

COPY

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2007-KP-00360-COA

LOUIS R. REESE

APPELLANT

**FILED**

VS.

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SUPREME COURT  
COURT OF APPEALS

STATE OF MISSISSIPPI

APPELLEE

**REPLY BRIEF FOR APPELLANT**

BY:

*Louis Reese*

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**REPLY BRIEF FOR APPELLANT**

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

Reese asserted, as his primary issue, that the trial court never made a finding that Reese violated a condition of release before having violated Reese conditional release. The state makes much of Reese asserting that his conviction and sentence is illegal but when it arrives at addressing the fact that the trial court never discussed what, if any, condition Reese violated, the state is silent on this point. When it became time to actually argue the issue the state choked up.

Appellant quoted the law plain and clear in his brief. At page 6 it was pointed out by Appellant that on revocation, the state's authoring is much narrower, for before a person released under post release supervision custody, it must be shown that such person has violated the terms and conditions of such release. Miss. Code Ann. §47-7-27 (Miss. 1989).

The record do not reflect that the trial court made a finding that Reese violated some term or condition of his release before such conditional release was actually violated.

The state urges that Reese was arrested after a judicial probable cause determination. The state presents this assertion but points to nothing within the record to support such argument. A

CERTIFICATE OF SERVICE

This is to certify that I, Louis Reese, 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  
P.O. Box 220  
Jackson, MS 39205

Honorable Sherion Adcock  
Circuit Court Judge  
P.O. Drawer 1100  
Tupelo, Ms 38802

Honorable Clay Joyner  
Assistant District Attorney  
P. O. Box 843  
Aberdeen, Ms 39730

This, the 2 day of February, 2008.

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revocation is valid only if there is some violation of a condition of release. Moore v. Ruth, 556 So.2d 1059, 1061-62 (Miss. 1990); Williams v. Castilla, 585 So.2d 761, 764 (Miss. 1991). While the state need not prove any act in furtherance of crime, the state must prove a violation of some condition of release and the court must make such finding. The state says, without proof, that Reese violated condition (9) & (10) of his condition release but the record reflects no such finding.

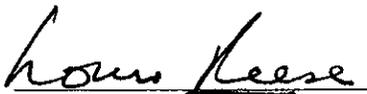
The state also asserts, with any proof or authority to support such, that an arrest for two felonies based on a finding of probable cause is legally sufficient to support defendant's revocation. This is not the law and such an argument is totally against the findings by the Supreme Court in Moore and Williams. There is no finding by the trial court that Reese admitted sufficient acts and omissions to constitute a violation of his suspended sentence.

### CONCLUSION

Reese would respectfully ask this Court to reject the state's argument and find that the trial court erred in its holding and that the decision of the trial court should be vacated and further proceedings ordered.

Respectfully submitted,

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