pg. 032 and 033.

The circuit court never had jurisdiction to impose a prison sentence on Appellant "Swift's" nolo contendere plea and Appellant ask for reversal on this ground as well. Keys v. State, 312 So. 2d 7, 10 (Miss. 1975)

Ground 6.

Whether or Not Appellant was denied due-Process
When the trial Court revoked Appellants Probation
Without issuing findings of fact and conclusions of
law as to evidence relied on.

Appellant was denied due-Process of law by having his
Probation Revoked by the trial Court Without it issuing
any "Findings of fact" as to evidence relied on and
reasons for revoking Appellants Probation. ~~See~~

Riley v. State, 562, So. 2d 1206 (Miss. 1990)

At the Conclusion of Appellants revocation hearing the trial
Court stated that "the Court is convinced that more likely than
Not Appellant had violated the conditions of his Post-release.
See Volume 2 of Clerks Papers at Page 56.

This was not enough to satisfy the requirements as outlined
by the United States Supreme Court in Gagnon v. Scarpelli,
411 U.S. 778, 36 L. Ed. 2d 656, 93 S. Ct. 1756 (1973)

One of the "main requirements" for a Probation revocation
hearing is a written Statement by the Fact Finders as to
evidence relied on and reasons for revoking Probation or
Parole. Williams v. State, 409 So. 2d 1331 (Miss. 1982)

Appellant Swift was taken to a revocation hearing alleging
drug sales and later entered Pleas to Possession. No findings
of fact were ever issued and Appellant ask for reversal on
this ground as well.

Whether or not Appellant Anthony Swifts Rights under the 5th Amendment of the United States Constitution's Double Jeopardy Clause has been Violated.

Appellant was taken to a revocation hearing on November 22, 2005 where it was alleged by state authorities that appellant Swift had committed several drug sales to Confidential informants. See Volume 2 at Pg. 7, 18, 19, 22, 24, 38..... (Volume 2 of Clerks Record). Subsequent to the revocation hearing Appellants indictment was amended from Sale of Cocaine to Possession of Cocaine and Appellant Swift entered a Plea of No-Contest. When Appellant was taken to a revocation hearing on an indictment alleging drug sales for which Appellants Probation was revoked, to prosecute Appellant later for a separate offense amounted to Multiple Prosecutions in Violation of the 5th amendments Prohibition against double Jeopardy. *Fueselier v. State*, 654 So. 2d 519 (Miss. 1995). Appellant "Swift" was Prosecuted twice for different Crimes arising out of the same indictment. ~~See Appellants motion for post-conviction relief~~ When Appellant was taken before the trial Court on November 22, 2005 and the Prosecutors alleged drug sales had been committed by Appellant to Confidential informants which caused Appellant Swifts Probation to be revoked, Appellants later Prosecution for Cocaine Possession Violated the second and third aspect of the double Jeopardy Clause of the Federal Constitution's Fifth amendment. *Jones v. Thomas*, 491 U.S. 376, 109 S. Ct. 2522, 105 L. Ed. 2d 332 (1989); *Meeks v. State*, 604 So. 2d 748 (Miss. 1982). The double Jeopardy Clause requires, except in very limited circumstances, that all charges against a defendant growing out of a single Criminal transaction be tried in one Proceeding. See *Ashe v. Swenson*, 397 U.S. 436, 448-460 (1970). See Volume 2 of Clerks Papers at Pg. 035-036. See Volume 2 of Clerks Papers in its entirety. Exhibit "A" of Appellants motion for Post-Conviction Relief is an order from the trial Court stating that after conducting

A trial and hearing testimony from all parties involved that appellants Probation should be revoked. (Order of January 20, 2006) Exhibit "B" of Appellants April 5th 2007 motion for Post-conviction relief Petition is an order entered from the Circuit Court stating appellant had entered a guilty Plea to sale of Cocaine. This order clearly magnifies appellant claim of double Jeopardy violations due to multiple Prosecutions stemming from a single indictment. See *Morris v. Matthews*, 475 U.S. 237, 257-258 (1986). Appellant Swift ask this Court to reverse and Render on double-Jeopardy grounds as well. The trial Court cannot Prosecute appellant Swift for Possession of Cocaine as it doesn't have ~~and~~ an indictment for this charge. The greater charge of Sale of Cocaine have been thrown out and cannot be reinstated to merit a conviction. *Morris v. Reynolds*, 264 F.3d 38; (U.S. Ct. of App. 2^d Cir. 2001).

The provision of the 5th amendment against double Jeopardy is designed to protect an individual from being subjected to the hazards of trial and possible conviction more than once for an alleged offense. *Green v. United States*, 355 U.S. 184, 78 S.Ct. 221, 2 L. Ed. 2d 199 (1957). The underlying idea is that the State with all its resources and Power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense, and ordeal, and compelling him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty. *Griffin v. State*, 384 So. 2d 1274, (Miss. 1991)

Even when a defendant is found guilty on a lesser offense under an indictment, the State cannot again Prosecute him for the greater offense. *Ohio v. Johnson*, 467 U.S. 493, 104 S.Ct. 2536 (1984)

Ground 8.

Whether or not the trial Court further Violated Uniform Circuit and County Court Rule 8.04(A)(3) by Not Having a Factual Basis to Support the Charge Appellant Was Sentenced on.

During the Plea Hearing the trial Court asked the State Prosecutor, "What are the facts the state would offer in the event of a trial." The district attorney replied by saying, the defendant possessed a small quantity of Cocaine, .97 grams, at an apartment. See clerks record at Pg. 048, (Volume 1)

When the trial Court asked Appellant Swift if he disputed that he possessed those levels of Cocaine Appellant answered by saying I-I-I Plead in my best interest, yes, sir. Once the trial Court saw appellant wasn't going to say he possessed the Cocaine as outlined by the Prosecutor it simply ended its questioning by saying, "all right. Fair enough".

The trial Court then stated that Appellants Plea was knowingly, voluntarily and intelligently made and that there was a Factual basis to support the Charge. See Clerks record (Volume 1) at Pg. 052.

The trial Court erred in accepting a Plea When no evidence was before it to show Appellant Swift possessed Cocaine. Appellant in this Cause never even made a ~~bear~~ a bear admission of guilt. *Austin v. State*, 734 So. 2d 234 (Ms. Ct. App. 1999) unless Courts are satisfied that such a factual basis exists, they are admonished not to enter Judgment on a Plea of guilt. *Lott v. State*, 597 So. 2d 627, 628 (Miss. 1992)

This factual basis cannot simply be implied from the fact that the defendant entered a plea of guilt. Rather, there must be an "Evidentiary Foundation" in the record which is "sufficiently specific" to allow the Court to determine that the defendant's conduct was that defined as Criminal. *Gaskin v. State*, 618 So.2d 103 (Miss. 1993) The Circuit Court of Clay County did not have a scintilla of evidence before it to show appellant Swift possessed Cocaine as alleged by the State and appellant ask this Court for reversal due to this violation as well. See UCCCR 8.04(A)(3) Supra...

GROUND 9.

Whether or not appellant Anthony Swift was subjected to Malicious and Vindictive Prosecution

Appellant Swift was taken to Court and prosecuted on a charge of Cocaine Possession after the State Prosecutors and trial Court learned that the Confidential informant was not thoroughly searched by Mississippi Bureau of Narcotics Agents. Appellant's lawyer stated to the trial Court during the plea hearing that there were problems with appellant's case and that we both knew it as well as the attorney for the State. See Volume 1 of Clerk's Papers at Pg. 050. For appellant's attorney to sit in open Court and tell the trial Court this and then for the Court to allow appellant to be convicted and sentenced for a crime they know appellant did not commit amounts to malicious and vindictive prosecution.

McMillian v. Johnson, 88 F.3d 1554 (U.S. Ct. App. 11th Cir. 1996)

Vindictiveness was also shown on the part of the trial Court when Appellant stood before the Judge during a Rule 8.04 Plea Hearing and told the Court in the presence of my lawyers and the Prosecuting Attorney for the State that verbal threats had been made that had a bearing on Appellant entering the Plea. See Volume I of Clerks record at Pg. 046 and 047. Appellants allegations of egregious official misconduct is clearly supported by the record. Phillips v. Thomas 555 So. 2d 81 (Ala. 1989). Tyler Edmonds v. State of Mississippi Supra...! Harper v. State.

The Prosecutors in this case were highly upset at Appellant after Appellant filed a complaint against ~~the~~ Bobby Gaston with the West Point Housing Authority alleging that he had violated the Zero tolerance drug Policy in place for tenants. See Appellants April 3, 2007 motion for Post-Conviction relief affidavit of oath at Pg. 8- Exhibit "A". (See also ex. 11 of Appellants motion for Post-Conviction relief.)

After the States Confidential informant was evicted from his home the district attorney filed a Bar Complaint against ~~after~~ Appellants attorney. When the trial Court and Prosecutors learned that the States informant had not been searched and that Appellant Swifts defense was that Appellant never made a drug sale to Bobby Gaston Appellants lawyer was pressured and intimidated into getting Appellant to enter a Plea to Cocaine Possession. This violated Miss. Code Ann. 97-955 (2006) Wilbourne v. State 1 249 Miss. 835, 164 So. 2d 424 (1964).

Before this was known the trial Court and Prosecutors were eager and anxious to hang me higher than Haman. Esther 7th Chapter 9th Verse. Grayson v. State 1 648 So. 2d 1129 (Miss. 1994)

A Conviction which rests solely upon a Confession shown to have been extorted by officers of the State by threats of the accused, are void under the due-Process Clause of the fourteenth Amendment. Brown v. Mississippi 297 U.S. 278; 56 S. Ct. 461; 80 L. Ed. 682 (1936)

Appellant Swift Ask this Court for Reversal and dismissal on the grounds of Malicious and vindictive Prosecution as well.
Mooney v. Holohan, 294 U.S. 103, 112
Moore v. Dempsey, 261 U.S. 86, 91
McMillian v. Johnson, 88 F. 3d 1554 (U.S. Ct. APP. 11th Cir. 1996)

Ground 1D.

