

COPY

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI
NO. 2007-KA-0009-COA

MARY COOPER

APPELLANT

V.

FILED

STATE OF MISSISSIPPI

JUN 08 2007

APPELLEE

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

APPELLANT'S REPLY BRIEF

MISSISSIPPI OFFICE OF INDIGENT APPEALS

George T. Holmes, MSB No. [REDACTED]

301 N. Lamar St., Ste 210

Jackson MS 39201

601 576-4200

Counsel for Appellant

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
REPLY ARGUMENT	1
CONCLUSION	2
CERTIFICATE OF SERVICE	2

TABLE OF AUTHORITIES

CASES:

<i>Dobbins v. State</i> , 766 So. 2d 29, 32-33 (Miss. App. 2000)	1
--	---

STATUTES

none

OTHER AUTHORITIES

none

REPLY ARGUMENT

Under Issue Number 1, the state cites *Dobbins v. State*, 766 So. 2d 29, 32-33 (Miss. App. 2000) for the proposition that Cooper was not entitled to a heat of passion manslaughter instruction even though the alleged intended victim in this case admittedly was choking Cooper during an argument prior to the shooting and admitting firing a weapon at her also. [T. 68, 84, 117, 130-31, 149-52] The main distinctions, however, between *Dobbins* and the present case is that Dobbins expressed an intent to kill as the court noted, “it becomes eminently clear that Dobbins’s earlier threat can be treated as evidence of malice”. This preexisting homicidal animus is lacking here as to Mary Cooper. Plus Dobbins’ lawyer did not request a heat of passion manslaughter instruction which was requested here. [T. 231-32; R. 155-56; R.E. 18-19] Therefore, *Dobbins* does not apply.

As to remaining points and other issues and arguments, the appellant rests on its initial brief and authorities therein.

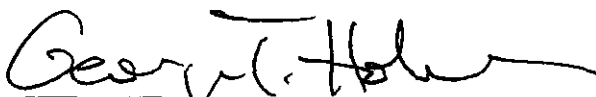
CONCLUSION

Mary Cooper is entitled to have her conviction reversed and rendered, or to have the case remanded for a new trial, or for resentencing for manslaughter.

Respectfully submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS
For Mary Cooper, Appellant

By:


George T. Holmes, Staff Attorney

CERTIFICATE

I, George T. Holmes, do hereby certify that I have this the 8th day of June, 2007, mailed a true and correct copy of the above and foregoing Reply Brief to Hon. C. E. Morgan, III, Circuit Judge, P. O. Box 721, Kosciusko MS 39090, and to Hon. Michael Howie, Asst. D. A., P. O. Box 1262, Grenada MS 38902, and to Hon. LaDonna C. Holland, Assistant Attorney General, P. O. Box 220, Jackson MS 39205 all by U. S. Mail, first class postage prepaid.


George T. Holmes

MISSISSIPPI OFFICE OF INDIGENT APPEALS
George T. Holmes, MSB No. [REDACTED]
301 N. Lamar St., Ste 210
Jackson MS 39201
601 576-4200