

COPY

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

DENNIS DOBBS

FILED

APPELLANT

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SUPREME COURT
COURT OF APPEALS**

VS.

NO. 2007-CP-0900

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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TABLE OF AUTHORITIES

STATE CASES

Crumpton v. Hegwood, 740 So.2d 292, 294 (Miss. 1999) 2

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STATEMENT OF THE ISSUES

- I. THE TRIAL JUDGE PROPERLY DENIED AND DISMISSED THE PETITIONER'S FILINGS.

STATEMENT OF THE FACTS

On July 25, 2006, Dennis Dobbs filed a "Petition for An Order to Show Cause" styling the Petition, *Dennis Dobbs v. State of Mississippi, Marshall County Board of Supervisors*. (Record p. 1-8). In this petition, Dobbs asserts that he is "an inmate at Mississippi Department of Corrections as a result of a conviction from West Point, MS, Clay County, Mississippi." (Record p. 2). He further asserts that he is incarcerated at the Marshall County Correctional Facility. (Record p. 2). Dobbs claims that he is housed "in a unhuman condition" as the windows do not open and as there are no air conditioners. (Record p. 2). An amended petition was filed on July 26, 2007 in which Dobbs alleges that he is being housed in "a fire hazard facility" as there are no "fire sprinkler systems." (Record p. 10).

The record also contains numerous other filings which do not appear to be referenced in Dobbs' appeal including affidavits, a letter to Attorney General Jim Hood, a Petition for an Order

to Show Cause filed March 16, 2007 regarding “illegally obtained evidence,” several pages entitled “Written Argument,” a letter to Governor Haley Barbour, and numerous other papers.

On May 10, 2007, the trial court issued an Order denying the relief requested. (Record p. 77). Dobbs now appeals and asserts for the first time in his appellate brief that the document filed was a “§1983 Complaint on Conditions of Confinement.” (Appellant’s Brief p. 2).

SUMMARY OF THE ARGUMENT

The trial court was within its discretion in denying and dismissing the Petitioner’s filings.

ARGUMENT

Dobbs asserts in his brief that the trial judge “erred in denying Appellant’s §1983 Complaint on Conditions of Confinement.” (Appellant’s Brief p. 2). However, there is no indication in the record whatsoever that a Complaint of any sort was filed. As there is no Complaint in the record and as no summons has been issued, no cause of action has been commenced. *See Crumpton v. Hegwood*, 740 So.2d 292, 294 (Miss. 1999) (holding that “under the Mississippi Rules of Civil Procedure, an action is commenced by the filing of a complaint.”); and M.R.C.P. 3(a). Thus, the trial judge acted within his discretion in denying the relief requested in Dobbs’ filings.

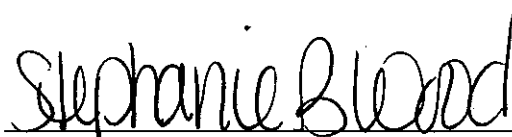
CONCLUSION

The State of Mississippi respectfully requests that this Honorable Court affirm the decision of the trial court to deny and dismiss the Petitioner's filings.

Respectfully submitted,

JIM HOOD, ATTORNEY GENERAL

BY:

A handwritten signature in black ink, appearing to read "Stephanie B. Wood", written over a horizontal line.

STEPHANIE B. WOOD
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CERTIFICATE OF SERVICE

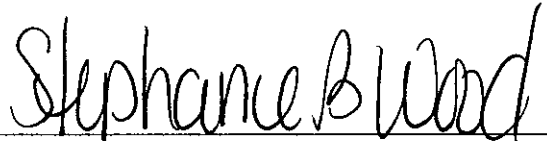
I, Stephanie B. Wood, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing **BRIEF FOR THE APPELLEE** to the following:

Honorable Andrew K. Howorth
Circuit Court Judge
1 Courthouse Square, Suite 201
Oxford, MS 38655

Honorable Ben Creekmore
District Attorney
P. O. Box 1478
Oxford, MS 38655

Dennis Dobbs, [REDACTED]
Delta Correctional Facility (D.C.F.)
3800 County Road 540
Greenwood, MS 38930

This the 28th day of November, 2007.



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