Whether or Not the trial Court Judge abused his authority by Court ordering Brenda Weaver to act/work as a Confidential informant after she repeatedly tested positive for drug use in violation of the Antipeonage Act of 1864.

At Appellants November 22, 2005 revocation hearing Appellants Probation officer testified that part of ~~the~~ ^{Brenda Weavers} Probation order was to assist Mississippi Bureau of Narcotics in arresting individuals who allowed her to get drugs. See Volume 2 of Clerks Papers at pg. 8 line 15, 16, 17, 18 and 19. See Volume 3 of Clerks Papers at pg. 9, 10, 11, 12, 13, 14, 15 and 16. The trial Court abused its discretion and violated Section 47-7-34 of the Miss. Code (1972) Condition (K) When she continued to test positive and the trial Court was aware of it. This was an abuse of discretion and subjected Brenda Weaver who is on medication for bipolar disorder to being used by law-enforcement officials when they knew she was a mental patient.
Davis v. State, 723 So. 2d 1197 (Ms. Ct. APP. 1998)
See the Antipeonage Act of 1864, ~~a~~ Boyington v. State of Miss.
Appellant Swift ask this Court to dismiss the indictment on this ground as well.

Ground II.

Whether or Not the trial Court made improper Comments during the Plea Hearing Which Put ~~Put~~ Appellant in Fear

Appellant Anthony Swift was taken before the trial Court and truthfully acknowledged to the Court that he had been threatened. See Volume 2 of Clerk's record at Pg. 046 and 047. The trial Court's response to Appellant that he had "Sent People to Prison for 60 Years Without Parole, and that they were about Appellants age" and his further statement to Appellant that "I guess that would be about life" after Appellant had stated that he had been threatened by his Probation officer was extremely prejudicial and improper and left Appellant gripped with fear. These threatening statements made by the trial Court also played a major role in Appellant's Plea. Appellant Swift was aware that the trial Court Judge was a former Prosecuting Attorney for Clay County and that he along with the Prosecutors were "Working together" to get Appellant sent to Prison.

Schaffner v. Green, 458 F. Supp. 202; 1978 U.S. Dist. Ct. N.Y. Once Appellant Swift told the trial Court of the threats made and the trial Court made the statements that "I don't know if anybody 99 years old has ever come out of Parchman" Appellant Swift and Appellant's Lawyers concluded that Appellant had no chance of acquittal and Appellant's only choice was to enter a Plea. Appellant Swift's Plea was not voluntary but induced by the conduct of the trial Court Judge. *LeFKowitz v. Newsome*, 420 U.S. 283, 288, 95 S. Ct. 836, 43 L. Ed. 2d 196 (1975); *Tollet v. Henderson*, 411 U.S. 258, 266, 93 S. Ct. 1602, 36 L. Ed. 2d 235 (1973). Because of the unmatched powers which a trial Judge exerts over the fate of a defendant, any action or comment on his part is enormously significant to the defendant. *United States v. Werker*, 535 F. 2d 198, 202 (2d Cir. 1976)

The Classic description of the Relationship between the defendant and the Judge was given in United States Ex rel. ELKSNIS V. Gilligan, 256 F. SUPP. 244, 254 (S.D. N.Y. 1966):

"The Unequal Positions of the Judge and the accused, one with the Power to Commit to Prison and the other deeply concerned to avoid Prison, at once ~~becomes~~ raise a Question of fundamental Fairness." A defendant needs no reminder that if he rejects the Proposal of the State, stands upon his right to trial and is convicted, he faces a significantly longer sentence. One facing a Prison term, whether of longer or shorter duration, is easily influenced to accept what appears the more preferable choice. Schaffner V. Greco, 458 F. SUPP. 202 (U.S.D.C. Southern Dist. N.Y. 1978)

Appellant Swifts attorneys were also put in a compromising position. The reason why appellants lawyers stood by and said nothing could very well be because they had clients in Clay County and knew they would have to appear before the same Judge in the future. Schaffner V. Greco, Supra.....

See Volume 2 of Clerks Record at Pages 046 and 047.

Due to the Conduct of the trial Court during Court Proceeding Pro-se appellant ask for relief on this ground as well.

Since Appellant Anthony Swifts Plea was made under circumstances which deprived appellant of the "Capacity for reasoned choice",.... which is essential to a voluntary Plea of guilt, Appellant ask that the

Conviction be Reversed and all Charges be dismissed With Prejudice.

United States V. Tateo, Supra. 214 F. SUPP. 560, 567 (S.D. N.Y. 1963)

Respectfully Submitted.

Certificate of Service

This is to certify that, ANTHONY SWIFT, Appellant in this Cause, have caused to be mailed ~~an~~ original and two(2) copies of "Appellants brief" to the following Person:

Hon. Betty Sedgton, Clerk
Supreme Court & Court of Appeals of Mississippi
Post Office Box 249
JACKSON, MS, 39205-0249

So Certified this the 12th day of December 2007

Anthony Duane Swift, Pro se

AFFIDAVIT OF OATH

The Following Statement is hereby given by Ray Swift

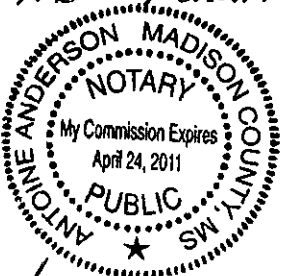
in regards to events that occurred on January 19th 2006
during Circuit Court in Clay County, West Point, MS.

To Wit:

1. That I, Ray Swift was present in the Courtroom when my brother Anthony Swift told Circuit Court Judge James Kitchens that he had been threatened by his Probation Officer and told that he would make sure Anthony got life if he didn't Plead guilty to the charges that had been filed against him.
2. That the trial Court did nothing to find out if Anthony's statement to the Court was true.
3. That Anthony only entered a Plea after he was told by his attorney that the Prosecutors were going to take him before an all white jury which would surely end in him being convicted and sentenced to 60 years without Parole.
4. That me and my family were told that we would be allowed to visit with Anthony at the Clay County Jail.

Exhibit "A1"

5. That after the Plea Hearing We all (family members) went to the Clay County Jail and were told Anthony was already gone. (To Rankin County)
6. That the Court house is only 2 minutes from the Clay County Jail.
7. That We never got to see Anthony as we were told due to Anthony being taken from the Court house straight to Rankin County.
8. That I Loye Swift make the following oath under the Penalty of Perjury.



[Signature]
AFFIANT

Sworn to and Subscribed before me this the 30th day of November 2007.

[Signature]
Notary Public

Exhibit 'A'

Anthony Swift #15278 ✓
Unit 29 B-bld.
Parchman, MS. 38738
2000 - 0057

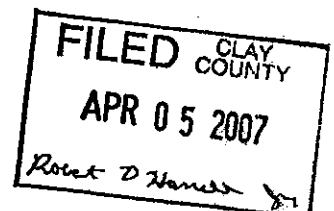
Dear Clerk,

Please find enclosed Petitioners motion for Post-Conviction Collateral relief. Due to the ruling in Case# 2006-CP-00322-COA by the Mississippi Court of Appeals, Petitioner has withdrawn the appeal in #2006-CP-01447-COA due ~~to~~ to that motion on appeal being styled as a motion to Compell and makes NO mention of Post-Conviction relief. Petitioner now is presenting all arguments in this motion.

Petitioner ask that the Court take into consideration that I am Proceeding Pro-se and Credit Not so well Pled allegations.
See *Hank, v. State*, 943 So. 2d 121 (MS. Ct. App. 2006)

Respectfully Submitted

Anthony Swift, Pro-se
Parchman, MS.



IN the Circuit Court of Clay County, Mississippi
Cause No. 7878 And 8712

Anthony Swift
V.

Petitioner

State of Mississippi

Respondent

Motion to Vacate Conviction and Sentence

This is a Motion For Post-Conviction Relief based ON
Newly Discovered evidence Supporting my innocence
MCA 99-39-5 (1)(E) and MCA 99-35-5(a) and
(F).

Comes now, Petitioner Anthony Swift, Pro-se
Pursuant to the Post-conviction Collateral Relief Act
And would show unto the Court the Following.

Statement of Facts

Petitioners Probation was Revoked on November 22, 2005
After a hearing held at the Clay County Court House
in West Point, Mississippi. It was alleged by Petitioners
Probation Officer that Probationer had Violated Condition
(A) of his Probation by being Charged with 3 Counts
Sale of Cocaine. Petitioner Filed a motion For reconsideration
Challenging the testimony and evidence Presented at
the hearing. The court denied Petitioners motion and
Stated Petitioner had Presented No New evidence Which
would Cause it to reconsider its decision to Revoke. See ex.(A)

At this time I se Petitioner Present the following reasons as to why ~~he~~ he should be granted an evidentiary hearing and all charges be dismissed with prejudice, on this motion for Post Conviction collateral Relief.

Ground 1: Subsequent to the revocation hearing in this matter the state and trial court violated article 3 section 27 of the Mississippi Constitution by improperly amending the indictment from Sale of Cocaine to Possession of Cocaine. Article 3 section 27 of the Mississippi Constitution specifically requires a defendant be prosecuted by an information if indictment is waived.

Gaskin v. State, 618 So. 2d 103 (Miss. 1993)

Brown v. State, 533 So. 2d 1118 (Miss. 1988)

Petitioner has been convicted of a crime not charged in the indictment which makes the charge Possession of Cocaine void. Fournier v. State, 96 Miss. 417, 50 So. 502 (1909)

See also, Reynolds v. State, 658 So. 2d 852 (Miss. 1995)

The State on its own motion ~~ore tenus~~ amended the indictment from one charge to another then offered a Plea of Not Contendere. The trial court no longer has jurisdiction over Petitioner because the charges have been dismissed. Rhymes v. State, 638 So. 2d 1270 (Miss. 1994)

In the order issued on April 13, 2006 by Honorable Lee J. Howard, it's said that I Plead guilty to the charge of Sale of Controlled Substance. See ex. (B).

