

COPY
IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

WILLIAM ALEX SANCHEZ

APPELLANT

FILED

AUG - 6 2008

VS.

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

NO. 2007-KA-1836

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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IN THE COURT OF APPEALS OF MISSISSIPPI

**WILLIAM ALEX SANCHEZ,
A/K/A/ SPARKPLUG**

APPELLANT

VERSUS

NO. 2007-KA-1836-COA

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR APPELLEE

STATEMENT OF THE CASE

This appeal is taken from the Circuit Court of Pike County, wherein William Alex Sanchez, a/k/a Sparkplug, pleaded guilty to a charge of unlawful sale of at least one tenth but less than two grams of cocaine within 1,500 feet of a church and was sentenced to 15 years in the custody of the Mississippi Department of Corrections with six years to serve and nine years suspended. (C.P.10) Aggrieved by the judgment rendered against him, Sanchez has perfected an appeal to this Court.

SUMMARY OF THE ARGUMENT

To the extent the defendant seeks vacation of the judgment of his guilty-plea-based conviction, his appeal is not lawfully before this Court. Furthermore, Sanchez's challenge to the legality of his sentence is plainly without merit.

PROPOSITION ONE:

**SANCHEZ'S CHALLENGES TO HIS GUILTY PLEA ARE NOT
PROPERLY BEFORE THIS COURT**

To the extent the defendant seeks vacation of the judgment entered pursuant to his guilty plea, his appeal is not lawfully before this Court, inasmuch as this Court's jurisdiction is defined by a statute which explicitly forbids appeal "in any case where the defendant enters a plea of guilty." MISS. CODE ANN. § 99-35-101 (1972). As this Court stated in *Berry v. State*, 722 So.2d 706, 707 (Miss.1998), "This Court does not have jurisdiction on a direct appeal when only a guilty plea is being challenged. ... Instead a defendant must file a motion for post-conviction relief pursuant to Miss. Code Ann. § 99-39-5 (1994)." Accord, *Bennett v. State*, 865 So.2d 1158 (Miss. 2004). It follows that this Court has no jurisdiction over Issues One, Two and Three, and that the claims embodied therein should not be addressed on the merits.¹ *Bennett v. State*, 865 So.2d 1158, 1159 (Miss. 2004).

PROPOSITION TWO:

**SANCHEZ'S CHALLENGE TO THE LEGALITY OF HIS SENTENCE
PLAINLY LACKS MERIT**

Although the state maintains that Section 99-35-101 clearly prohibits direct appeal in any case in which the defendant has entered a plea of guilty, we acknowledge that the Supreme Court has held that the legality of the sentence imposed may be reviewed on direct appeal. *Trotter v. State*, 554 So.2d 313, 315 (Miss.1989), cited in *Bennett*, 865 So.2d at 1159. In any case, Sanchez's attack on his sentence plainly has no merit. As the

¹The appropriate procedure for obtaining review of these claims is the filing of a motion for post-conviction collateral relief in the circuit court. *Bennett*, 865 So.2d at 1159.

court explained during the plea colloquy, the charge to which Sanchez pleaded guilty carried a statutory maximum sentence of 60 years. (T.5) MISS. CODE ANN. § 41-29-139 (1972) (as amended). Sanchez received a sentence of 15 years, with six to serve. Clearly, Sanchez's challenge to the legality of his sentence is without merit.

CONCLUSION

For the reasons set out above, Sanchez's propositions should be rejected.

Respectfully submitted,

**JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**



BY: DEIRDRE McCRORY
SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Deirdre McCrory, 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:

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