

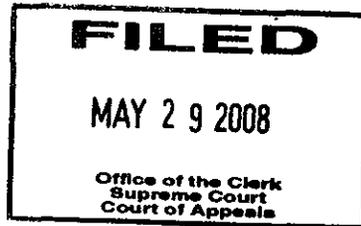
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IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

HERMAN LEE WILLIAMS

APPELLANT

VS.



NO. 2007-KA-0270

STATE OF MISSISSIPPI

APPELLEE

SUPPLEMENTAL BRIEF FOR THE APPELLEE

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Pursuant to this Court's Order dated May 20, 2008, the State of Mississippi submits its Supplemental Brief regarding the issue of Jurisdiction. Herman Lee Williams (hereinafter "Williams") raised the issue before this Court of whether the trial court had jurisdiction to prosecute the charge against Williams. (Appellant's Brief p. 12). In support of his contention that the State did not have jurisdiction, Williams argued that the United States obtained the land known as Navy Circle, where Williams was arrested; that "the United States did not convey concurrent jurisdiction to Mississippi;" and that "Mississippi never retained concurrent jurisdiction in 1899." (Appellant's Brief p. 12). The State argued in its brief that mere ownership of land within the territory of a state without more does not withdraw the lands from the jurisdiction of the State. (Appellee's Brief p. 7). In other words, Williams contends that in order for the State of Mississippi to possess concurrent jurisdiction of the area in question either the United States had to convey concurrent jurisdiction to the State or the State had to retain concurrent jurisdiction, which it did not do as the State was not the entity transferring ownership to the United States. However, the State would submit to this Court, pursuant to the authorities relied upon in its Brief as well as those cited herein, that the United

States only obtains exclusive jurisdiction by the consent of the State of Mississippi.

In *Bowen v. Johnston*, a case discovered by Counsel for the State during preparation for oral argument, the United States Supreme Court addressed a similar issue regarding whether a national park in Georgia was within the exclusive jurisdiction of the United States. 306 U.S. 19, 59 S.Ct. 442, 83 L.Ed. 455 (1939). In that regard the Court held as follows:

The sole question was whether this Park was within the exclusive jurisdiction of the United States. There is no question that the United States had the constitutional power to acquire the territory for the purpose of a national park and that it did acquire it. Whether or not the National Government acquired exclusive jurisdiction over the lands within the Park or the State reserved, as it could, jurisdiction over the crimes there committed, depended upon the terms of the consent or cession given by the legislature of Georgia. (*citations omitted*). The federal courts take judicial notice of the Georgia statutes. (*citation omitted*). If these statutes did not give to the United States exclusive jurisdiction over the Park, the indictment did not charge a crime cognizable under the authority of the United States.

Id. at 23. Therefore, pursuant to *Bowen* and the cases cited by the State in its Brief, the United States ONLY obtains exclusive jurisdiction over lands within a state by obtaining the consent of the state in which the lands are found. Accordingly, the United States did not automatically obtain exclusive jurisdiction over the land known as Navy Circle upon its ownership of the land as argued by Williams.

The State of Mississippi presented to the trial court judge statutes from 1906, specifically §§ 2395 and 2396. These statutes are the same statutes found in §§2178 and 2179 of the 1892 Code and in §§3-5-3 and 3-5-9 of Mississippi Code Annotated (1972). They read in pertinent part as follows:

§3-5-3 Governor may cede jurisdiction to the United States for certain purposes.

The governor, upon application made to him in writing, on behalf of the United Staets, for the purpose of acquiring and holding lands or using any part of a public

road of any county within the limits of this state, for the purpose of . . . locating and maintaining national military parks . . . is authorized for the state to cede jurisdiction thereof to the United States for the purpose of the cession and none other.

§3-5-9 Restrictions on cession.

The concession of jurisdiction to the United States over any part of the territory of the state, *heretofore or hereafter made*, shall not prevent the execution on such land of any process, civil or criminal, under the authority of the state, *nor prevent the laws of this state from operating over such land*; saving to the United States security to its property within the limits of the jurisdiction ceded.

(emphasis added). Thus, the State of Mississippi specifically denied the United States exclusive jurisdiction. As noted in the State's brief, the United States Supreme Court has held that "ownership and use without more do not withdraw the lands from the jurisdiction of the State." (Appellee's Brief p. 7).

CONCLUSION

As such, it is the State of Mississippi's position that regardless of whether the State itself or whether individual citizens of the State transferred ownership of the land now known as Navy Circle to the United States, the United States does not have exclusive jurisdiction over the land. The legislature, via the statutes cited above, specifically denied exclusive jurisdiction over the lands in question to the United States. Thus, the State of Mississippi has jurisdiction over the charges resulting from Williams' arrest at Navy Circle.

Respectfully submitted,

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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 **SUPPLEMENTAL BRIEF FOR THE APPELLEE** to the following:

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This the 29th day of May, 2008.



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