Apparently Judge Howard was led to believe this which is not true. The State had me charged with one crime and when they saw they wouldn't be able to prove the charges Petitioner

was indicted to they changed the Charge. Petitioner
Never was informed that an affidavit was needed in order
for the plea to be valid. State v. Milton, 276 Minn. 213
149 N.W. 2d 384 (1967).

The Constitution would be of little avail if an indictment
could be charged by the Prosecuting Officer, with
permission of the Court to conform to their views
of the necessity of the case. Van Norman v. State
365 So. 2d 644 (Miss. 1978) (see ex. "C")

Ex Parte Brine, 121 U.S. 117 S.Ct. 781: 30 L. Ed. 849
1889 U.S. Supreme Court. (See ex. "C")

The Petitioner in this case has been Acquitted of all
charges and is entitled to be released from custody.
See Moore v. Ruth, 556 So. 2d 1059 (Miss. 1990)
Griffin v. State, So. 2d 1274: (Miss. 1991)

Ground #2. The trial Court and Prosecutor abused their
discretion by offering a Plea of Nolo Contendere.
Petitioner Swift did not know that a Plea of
Nolo Contendere was only acceptable in petty and light
misdemeanor cases not felonies. See Keys v. State,
312 So. 2d 7 (Miss. 1975) and Bush v. State,
922 So. 2d 802 (Ms. Ct. App. 2005) Mississippi
does not accept Pleas of Nolo Contendere, (in felonies).
The trial Court never had jurisdiction to impose a prison
sentence on a misdemeanor Plea. Harris v. State, 209
Miss. 141, 46 So. 2d 91 (1950) See letter from Petitioner's Attorney

Stating that Petitioner had entered a Plea of Nolo Contendere.
(See exhibit "D")

Petitioner has denied at all stages of the Proceedings that he committed the crime of Sale of Cocaine. The State Violated Petitioner Constitutional Rights and has Maliciously Prosecuted Petitioner on a made up Charge of Possession of Cocaine. It wasn't until state authorities learned of Petitioner's defense that they offered the reduced Charge and after Petitioner repeatedly told his attorney that he would not Plead Guilty to any Crime did the Prosecutor inform my attorney that I didn't have to say I was guilty and that I could enter a No Contest Plea. Assistant district attorney Charlie Hedgpeth has Violated M.C.A. ~~60-9-55~~ - 94-9-55 by intimidating my attorney and obstructed the administration of Justice by making repeated attempts to get my lawyer to Coerce me into a Plea to a Crime I'm totally innocent of. This is a Claim of "Malicious Prosecution" by the district attorney.
(See exhibit "C")

Ground #3. The trial Court ~~also~~ Violated applicable rules which led to the entry of a involuntary Plea. M.R.C.C.P. 8.04 (A) (3) and 8.04 (B) (4).

The trial Court knew that the No-contest Plea was not voluntarily given because Petitioner specifically told the Court during the Plea hearing that I had been threatened. The trial Court also engaged in Plea discussions with Petitioner

by stating that upon the entry of a plea he would allow Petitioner to spend time with his family at the City Jail and not impose the \$500.00 fine that was recommended by the state after Petitioner objected to a \$500.00 fine. The trial court stated that the fine would only be \$50.00 dollars upon the entry of a plea.

M.R.C.C.P. 8.04 (B)(4) strictly prohibits the trial court from participating in plea discussions. *Courtney v. State*, 704 So. 2d 1352 (Ms. Ct. App. 1997) Rule 8.04 (A)(3) was violated when Petitioner told the trial court I had been threatened by my Probation Officer and the court accepted the plea knowing it was not voluntarily entered. See *Hynes v. State*, 944 So. 2d 121 (Ms. Ct. of App. 2006) and *Hench v. State*, 943 So. 2d 201 (Miss. S. Ct. 2006).

A Plea induced by fear or threats which deprive it of a voluntary act is void. *Machibroda v. United States*, 368 U.S. 487; 82 S. Ct. 510; 7 L. Ed. 2d 473 (1962)

Ground #4. Petitioner in this case was denied due-process of law by having his probation revoked by the Circuit Court of Clay County without issuing a finding of fact, *Riley v. State*, 562 So. 2d 1206 (Miss. 1990)

The United States Supreme Court adopted this procedure in *Gagnon v. Scarpelli*, 411 U.S. 778, 36 L. Ed. 2d 656, 93 S. Ct. 1756 (1973). One of the main requirements for a probation revocation hearing is a written statement by the factfinders as to the evidence relied on and reasons

For revoking Probation or Parole, Williams v. State, 409 so. 2d 1331 (Miss. 1982). These are the Minimum due-process rights afforded a defendant in a Probation Revocation hearing, United States v. Lacey, 648 F. 2d 441, 445 (1981)

The Prosecuting attorney has basically admitted that they could not prove a drug sale but has ~~person~~ engaged in misconduct by changing the charge to "Make Sure" Petitioner was sent to Prison any way. I never asked for a reduced charge, My intention was to go to trial on the charges I was "indicted on", not a made up charge. See ex. C

Ground #5. The State of Mississippi is procedurally

barred from ~~by~~ reinstating the original charge in the indictment to merit a conviction. The evidence presented "Failed" to sustain a conviction for Sale of Cocaine and Pursuant to Mississippi Law Petitioner ask that this cause be ~~reversed~~ and dismissed and I be released from Custody, See, Griffin v. State, 584 so. 2d 1274, (Miss. 1991).

The 5th amendment to the United States Constitution bars repeated attempts to obtain a conviction after acquittal. Since no greater offense remained pending when the trial court accepted the Petitioners No-contest Plea to the reduced charge, and the State did not object to the Plea, The double Jeopardy Clause bars reinstatement of any greater offense. Morris v. Reynolds, 264 F. 3d 38 (U.S. Ct. of App. 2nd cir, 2001). See also, Ohio v. Johnson, 467 U.S. 493; 104 S. Ct. 2536 (1984)

Ground #6. The Trial Court should have dismissed all charges against the Petitioner in this Cause at the November 22, 2005 Revocation Hearing after Mississippi Bureau of Narcotics Agent Treddis Anderson and Confidential Informant Bobby Gaston gave sworn testimony that the day of the alleged sale of drugs to Gaston was not searched. Treddis Anderson gave sworn testimony that it is State Policy that all CIs are to be searched before an attempted drug purchase. Bobby Gaston, who is a convicted drug dealer and ~~and~~ who uses drugs daily, was allowed to go to his house that had never been searched, pick up his wife and come to Petitioner without being searched for contraband.

See testimony of Agent Treddis Anderson at the Nov. 22, 2005 Revocation Hearing at Pg. 9 to 11.

See testimony of Bobby Gaston at Nov. 22, 2005 Revocation Hearing at Pg. 8 and 9. In *Bullins v. State* 868 So. 2d 1045 (Ms. Ct. App. 2004) the Appellant stated that the informant had not been searched prior to the drug transaction, however the agent was present and the sale was made to him by Bullins. In the case *Sub-Judice Noone* can say beyond a reasonable doubt that Bobby Gaston bought drugs from me because he was not searched on either August 11th 2004 or August 25th 2004. This violated Petitioner's Constitutional rights to equal protection of the law. *Cox v. State* MS. Ct. App. 2003. If Petitioner had not ^{been} in fear of his life due to threats being made by his Probation Officer Johnny Hancock and proceeded to trial, no reasonable minded juror could have found beyond a reasonable doubt that Petitioner was guilty of the charged offense. *Wilson v. State* 936 So. 2d 357 (Miss. 2006)

At the revocation hearing the State was presented by Miss Rhonda-Hayes Ellis. Apparently Miss Ellis did not inform Assistant D.A. Charlie Hedgepeth of the testimony given at Petitioners Revocation hearing. On January 18, 2006 a hearing was held in this matter and Charlie Hedgepeth stated to the Court that the State was prepared to show that on August 25th 2005 Agents were working with a Confidential informant who was wired-up and the State could show that I sold him drugs. This is what the Prosecutor said in Court. After he sat down my attorney stated that "the State wouldn't be able to prove that a sale of drugs occurred because agents ~~di~~ violated Protocol by not searching Bobby Gaston and allowing him to go home." Charlie Hedgepeth immediately left from his seat and shouted in a loud and boisterous manner I didn't do that! Before this was known the State offered a plea of 25 mandatory years. Once they learned of my defense my attorney was badgered into getting me to plea to a reduced charge. See Jan. 19th, 2006 Pretrial hearing trans. This is misconduct on the part of the State.

Bush v. State, 895 So.2d 836 (Miss. 2005)

Ground 7. Petitioner was also accused of a drug sale to Brenda Weaver who was one of Johnny Hancocks Probationers who was Court ordered to assist the Mississippi Bureau of Narcotics by Judge Henry Lackey. Johnny Hancocks testimony at

The November 22, 2005 Revocation Hearing was that He had set up the operation after Mrs. Weaver had tested Positive for drug use on Numerous occasions. Petitioner has denied being involved with any illegal acts. Petitioner only went to the store across the Street from Where tri-County had Surveillance set up because Mrs. Weaver repeatedly Phone me Crying. At no time did I sell Brenda Weaver anything. It was an abuse of discretion for Judge Lackey to issue a Court order to a Probationer to Work as a C.I. This Violated the Anti-Peunage Act of 1864. Johnny Hancock had a Personal interest in making Sure that I got sent to Prison because he said he set up the operation. See testimony of Johnny Hancock at Nov. 22, 2005 Revocation Hearing.

Conclusion:

Petitioner has had his motion that was previously Filed dismissed Without Prejudice by the Mississippi Court of Appeals due to Petitioner Not Stating the Motion Was for Post-Conviction Collateral relief. (See ex. E) This is the Proper Court for Filing the instant Motion for Post-conviction relief and Petitioner Prays for the relief Requested.

Wherefore Premises Considered, Petitioner, Pursuant to
Section 11-51 et seq. Miss Code ANN (1972) Request
a hearing be held on Thursday April 12, 2007 at the
Clay County Court House in West Point, MS. at 10:00 A.M.
and that Petitioner be transported from his place of
confinement to give testimony in this cause. Petitioner also
request that subpoenas be served on attorney M. Kevin Horan, and
K. Elizabeth Davis.

