

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

COPY

NO. 2007-KP-02170-SCT

TREY ALLEN BEAMON

APPELLANT

VS.

STATE OF MISSISSIPPI

APPELLEE

FILED

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COURT OF APPEALS

REPLY BRIEF FOR APPELLANT

BY:

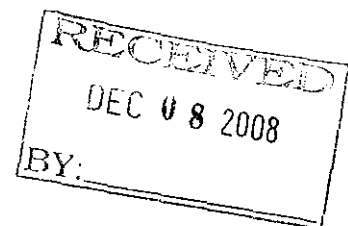


Trey Allen Beamon, #136290

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APPELLANT'S REPLY BRIEF

The State of Mississippi has filed it's brief in this case and has failed to refute Appellant's claims that:

a) Whether the sentence imposed upon Beamon was disproportionate upon a first time offender;

Beamon brings a sentencing matter before this court. Beamon can appeal the legality of his sentence directly. Trotter v. State, 554 So.2d 313, 315 (Miss. 1999); Miss. Code Ann. §99-35-101 (Rev. 2007).

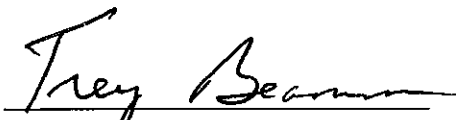
This appeal meets the requirements of the challenge to the legality of the sentence. Beamon has been sentenced by the trial court to a term which was imposed discriminately. The brief of Appellant clearly raises the issue that the sencece imposed upon Beamon is unduly harsh. Beamon was sentencxed to the maximum term. The state has failed to refute the claim in it's brief. B eamon had a right to be sentenced upon the basis of correct information Townsend v. Burke, 334 U.S. 736, 740-41 (1948). The statements made by April Foster was unverified and selfserving to Foster. Foster was attempting to acquire a

lesser sentence or no sentence at all for her misconduct. Appellant would reiterate to this Court that the law is clear that a defendant who is sentenced on inaccurate information is entitled to resentencing. United States v. Tucker, 404 U.S. 443 (1972) This Court should find that the sentence should be vacated where the record fails to contain sufficient record to show that the trial court engaged in the procedure to allow the sentence to be proportional.

CONCLUSION

Beamon would respectfully ask this Court to reject the state's argument and to vacate the sentence as being excessive. Appellant would ask that in the alternative to remand this case to their trial court for a proper showing and for hearing.

Respectfully submitted,

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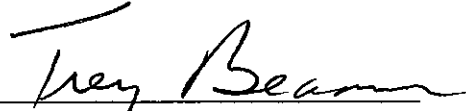
CERTIFICATE OF SERVICE

This is to certify that I, Trey Allen Beamon, Appellant pro se, have this date delivered a true and correct copy of the above and foregoing Appellant's Reply Brief, to:

Honorable Jim Hood
Attorney General
P. O. Box 220
Jackson, Mississippi 39205

This, the 3rd day of December, 2008.

BY:


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