

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

EDWARD LAMONT NEAL

APPELLANT

VS.

NO. 2007-KA-2198

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

STATEMENT OF THE FACTS 1

SUMMARY OF THE ARGUMENT 1

ARGUMENT 2

CONCLUSION 3

CERTIFICATE OF SERVICE 4

TABLE OF AUTHORITIES

STATE CASES

<i>Lindsey v. State</i> , 939 So.2d 743 (Miss. 2005)	1
<i>Moore v. State</i> , 914 So.2d 185, 189 (Miss. Ct. App. 2005)	2

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STATEMENT OF THE FACTS

Edward Lamont Neal was convicted in Lowndes County Circuit Court of the crime of felony escape. (Record p. 53). He was sentenced to serve a term of five years in the custody of the Mississippi Department of Corrections. (Record p. 53). Aggrieved, Neal appealed. Neal's defense counsel filed a brief pursuant to the holding of *Lindsey v. State*, 939 So.2d 743 (Miss. 2005), after which Neal was given additional time to file a *pro se* supplemental brief. No such brief was forthcoming.

SUMMARY OF THE ARGUMENT

The conviction and sentence of Edward Lamont Neal should be affirmed as no issues were presented for review and as Mississippi law establishes that the judgment of the trial court is presumed correct. However, after reviewing the record, should this Court find that there is an arguable issue and thereafter order Neal's counsel to file a supplemental brief, the State will promptly respond to said brief.

ARGUMENT

Neal's counsel filed as part of the Appellant's Brief his "Statement of Counsel" asserting that he had "diligently searched the procedural and factual history of this criminal action and scoured the record searching for any arguable issues which could be presented to the Court on Mr. Neal's behalf in good faith for appellate review, and upon conclusion, has found none." (Appellant's Brief p. 4). After specifically listing the matters he considered, Neal's counsel also requested that the Court of Appeals allow an additional 40 days for the appellant to file a pro se brief should he so desire. (Appellant's Brief p. 4 - 5). This Court granted counsel's request for additional time for the appellant to file a pro se supplemental brief. No such brief has been filed.

It is well established that the judgment of the trial court is presumed correct. *Moore v. State*, 914 So.2d 185, 189 (Miss. Ct. App. 2005). Because no issues have been presented for review, the State rests on that presumption and respectfully submits that no further argument on its part is required at this time.

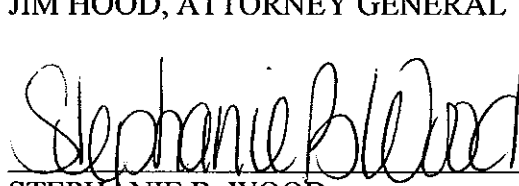
CONCLUSION

The State of Mississippi respectfully requests that this Honorable Court affirm the conviction and sentence of Edward Lamont Neal as no issues have been presented for review and as Mississippi law is clear that the judgment of the trial court is presumed correct. However, after reviewing the record, should this Court find that there is an arguable issue and thereafter order Neal's counsel to file a supplemental brief, the State will promptly respond to said brief.

Respectfully submitted,

JIM HOOD, ATTORNEY GENERAL

BY:

A handwritten signature in cursive script, reading "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 James T. Kitchens, Jr.
Circuit Court Judge
P. O. Box 1387
Columbus, MS 39703

Honorable Forrest Allgood
District Attorney
P. O. Box 1044
Columbus, MS 39703

Justin T. Cook, Esquire
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This the 30th day of October, 2008.


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