Respectfully Submitted

Anthony Swift, Pro-se
Parchman, MS.

Certificate of Service

This is to Certify that I, Anthony Swift, have
Caused to be Maiked this day Petitioner Motions for
Post-Conviction Relief to the following.

Hon. Robert "Bob" Harrell, Clerk
Post Office Box 364
West Point, MS. 39773

Hon. Lee J. Howard, Judge
Post Office Box 1344
Starkville, MS. 39760-1344

Forrest Allgood, District Attorney
Post Office Box 1044
Columbus, MS. 39703

So Certified this 3rd day of April 2007

Anthony Swift, Pro-se

Exhibit "A"
A

9-20

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSISSIPPI
JANUARY TERM, 2006

ANTHONY SWIFT

PETITIONER

VS.

CAUSE NO. 2000-0057

STATE OF MISSISSIPPI

RESPONDENT

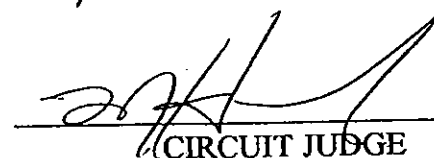
ORDER

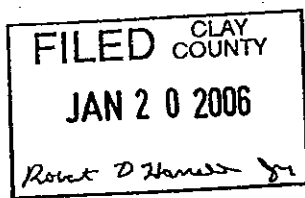
Came on to be heard this day the above styled and numbered post conviction matter; and the Court, after having reviewed the record of proceedings in the trial court, the sentencing order, and the pleadings contained within the Petitioner's post-conviction civil file; the Court finds as follows.

The Petitioner filed a Motion to Reconsider the Court's revocation of his post-release supervision. The Court finds that it conducted a trial on this issue and heard testimony from all the parties involved. After hearing said testimony, the Court found that the Petitioner's post-release supervision should be revoked. The Court now finds that the Petitioner has presented no new evidence that would cause it to reconsider its decision to revoke.

IT IS THEREFORE ORDERED, that this petition be, and the same is hereby dismissed without the necessity of a hearing. Further, the Circuit Clerk is directed to send a copy of this Order to all parties.

SO ORDERED, this the 20th day of Jan, 2006.


CIRCUIT JUDGE



118/587

En. B

9-24

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSISSIPPI
APRIL TERM, 2006

ANTHONY SWIFT

PETITIONER

VS.

CAUSE NO. 2000-0057

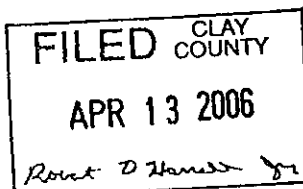
STATE OF MISSISSIPPI

RESPONDENT

ORDER

Came on to be considered this day the above styled and numbered post conviction matter; and the Court, after having reviewed the file and all the pleadings contained therein, is of the opinion that Petitioner's Motion for Appeal is without grounds.

The Petitioner states in his Notice of Appeal that he seeks to appeal this Court's order of January 20, 2006 which denied the Petitioner's Motion to Reconsider the revocation of his post-release supervision in Clay County Criminal Cause Number 7878. As the Court stated in its order denying reconsideration, the Court held a revocation hearing and heard testimony from all parties before making its ruling revoking the Petitioner's post-release. The Petitioner's Motion for Reconsideration sought to challenge the evidence and testimony, presented during the revocation hearing, that was given to show the probability of the Petitioner having committed the offense of sale of controlled substances. However, the Petitioner, subsequent to the revocation hearing, pled guilty in Clay County Criminal Cause Number 8712, which was the same sale of controlled substances offense which led to his revocation. The Court feels that if the Petitioner was not guilty of the events which led to his revocation, he, with the counsel of his retained attorney, would certainly have not pled guilty to this offense.



119-453

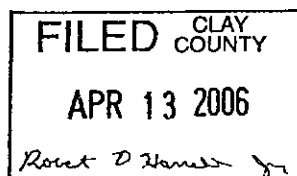
However, pursuant to the Post-Conviction Proceedings statutes, the Court is supposed to liberally take the pleadings presented by pro-se Petitioners and to allow appeals. So, the Court, taking judicial notice that this same Petitioner has amassed a voluminous file of post-conviction motions in the past, many of which have been appealed to the Mississippi Supreme Court already, and all denied, does hereby allow the Petitioner to appeal the Court's ruling of January 20, 2006 to the Mississippi Supreme Court. And the Court, having reviewed the Petitioner's filed affidavit of poverty, does hereby allow the Petitioner to proceed on his appeal *in forma pauperis*.

IT IS THEREFORE ORDERED, that the Petitioner be allowed his appeal. The Circuit Clerk is directed to send a copy of this Order to all parties, including the Petitioner at his last known place of incarceration, and to the Clerk of the Mississippi Supreme Court.

SO ORDERED, this the 13th day of April, 2006.


CIRCUIT JUDGE

119-454



EXhibit

811

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSISSIPPI

January

TERM, 2006

STATE OF MISSISSIPPI

VS.

Anthony Swift

NO.: 8712
Count 1

ORDER

Came on to be heard this day on Motion Ore Tenus by the State of Mississippi to amend the Indictment herein;

The Court having considered same is of the opinion that said Motion is well taken and that the same should be, and is hereby, sustained.

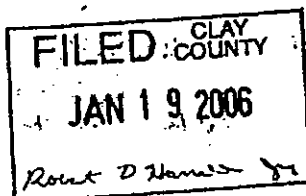
It is therefore ordered that the Motion to amend the Indictment herein be sustained and that said Indictment be amended to read as follows:

by striking the word
"sell" and inserting "passer"

and by striking the words "to Bobby Carter"
and inserting "in an amount of .97 grams"
and by inserting "as a second or subsequent
offender pursuant to 541-28-147 MCA"

JAN 25 2006

SO ORDERED this the 19th day of January
2006



James T. Kitchens
CIRCUIT JUDGE

118/519

Exhibit C
9-10

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSISSIPPI

January TERM, 2006

STATE OF MISSISSIPPI

VS.

Anthony Swift

NO.: 8712

Count 2

ORDER

Came on to be heard this day on Motion Ore Tenus by the State of Mississippi to amend the Indictment herein;

The Court having considered same is of the opinion that said Motion is well taken and that the same should be, and is hereby, sustained.

It is therefore ordered that the Motion to amend the Indictment herein be sustained and that said Indictment be amended to read as follows:

by striking the word
"sell" and inserting "possess"

and by striking the words "to Bobby Carter"
and inserting "in the amount of 1.41 grams"

JAN 25 2006

CLAY COUNTY

SO ORDERED this the 19th day of January,
2006

FILED CLAY COUNTY

JAN 19 2006

118
FIV
CIRCUIT JUDGE

James H. Kitchener

HORAN & HORAN, PLLC

ATTORNEYS AT LAW

JOHN P. HORAN (1887-1967)
M. KEVIN HORAN
K. ELIZABETH DAVIS

B. BRENNAN HORAN
BEN F. HORAN

EX.

"D"

July 11, 2006

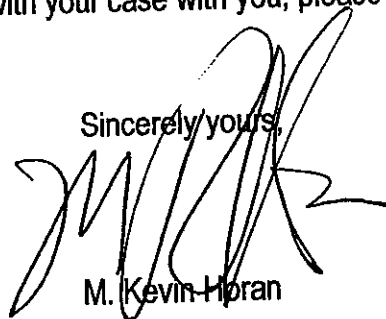
Mr. Anthony Swift, #75278
Unit 29; F Building; A-Zone
Parchman, Mississippi 38738

Re: *State of Mississippi vs Anthony Swift*
Clay County Circuit Court Cause No. 8712 & 7878

Dear Anthony:

I am in receipt of your letter dated June 26th, 2006 which includes a proposed affidavit for my signature. I have reviewed the letter as well as the affidavit under oath and write to inform you that the content of the affidavit does not meet with my recollection of the circumstances surround with your nolo contendere plea. Also, as you know my representation of you at this time has concluded. Should it be necessary to discuss with your case with you, please do not hesitate to contact me or have Acey do so.

Sincerely yours,



M. Kevin Horan

MKH/wsl
cc: File

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2006-CP-00322-COA

ANTHONY SWIFT

APPELLANT

v.

STATE OF MISSISSIPPI

APPELLEE

DATE OF JUDGMENT:	1/20/2006
TRIAL JUDGE:	HON. LEE J. HOWARD
COURT FROM WHICH APPEALED:	CLAY COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	ANTHONY SWIFT (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: W. DANIEL HINCHCLIFF
NATURE OF THE CASE:	CIVIL - POST-CONVICTION RELIEF
TRIAL COURT DISPOSITION:	MOTION FOR POST-CONVICTION RELIEF DENIED.
DISPOSITION:	DISMISSED WITHOUT PREJUDICE – 03/27/2007
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE LEE, P.J., BARNES AND ISHEE, JJ.

ISHEE, J., FOR THE COURT:

¶1. Anthony Swift appeals from the denial of a motion for reconsideration, which he filed in the Circuit Court of Clay County after having his probation revoked. Because there is no right to appeal from a revocation of probation, we dismiss the appeal without prejudice.

FACTS

¶2. On April 8, 2005, Swift, a convicted felon on probation, was indicted by a Clay County grand jury for three counts of the sale of cocaine. After conducting a revocation hearing, on November 22, 2005, the Circuit Court of Clay revoked Swift's probation. On December 8, 2005, Swift filed a pro se motion for reconsideration, which the circuit court treated as a motion for post-conviction relief

and denied on January 20, 2006. Aggrieved by the court's decision, Swift appeals pro se. He asserts the following issues for this Court's review:

- I. Whether the trial court erred in revoking Swift's probation after it was proven that law enforcement agents violated their protocol by not searching the confidential informant before the investigation.
- II. Whether the trial court erred in revoking Swift's probation during a vacation term of court when the trial court had previously ruled that no revocation hearing would be conducted until after trial was held in the matter.
- III. Whether Swift was denied due process of law when the trial court revoked his probation without issuing findings of fact as to evidence relied on and reasons for revoking probation.
- IV. Whether the State should have been allowed to use a court order to allow Brenda Weaver to work as a confidential informant in violation of the Anti-Peonage Act of 1864.
- V. Whether the trial court erred when it allowed the State to amend the indictment from sale of cocaine to possession of cocaine in violation of article 3, section 27 of the Mississippi Constitution.

ISSUES AND ANALYSIS

¶3. Although the circuit court referred to Swift's motion for reconsideration as a post-conviction matter, this is not an appeal from the denial of a motion for post-conviction relief. Swift's motion for reconsideration was labeled as a motion for reconsideration and requested that the circuit court reconsider his probation revocation; his motion made no mention of post-conviction relief. Thus, Swift is now appealing from the denial of a motion for reconsideration, not the denial of post-conviction relief.

¶4. An order revoking probation is not appealable; instead, the proper venue for complaints about probation revocation is a motion for post-conviction relief. *Massingille v. State*, 878 So. 2d 252, 254 (¶7) (Miss. Ct. App. 2004) (citing *Beasley v. State*, 795 So. 2d 539, 540 (¶6) (Miss. 2001)).

Although we are “reluctant to dismiss a proceeding because one seeks the wrong remedy; and a mere misnomer of the procedure should ordinarily not result in a dismissal . . . the attempt to appeal an unappealable order is a total departure from the orderly administration of justice and cannot and should not be approved.” *Beasley*, 795 So. 2d at 540 (¶6) (quoting *Pipkin v. State*, 292 So. 2d 181, 182 (Miss. 1974)). Because we find that Swift attempts to appeal an unappealable order, his appeal is dismissed without prejudice.

¶5. THE APPEAL FROM THE JUDGMENT OF THE CIRCUIT COURT OF CLAY COUNTY IS DISMISSED WITHOUT PREJUDICE. ALL COSTS OF THIS APPEAL ARE ASSESSED TO CLAY COUNTY.

KING, C.J., LEE AND MYERS, P.JJ., IRVING, CHANDLER, GRIFFIS, BARNES, ROBERTS AND CARLTON, JJ., CONCUR.

AFFIDAVIT OF OATH

Anthony Swift, having been duly sworn according to law deposes and says that he is the Petitioner in an action filed in this Court entitled 'Motion to Vacate Conviction and Sentence', Pursuant to the Post-Conviction Collateral Relief Act, and this affidavit is made in support thereof.

1. That affiant was interviewed at the Clay County Mississippi Sheriff's Office by Johnny Hancock and John Adams. These individuals represented themselves to be Mississippi Dept. of Corrections Probation Officers.
2. The Purpose of this meeting was to hold a Preliminary Revocation Hearing on affiant who was on Probation for being charged with 3 Counts Sale of Cocaine.
3. Johnny Hancock was affiant's Probation officer and John Adams was the hearing officer at the Preliminary revocation hearing.
4. After being questioned by Mr. Adams I was asked if I wanted to question anyone or call any witnesses.
5. That affiant did state that he wanted to call agent Ramirez Williams of the Tri-County Task Force.

6. When affiant stated this that Johnny Hancock became upset and shouted to affiant that he wasn't going to call anyone.

7. That affiant never got to question anyone at this hearing.

8. That while affiant and Johnny Hancock were walking back to the jail from the hearing that a verbal exchange began between affiant and Hancock.

9. That affiant was questioning Johnny Hancock as to why he would not allow affiant to make bond when several white individuals who were on probation and had been charged with felonies were allowed to bond out.

10. That Johnny Hancock stated to affiant that their cases (the white probationers) were different from affiants.

11. That affiant then asked what the difference was and was told by Hancock that he was tired of putting up with my crap and that if affiant did not enter a plea (guilty) to the charges that he had filed that he would "make sure" affiant got life in prison. Johnny Hancock went on to say that affiant would die in prison and that affiant would never get out.

12. That these events occurred on or about February 20th, 2005.
13. That affiant did contact Johnny Hancock's Supervisor in regards to these statements whose name is Don Nester and his mailing address is, P.O. Box 20461, Meridian, MS. 39302. Affiant also contacted Christopher Epps who is the Mississippi dept. of Corrections Commissioner. His address is 723 North President Street, Jackson, MS. 39202. Affiant mailed these letters from the Clay County Jail shortly after the day of the Preliminary Revocation Hearing.
14. Affiant also informed the President of the Clay County branch of the NAACP and the Field Secretary, Mr. Jessie Ivy and a Mrs. Huggins, of what took place.
15. That on November 22, 2005 at affiant's Probation Revocation Hearing, that Johnny Hancock did state that Probationer Brenda Weaver (White Female) was sent to him from Chickasaw County by Judge Henry Lackey.
16. Further testimony from Johnny Hancock revealed that Brenda Weaver had violated her Probation on several (4) occasions while under his supervision.
17. That Judge Lackey issued a Court order for Ms. Weaver to assist the Mississippi Bureau of Narcotics.

18. That affiant never got to question MS. Weaver due to her being in Rankin County Women's Facility after Judge Lackey finally revoked her probation in April of 2005 for testing positive for Alcohol and drug use.
19. That affiant believes MS Weavers Probation was Revoked due to affiant contacting the individuals in # 13 of this affidavit on numerous occasions alleging misconduct on the part of Johnny Hancock as well as racial discrimination. (against Blacks)
20. That during several terms of Circuit Court affiant did see Johnny Hancock with members of the district attorneys office.
21. That on affiants trial date (Jan. 19, 2006) affiant did state to the trial court that he had been threatened by Johnny Hancock who was affiants Probation Officer.
22. That affiant specifically stated when asked did that have a bearing on the entry of the plea that it did.
23. That the trial court further put affiant in fear when affiant was asked how old he was and after telling the trial court was told to add 60 years to it, that is life and I (the Judge) don't have a problem with giving it to you. The trial court went on to say that he gave it to people in Columbus and Starkville all the time. See transcripts of Plea Hearing.

24. That Affiant was Lied to by the trial Court during the No-contest Plea hearing, Affiant was told by the Court that if he entered the Plea that he would Make Sure Affiant got to spend time with his Family at the Clay County Jail. After the Plea hearing a transportation Officer took Me and one of the People I subpoenaed as a witness Straight to Rankin County.
25. When Affiant asked the transport Officer about seeing his Family he was told by the transportation Officer and his wife that I was Not to see any Family Members and that his orders were "to get me South" (to Rankin County)
26. That Affiant was sent to the Lowndes County adult detention Center on May 20, 2005.
27. That While Housed at the L. C. A. D. C. in Columbus Clay County Law enforcement officials deprived me of my due-process rights by only transporting me to Court on my trial date without allowing Affiant an opportunity to properly interview his witnesses. See exhibit 1 and 2
28. That during each term of Court Affiant had to literally beg to be taken back to Court because Affiant had planned on going to trial. See ex. #3

29. That Affiant believes that Clay County authorities advised the staff at the Lowndes County Jail to Censor all of Affiant's legal mail. Affiant had letters from his attorney and other members of the bar opened and read on (5) five different occasions while housed at the Lowndes County Jail. See ex. #4, 3 and 6
30. That Affiant was labeled as a disciplinary problem by Clay County authorities. See Ex. #7
31. That Affiant was sent to Lowndes County as retaliation from a lawsuit filed against the Sheriff of Clay County, and others.
32. That Affiant has never received an (R.V.R.) rule violation report stating that he displayed disruptive ^{ful} behavior while housed at the Clay County Jail as Policy requires.
33. On the day Affiant was transported to the HCADC he was told by the Jail administrator that he didn't know why I was going to Columbus. Affiant was led to believe he was going to the district attorney's office to see the film ^{first} at the district attorney's office.

34. While affiant was housed in Lowndes County he was subjected to a brutal attack at the hands of a Lowndes County Jailor. Affiant was maced with tear gas and beaten by Barry Stanford. ~~and~~ See ex. #8 and 9
35. That affiant voiced his complaint through the media and was sent back to Clay County on October 20, 2005.
36. That affiant was told by his attorney that Clay County authorities were highly upset for me being sent back to the ~~low~~ Clay County Jail because they did not want me in the jail.
37. That affiant was also told ~~that~~ by his attorney that the Sheriff of Clay County had contacted several jails in the state trying to get affiant housed away from Clay County but no other jail would accept affiant.
38. That affiant was contacted by his attorney and advised that the Sheriff had requested a revocation hearing during "vacation term of court" to get affiant's probation revoked to get affiant out of Clay County.
39. That during this time affiant was aware of at least (5) five probationers awaiting revocation but affiant was the only one taken to court for a hearing.

40. That the assistant district attorney (Charlie Hedgepeth) filed a bar complaint against affiant's attorney on or about December 15th 2005 alleging that there had been a discovery violation on affiant's attorney.
41. This complaint was in retaliation because affiant filed a complaint with the West Point housing authority against Bobby Gaston for violating the zero tolerance drug policy by using his apartment as a buy location while acting as a C.I. for agents of the Mississippi Bureau of Narcotics. See ex. #10
42. That Bobby Gaston was evicted due to the complaint filed by affiant.
43. That agent Treddis Anderson was going to give false testimony at affiant's trial by testifying that affiant sold Bobby Gaston a controlled substance, to wit: Cocaine.
44. This perjured testimony would have enhanced the risk of affiant being convicted on testimony in light of the fact that no agent took the effort to search Bobby Gaston once he left his home.
45. That the circuit court of Clay County lost jurisdiction to proceed in this case when the state was allowed to improperly ~~amend~~ amend the indictment and

When Petitioner Was offered a Plea of Nolo Contendere.

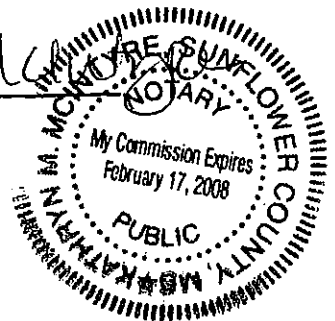
46. That the trial Court and Prosecutor knew that affiant was Not Guilty because the Plea Petition affiant signed had guilty marked thru and "IN the best interest of Client" wrote in its Place. See Page 2, 2 and 3 of Ex. #11.
47. That the trial Court never Questioned the Plea Petition and in fact reviewed it and asked affiant had it been reviewed by him. (See trans. of Plea Hearing)
48. That the trial Court and Prosecutor engaged in a Criminal act and violated Code of ethics by allowing affiant to be sent to Prison knowing his due-process and equal protection rights were being violated.
49. That affiant's attorney did all that he could do under the circumstances but was forced to keep quiet to look out for his client's best interest.
50. That affiant did state when asked by the trial Court if he was guilty of the charge, "NO." See Ex. 11 § 12
51. That the trial Court then told affiant "Well I find you guilty." See trans. of January 192006 Plea Hearing.
52. That affiant's attorney finally spoke up because affiant and the trial Court was about to engage in a verbal altercation.

33. That affiant's attorney advised him to only respond to incriminating questions by saying "this is in my best interest."
34. That all of affiant's claims are supported by the record.
35. That all of affiant's claims are true.
36. That affiant is entitled to be released from custody by the circuit court of Clay County.
37. That affiant has suffered extreme psychological and mental stress due to being unlawfully convicted and the everyday atrocities of prison life.
38. That affiant makes the following assertions under the penalty of perjury.

Anthony Swift
AFFIANT

Sworn to and Subscribed before me this 3rd day
of April 2007

Kathryn M. McInerney
Notary Public



LOWNDES COUNTY ADULT DETENTION CENTER

INMATE REQUEST FORM

1 CHIEF DETENTION OFFICER: _____
INMATE ACCOUNTS: _____

ADMINISTRATOR: ✓

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: _____
DATE: 7-21-05 TIME: 7:25 POD: C DAYROOM: E CELL: 127

Effect / state your request, sign at the X and give form to detention officer

On 7-20-05 I was told that I was brought over here because Clay Co. didn't have space to house me. On the day I was brought here I was assigned to a two man cell and there was an entire cell without anyone in it. Me being here is too border some for my family to come and see me. The sheriff of Clay Co. has retaliated against me by sending me over here for no reason and Yall (Lowndes County) are a part of it. I am going to file a complaint against him and Lowndes Co. because I don't have any.

Anthony Swift

INMATE SIGNATURE

DO NOT WRITE BELOW—FOR OFFICIAL USE ONLY

Referred to Administrator Zell

U. B. M.
7/21/07

Request Forms will be routed through the shift supervisor for distribution.

Signature of Detention Officer _____

Date _____

Time _____

Cell #: _____ Inmate: _____ Inmate File: _____

Ex, 2

LOWNDES COUNTY ADULT DETENTION CENTER
INMATE REQUEST

ION CENTER

TO: CHIEF DETENTION OFFICER: _____
INMATE ACCOUNTS: _____

ADMINISTRATOR: ✓
DATE: _____

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: _____
DATE: 7-21-05 TIME: 7:50 AM POD: C DAYROOM: E CELL: 127

Briefly state your request, sign at the X and give form to detention officer.

On 7-7-05 I had several pretrial motions that were to be heard in Clay Co. One of them was going to be a bond hearing because I have not been given a circuit court bond. My trial was scheduled for the 19th of July. All of that has been postponed until Oct. 2005 because I was not taken back to West Point. That is a violation of my rights under the 14th amendment to due process. I am asking that you contact Clay Co. and let them know I have a ~~right~~ right to be present during circuit court proceedings. I need to go.
Anthony Swift

INMATE SIGNATURE

DO NOT WRITE BELOW—FOR OFFICIAL USE ONLY

Referred to Administrator Jull

Tharles

All Inmate Request Forms will be routed through the shift supervisor for distribution.

Signature of Detention Officer _____

Date _____

Time _____

Clerk ID: _____ Inmate: _____ Inmate File: _____

EX. 43

LOWNDES COUNTY ADULT DETENTION CENTER INMATE REQUEST FORM

TO: CHIEF DETENTION OFFICER: _____
INMATE ACCOUNTS: _____

ADMINISTRATOR: ✓
SHERIFF: _____

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: _____

DATE: 10-3-05 TIME: 8:00 AM POD: C DAYROOM: F CELL: 127

Briefly state your request, sign at the x and give the form to detention officer.

Court has started in Clay County. On 9-29-05 Clay
authorities came and picked me up but they brought me back
over here. All of my witnesses are in Clay County and I
need to be over there daily to confer with them.
Tell Clay Co. authorities they need to pick me up so I can
file pretrial motions. My trial is set for next week
and I need to be prepared. The Clay authorities are violating
my due-process rights by keeping me over here when my trial
date is a little over a week away.

x Anthony Swift
INMATE SIGNATURE

DO NOT WRITE BELOW - FOR REPLY ONLY

Refused to Administrator

Inmate was transported to Clay Co. 9-29-05
he was returned and Administrator Randel advised 10/4/05
he would transport subject when next. This issue was
explained to Inmate Swift

All in request forms will be routed through the shift supervisor for distribution.

Signature of Detention Officer _____

Date _____

Time _____

Copies to: _____

Inmate: _____

Inmate File: _____

EX-4

LOWNDES COUNTY ADULT DETENTION CENTER INMATE REQUEST FORM

TO: CHIEF DETENTION OFFICER: ✓
INMATE ACCOUNTS: _____

ADMINISTRATOR: _____
SHERIFF: _____

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: 587-39-0290

DATE: 6-6-05 TIME: 7:50 Am POD: C DAYROOM: E CELL: 127

Briefly state your request, sign at the X and give form to detention officer.

On 6-3-05 I received mail from an attorney that had been opened. There was a stamp on the envelope that said "Open for security reasons." Legal mail should not be opened outside the presence of an inmate.

In the future please advise the mail officer to not open my mail coming from the ACLU or any other civil rights group outside of my presence

x Anthony Swift

INMATE SIGNATURE

DO NOT WRITE BELOW—FOR REPLY ONLY

Referred to Inmate Account

6-8-05 I am not aware of any mail from an attorney that was opened.

6/7/05

All in Request Forms will be routed through the shift supervisor for distribution.

End Z Numb
Signature of Detention Officer

6-6-05
Date

11:25 PM
Time

Copies to: Inmate: _____ Inmate File: _____

received
6-8-05 K3

Ex. #5

LOWNDES COUNTY ADULT DETENTION CENTER
INMATE REQUEST FORM

TO: CHIEF DETENTION OFFICER: _____
INMATE ACCOUNTS: _____

ADMINISTRATOR: ✓
SHERIFF: _____

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: 384-39-0290
DATE: 8-11-05 TIME: 7:20 POD: C DAYROOM: F CELL: 117

Briefly state your request, sign at the x and give the form to detention officer.

Dear MR. Bell,
SINCE I've been here the mail inspector has been
opening up my legal mail. This is a facility
violation as well as a violation of my constitutional
rights. Legal mail should not be opened outside
the presence of an inmate. Please find out
why she's opening my legal mail and let
me know.

x Anthony Swift
INMATE SIGNATURE

DO NOT WRITE BELOW - FOR REPLY ONLY

Referred to Inmate Administrator Bell

I spoke with Inmate Swift and he showed me about 4
envelopes from different agencies. I requested that he
to have the envelopes to make copies and 8/11/05
complete my investigation and Swift did not want to
relinquish them. I cannot pursue his allegations with out
The envelopes.

All in request forms will be routed through the shift supervisor for distribution.

Signature of Detention Officer _____

Date _____

Time _____

Copies to: Inmate: _____ Inmate File: _____

LOWNDES COUNTY ADULT DETENTION CENTER

INMATE REQUEST FORM

TO: CHIEF DETENTION OFFICER: _____
INMATE ACCOUNTS: _____

ADMINISTRATOR: _____
SHERIFF: ✓

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: 587-39-0290
DATE: 8-22-05 TIME: 9:10 POD: C DAYROOM: E CELL: 127

Briefly state your request, sign at the X and give form to detention officer.

I sent a request to adm. Bell last week about my legal mail that's being opened by the mail officer at this facility. MR. Bell came back here and I showed him five (5) letters that had been opened. He told me he would let me know something but he hasn't responded to my request. Officer Nolan told me MR. Bell said he wouldn't act on my complaint because I would not send the envelopes that had been opened up front to him so he could get copies. He's already seen the letters were privileged. Can you please X Anthony Swift find out why my legal mail is being opened and read.

INMATE SIGNATURE

DO NOT WRITE BELOW—FOR REPLY ONLY

Refund to Administrator Bell

Provide me with the envelopes so they can be copied and shown to the mail clerk or I can't confront the clerk with the accusation.

8/21/05

All in Request Forms will be routed through the shift supervisor for distribution.

Signature of Detention Officer _____

Date _____

Time _____

Copies to: Inmate: _____ Inmate File: _____

21 July 2005

Memorandum on Anthony Swift

Inmate Swift is being held in the Lowndes County Adult Detention Center at the request of Clay County Jail Administrator Bobby Randell. Swift could not be isolated in Clay County which was needed since he was a disciplinary issue. If Swift feels that he is being held illegally by the Clay Sheriff Department or that his right to due process is being violated, I would encourage him to contact his attorney. I spoke with Randell and he said that Clay County authorities are awaiting action from Swift's attorney to proceed with his case which has not been postponed as of yet. Swift received two visits from his attorney in June of 2005 so I know that the attorney is well aware of Swift's present location and situation. Threats of filing a complaint against this agency will not affect my actions in any way. The Lowndes County Adult Detention Center Handbook states in section 13.2.C.15 "Use of either verbal or physical threats, coercion, force, bribery, or intimidation against any person or assisting another to do so" is a serious rules violation and will be dealt with appropriately. I will give Swift the benefit of the doubt and chalk his statement up to his current legal issues but I will not be as considerate in the future should threats be directed at anyone who works at the Lowndes County Adult Detention Center or the facility as a whole.



PATRICK J. BELL
Jail Administrator

LOWNDES COUNTY ADULT DETENTION CENTER INMATE REQUEST FORM

TO: CHIEF DETENTION OFFICER: _____
INMATE ACCOUNTS: _____

ADMINISTRATOR: ✓
CLERICAL: _____

Please print and complete all information:

NAME: Anthony Swift SOCIAL SECURITY NUMBER: _____
DATE: 10-7-05 TIME: 7:40 POD: C DAYROOM: B CELL: 159

Briefly state your request, sign at the x and give the form to detention officer.

ON 10-605 I was pepper sprayed by Jailer Barry Stanford.
Jailer Stanford opened cell #127 and asked that paper
be removed from the light. Once it was he closed
the door and said, "yall have a good night." I replied
I would if I was out and he said I threatened
him and called the shift supervisor to ask permis-
to take me to lock down. Jailer Stanford and his co-work-
Left and returned a few minutes later with Sgt. Phillip

x Anthony Swift
INMATE SIGNATURE

DO NOT WRITE BELOW - FOR REPLY ONLY

Refer to Administrator

W. B.
10/11/05

All in request forms will be routed through the shift supervisor for distribution.

Sgt. Phil
Signature of Detention Officer

10-9-05
Date

Time

Copies to: Inmate: _____ Inmate File: _____

12 Oct 05

Memorandum on Anthony Swift

I received an inmate request form from Anthony Swift. Swift was questioning being placed on lock down and the use of OC pepper spray. I spoke with Swift, Sgt Phillips, and Officers Brackins and Stanford.

On October 6, 2005, Officers Brackins and Stanford conducted a watch tour, which included dayroom C-E. Upon approaching room 127, Officer Stanford noticed paper in the windows obstructing the view of the officers, a rule violation in the Inmate Handbook. Officer Stanford opened the cell door and instructed the inmates to remove the paper, which Inmate Michael Lowe did. As Officer Stanford closed the door, he replied, "You have a good night." Swift replied, "You let me out and I will." Stanford took that statement as a threat but Swift said that he just meant if he weren't in jail, he would have a good night. A verbal altercation occurred and Sgt Phillips responded to the incident. After Phillips arrived and spoke with all persons involved, Swift said, "I've had it and I'm going to bed." Swift then got in his bed and Phillips, Stanford and Brackins left the area.

Approximately 45 minutes later, Stanford contacted Phillips and told him that he wanted to place Swift in lockdown for disrespecting an officer. Phillips didn't think that was necessary but conceded at Stanford's request. Stanford and Brackins went to C-E 127 and told Swift to get his property because he was going to lockdown. Swift refused to comply and Stanford had to utilize pepper spray. Swift was removed from the area, decontaminated, and placed in lockdown.

I have removed Swift from lockdown and placed him in general population. Swift should have complied with Stanford's order to go to lockdown, no questions asked, and then contacted Lt Brooks in the morning to voice his complaint. If Swift was going to be placed in lockdown, this should have happened when Sgt Phillips was on-scene and when the incident first occurred, not 45 minutes later. Swift should not have been the one to control the situation and determine when it was finished as he did by saying, "I'm going to bed." Lastly, Sgt Phillips should have stayed firm with Stanford and not giving a half-hearted approval to place Swift in lockdown. Swift should have been placed in lockdown for insubordination but it should have taken place immediately. All parties have been counseled on their actions and a copy of the letter placed in their personnel file.


PATRICK J. BELL
Jail Administrator

Ex. 10



THE MISSISSIPPI BAR

Mr. Anthony Swift

MDOC #75278

Unit 29 F

Parchman, MS 38738

June 28, 2006

Post Office Box 2168
Jackson, Mississippi 39225-2168
Telephone (601) 948-4471
Fax (601) 355-8635
E-Mail info@msbar.org
Website www.msbar.org

Dear Mr. Swift:

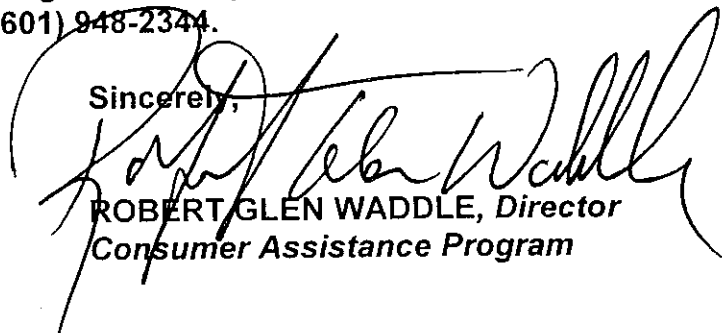
Your letter postmarked June 27, 2006, has been received and reviewed. In response to your letter, pursuant to Rule 15(a) of the Rules of Discipline for The Mississippi Bar, this office cannot confirm, deny, or discuss whether or not the Assistant District Attorney in this matter has filed a bar complaint against another attorney.

A copy of Rule 15(a) is enclosed for your information. There is no further assistance The Mississippi Bar can provide to you in this matter.

If I do not hear from you regarding this matter within 30 days from the date of this letter, then I will consider this matter to be concluded as far as the Consumer Assistance Program is concerned, and I will permanently close this file and the contents will be destroyed.

If you have any questions regarding this letter, please do not hesitate to contact me on my direct line at (601) 948-2344.

Sincerely,



ROBERT GLEN WADDLE, Director
Consumer Assistance Program

RGW

YOUR DOCUMENTS ARE LOCATED IN FILE NO. 06-706
OF THE CONSUMER ASSISTANCE PROGRAM FILES

IN THE CIRCUIT COURT OF CLAY COUNTY, MISSISSIPPI

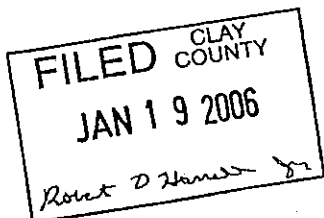
STATE OF MISSISSIPPI

VS.

NO. 8712ANTHONY SWIFTPETITION TO ENTER A GUILTY PLEA
IN BEST INTEREST OF CLIENT

The defendant, after having been first duly sworn, on his/her oath represent and states unto the Court the following:

1. My full name is: ANTHONY DWAYNE SWIFT I am known as _____
I request that all proceedings against me be had in my true name
The Petition has been read and explained to me by my lawyer and I understand the contents herein
2. I am represented by a lawyer whose name is: M. KEVIN HORAN
3. I wish to plead to guilty to the charge(s) of POSSESSION OF COCAINE
23 COUNTS
4. I have told my lawyer all the facts and circumstances known to me about the charges against me. I believe that my lawyer is fully informed on all such matters. My lawyer has counseled and advised me on the nature of each charge and on any and all lesser included charges. My lawyer has informed me of all possible defenses that I might have in the case.



5. My lawyer has advised me as to the probabilities of my conviction on the charge(s) with which I am charged and thoroughly discussed all aspects of my case with me. My lawyer has made no threats or promises of any type or kind to induce me to enter this plea. The decision to seek the entry of this plea was my own and mine alone, based on my own reasons and free from any outside influences.
6. I understand that I may plead "not guilty" to any offense charged against me. If I choose to plead "not guilty" the Constitution guarantees me:
- (a) the right to a speedy and public trial by jury.
 - (b) the right to see, hear and face in open court all witnesses called to testify against me and right to cross-examine those witnesses.
 - (c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor.
 - (d) the right to have the assistance of a lawyer at all stages of the proceedings.
 - (e) the presumption of innocence (the State must prove beyond a reasonable doubt that I am guilty).
 - (f) the right to take the witness stand at my sole option and if do not take the witness stand, I understand, at my option, the jury may be told that this shall not be held against me.
 - (g) the right to appeal any conviction and sentence to the Mississippi Supreme Court.

Knowing and understanding the Constitutional guarantees set forth in this paragraph, I hereby waive them and renew my desire to enter a plea of ~~guilty~~ **BEST INTEREST**

7. I also understand that if I plead "guilty" the Court may impose the same punishment as if I had pled "not guilty" and stood trial and been convicted.

8. I know that if I plead "guilty" to this charge(s), the possible sentence is 2 to 8 years imprisonment and/or a fine of \$ 0 to \$ 5000 ^{per count @}
maximum minimum maximum
COUNT I is 4 x 16 and \$100,000 -

I know also that the sentence is up to the Court and that the Court is not required to carry out any understanding made by me and my attorney with the District Attorney. Further, I understand that the Court is not required to follow the recommendation of the District Attorney, if any. The District Attorney will take no part other than providing to the Court, police reports and other factual information as requested by the Court and the District Attorney shall make no recommendations to the court concerning my sentence except as follows:

^{As used}
~~14 years~~ COUNT I ~~with 5 years post release supervision, pay \$500 fine, pay 60 fee and assessments or a condition of post release supervision~~ ^{II} 1 year COUNT II with 5 years post release supervision, pay \$500 fine, pay 60 fee and assessments or a condition of post release supervision ~~Supervision and Court costs~~ with P.S.

9. (a) I have been convicted of no felonies in this State or any other state of the United States, except as follows: Clay County Circuit Court - State of Kansas
2 charges

(b) I have been convicted of no misdemeanors in any court of any state except as follows: _____

10. I am _____ I am not X presently on probation or parole. I understand that by pleading guilty in this case this may cause revocation of my probation or parole and this could result in a sentence of _____ years in that case. I further understand that if my parole or probation is revoked, any sentence in that case may be consecutive to or in addition to any sentence in this case.

11. I am 39 years of age and have gone to school up to and including 10th grade
GED. My physical and mental health is presently satisfactory. At this time I am not under the influence of any drugs or intoxicants (nor was I at the time the crime was committed) except none

12. I declare that no officer or agent of any branch of government including the Federal, State or Local has made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence or probation or any other form of leniency if I plead "guilty" except: 8 years count I, 6 years count II, 1 year count III and 5 years post release, \$500 fine, 100 fees and court costs

13. I believe that my lawyer has done all that anyone could do to counsel and assist me. I am satisfied with the advice and help he has given me. I recognize that if I have been told by my lawyer that I might receive probation or a light sentence, this is merely his prediction and is not binding on the Court.

14. I plead "guilty" and request the Court to accept my plea of "guilty" and to have entered my plea of "guilty" on the basis of (state involvement in crime):

I possessed cocaine on the dates in the indictment
Counts I and II

15. I offer my plea of "guilty" freely and voluntarily and of my own accord and with full understanding of all the matters as set forth in the indictment and in this Petition and in the Certificate of my lawyer which follows.

16. I further state that I wish to waive the reading of the indictment or information in open Court. I request the Court to enter my plea of "guilty" as set forth in paragraph 14. If not applicable _____

Check

17. Habitual Criminal Paragraph. If not applicable, NA

Check

Set forth the language of the appropriate statute including punishment: _____

SIGNED AND SWORN to by me, on this the 17th day of January, 2005, with the full knowledge that every person who shall willfully and corruptly swear, testify or affirm falsely to any material matter under any oath or affirmation or declaration legally administered in any matter or cause, or proceeding pending in any Court of law or equity shall upon conviction be punished by imprisonment in the penitentiary not exceeding Ten (10) years.

Anthony Skipt
Defendant

WITNESS.

[Signature]
Defendant's Attorney

SWORN TO AND SUBSCRIBED before me, this the 19 day of January, 2006

(SEAL)
My Commission Expires January 3, 2008

[Signature]
ROBERT D. HARRELL, CIRCUIT CLERK

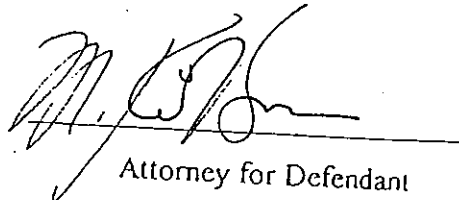
by: _____ D.C

CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counselor for the above Defendant hereby certifies:

1. I have read and fully explained to the Defendant the allegations contained in the indictment in this case.
2. To the best of my knowledge and belief the statements, representations and declarations made by the Defendant in the foregoing petition are in all respects accurate and true.
3. I have explained the maximum and minimum penalties for each count to the Defendant, and consider him competent to understand the charges against him and the effect of his petition to enter a plea of guilty.
4. The plea of "guilty" offered by the Defendant in this petition accords with my understanding of the facts he related to me and is consistent with my advice to the Defendant
5. In my opinion the plea of "guilty" as offered by the Defendant in the petition is voluntarily and understandingly made. I recommend that the Court accept the plea of "guilty"
6. Having discussed this matter carefully with the Defendant, I am satisfied, and I hereby certify, in my opinion, that he is mentally and physically competent; there is no mental or physical condition which would affect his understanding of these proceedings, further, I state that I have no reason to believe that he is presently operating under the influence of drugs or intoxicants

SIGNED by me in the presence of the Defendant above named and after full discussion of the contents of this certificate with the Defendant, this the 19 day of JANUARY, 2006.


Attorney for Defendant

Clay County Circuit Court

STATE OF MISSISSIPPI
NOTICE OF CRIMINAL DISPOSITION

Docket No.

City of West Point

File Year/Sequence # of the entire "old" docket number (if opened prior to 7/1/98)

Local ID

8712

(Enter your local identifier, if any)

A. DEFENDANT INFORMATION

Name Swift Anthony D.
Street Address 907 Hill St.
West Point City MS State 39773 Zip Code
SS# 587-39-0290 DOB 4-4-66 POB USA
Alias _____
FBI# _____
Immigration/Alien Registration# A-

B. COURT INFORMATION

Sentence Date (Order) 1-19-06 Check (✓) one: Initial Judgment _____ Revocation _____ Re-Trial _____ Indictment: 4-8-05
Judge Kitchens 9599 Judge Howard 2726 DA/ADA Forrest Allgood
Attorney for Defendant Kevin Moran COURT REPORTER Melanie Moul
Check (✓) if Pro Hac Visi _____ Check (✓) if Court-Appointed _____

C. SENTENCE INFORMATION

Is Defendant classified as Habitual? _____ No _____ Yes If Yes, Check (✓) Applicable Habitual Statute _____ §99-19-81 _____ §99-19-8
Event: Entry Plea Action: Acceptance of Plea Disposition _____
Miss. Code § 41-29-139 Description of Crime Possession of Cocaine If Drug, or Paraphernalia Identify Here _____
Total Sentence Ordered: 14 yrs Total Time to Serve: _____ Total Time Suspended: _____ Total Time to Serve Probation: _____ Life _____ Death _____
Concurrent to _____
Consecutive to _____
Conditions of Sentence: fine set forth in Restitution to: -0- Amount: -0-
Event: Entry Plea Action: Acceptance of Plea Disposition _____
Miss. Code § 41-29-139 Description of Crime Possession of Cocaine 1.41 grams If Drug, or Paraphernalia Identify Here _____
Total Sentence Ordered: 1 yrs Total Time to Serve: _____ Total Time Suspended: _____ Total Time to Serve Probation: 5 yrs Life _____ Death _____
Concurrent to _____
Consecutive to Count 1 of 8712 for total of 15 yrs. and 5 yrs. post release
Conditions of Sentence: \$40 p/m, 60 days after release, payable on the 15th Restitution to: -0- Amount: \$500
Event: Refused to Plead Action: _____ Disposition _____
Miss. Code § 41-29-139 Description of Crime Sale of Controlled Sub. If Drug, or Paraphernalia Identify Here _____
Total Sentence Ordered: _____ Total Time to Serve: _____ Total Time Suspended: _____ Total Time to Serve Probation: _____ Life _____ Death _____

SEE JAIL TIME SHEET

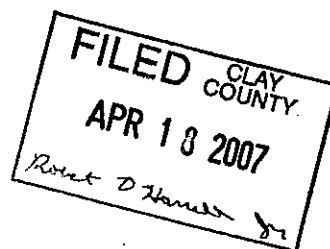
Exhibit "B"

Anthony Swift #75278 V
Unit 29 B-bldg.
Parchman MS. 38738

Please find enclosed Pro-se Petitioners affidavit
of oath for filing with the Post-conviction Motion dated
April 3, 2007. Sincerely, Anthony Swift, Pro-se

This the 10th day of April 2007

Copies of the April 3, 2007 Motion for Post conviction Relief
have been Mailed to Judge Kitchens today also.



Affidavit of Oath

IN the Circuit Court of Clay County Mississippi

Anthony Swift, having been duly sworn according to law deposes and says that he is the Petitioner in an action Filed in this Court entitled "Motion to Vacate Conviction and Sentence", Pursuant to the Post-Conviction Collateral Relief Act, and this affidavit is Made in Support thereof.

Cause No. 8712 & 1818

1. That affiant received the Plea transcripts in Cause No. 8712 on April 4, 2007 from the Circuit Clerks Office in Clay County, West Point Mississippi.
2. That after review of the transcripts it is apparent to affiant that the Record of the Proceedings have been altered.
3. That on Page 2 of the transcripts affiant objected to the Prosecutor stating that affiant wished to enter a Plea of guilty to lesser included offenses. Affiants objections have been intentionally ~~to~~ stricken from the record.
4. That Page 6 of the transcripts have been altered to Make it appear as though affiant asked the Court Could he Plead No contest.

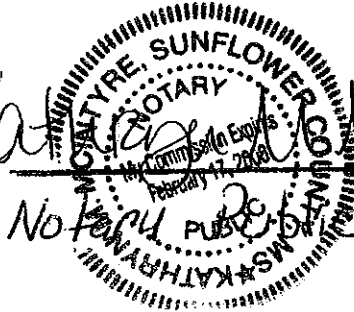
5. That when affiant was asked how did he Plead Guilty or Not Guilty that affiant said No-Contest.
6. That all of affiant's objections and disagreements that were voiced at the Plea Hearing have been intentionally Stricken from the transcripts.
7. That this is due to various Court officials attempts to keep affiant unlawfully incarcerated in violation of the Mississippi and United States Constitution.
8. That affiant at no time during the hearing state that he was guilty. Affiant never said "In my best interest as a guilty Plea" as Page 6 Line 19 and 20 states.
9. That affiant has contacted Miss Melodie Morel who transcribed the proceedings and has given her until April 10th, 2007 to send affiant a correct copy of the transcription or affiant would seek relief in the United States district Courts for intentionally falsifying documents.

10. That affiant has been severely prejudiced by the Clay County Mississippi Court System.
11. That at affiant's preliminary hearing the trial court and prosecuting attorney engaged in a conspiracy by deliberately keeping affiant's attorney from asking any questions about the confidential informant's identity. See Pg. 7, 8, 9, 14 and 15 of Exhibit 1-A in affiant's Post-conviction File. (Filed April 4, 2006.). Rule 1, 01
12. That affiant has suffered severely due to the corruption in the court system in Clay County.
13. That affiant's filings on April 4 2006 and May 18th 2006 were intentionally tampered with so as to deprive affiant of due process.
14. That affiant objects to the January 19th 2006 plea transcripts as being inaccurate due to the intentional altering of what was said.

15. That affiant make these claims under the
Penalty of Perjury.

Anthony Swift
AFFIANT

Sworn to and Subscribed before me this 10 day
of April, 2007.

Kathryn M. McIntyre

NOTARY PUBLIC

Certificate of Service

This is to certify that I, Anthony Swift have this day mailed a true copy of Appellants Affidavit of Oath to the following.

Hon. Robert "Bob" Harrell, Clerk
Clay County Circuit Court
Post Office Box 364
West Point, MS. 39773

Hon. Lee J. Howard, Judge
Post Office Box 1344
Starkville, MS. 39760-1344

Jame T. Kitchens, Judge
Post Office Box 1387
Columbus, MS. 39703-1387

Forrest Allgood, District Attorney
Post Office Box 1044
Columbus, MS. 39703

So Certified this 10th day of April 2007

Anthony Swift, Pro-se
Parchman, MS.

