

IN THE SUPREME COURT OF MISSISSIPPI

No. 2007-TS-01753-SCT

CORNELIUS YOUNG

APPELLANT

V.

STATE OF MISSISSIPPI

APPELLEE

BRIEF OF THE APPELLANT

(ORAL ARGUMENT NOT REQUESTED)

**ALVA PEYTON TAYLOR
ATTORNEY AT LAW
POST OFFICE BOX 268
YAZOO CITY, MISSISSIPPI 39194
TELEPHONE: (662) 746-9711
FACSIMILE (662) 746-9775:**

Counsel for Cornelius Young

TABLE OF CONTENTS

	<u>PAGE</u>
LIST OF CLERK'S PAPERS	1-2
DOCKET ENTRIES	1-6
TRANSCRIPT INDEX	7-11
INDICTMENT	12
JURY VERDICT AND SENTENCE	13
MOTION FOR J.N.O.V. OR NEW TRIAL	14-17
ORDER DENYING MOTION	18

IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NO. 24-9548

CORNELIUS YOUNG

LIST OF CLERK'S PAPERS

<u>PAPERS FILED</u>	<u>PAGE NUMBER ON APPEAL</u>
1. Certified Docket Pages	1
2. Indictment Of Grand Jury	5
3. Instanter Capias With Sheriff's Return	6
4. Motion For New Trial	7
5. Motion For A Judgment Notwithstanding The Verdict, Or In The Alternative A New Trial	9
6. Notice Of Motion	11
7. Motion For Discovery	12
8. Order Granting New Trial	15
9. Defendant's Second Motion For Discovery	17
10. Notice Of Motion	21
11. Motion In Limine	22
12. Notice Of Motion	24
13. Jury Instructions-Court	25
14. Jury Instructions-Given State	27
15. Jury Instructions-Denied State	34
16. Jury Instructions-Given Defendant	35
17. Jury Instructions-Denied Defendant	40
18. Written Jury Verdict	44
. Jury Verdict And Sentence	45

PAPERS FILED

PAGE NUMBER ON APPEAL

20. Motion For A Judgment Notwithstanding The Verdict, Or In The Alternative A New Trial	46
21. Notice Of Motion	48
22. Notice Of Criminal Disposition	49
23. Motion For A Judgment Notwithstanding The Verdict, Or In The Alternative A New Trial	50
24. Notice Of Motion	52
25. Notice Of Motion	53
26. Notice Of Motion	54
27. Notice Of Motion	55
28. Order Denying Motion	56
29. Notice Of Appeal	57
30. Designation Of The Record	58
31. Certificate Of Compliance With Rule 11(b)(1)	60
32. Statement Of Cost On Appeal	62
33. Certificate Of Clerk	63
34. Court Reporter's Transcript-Three (3) Volumes & One (1) Disk	

No. 24-9548

CFN 1625

THE STATE OF MISSISSIPPI
Vs.

Counsel for Plaintiff

YOUNG, CORNELIUS
MURDER
MurderCounsel for Defendant
Alva Peyton Taylor
Judge Jannie M. Lewis
97-3-19(1)

DATE

ORDERS, JUDGMENTS, ETC.

05/28/2004	Indictment Filed, Capias Issued
07/13/2004	Indictment Served, Capias Executed (Personal Cornelius Young) Served 6/25/04
08/02/2004	Scheduling Order Filed (Copy mailed attorney) (Motion And Plea Date 11/22/04) (Trial Date 12/16/04)
12/03/2004	Request To Issue Subpoena (State) Filed
12/03/2004	Subpoena issued Yazoo Co. Sheriff for Dan Nunn, Harry Rutledge, Shea Erica Parker, And Chakila Kyles
12/03/2004	Subpoena issued Hinds Co. Sheriff for Bryon McIntire
12/03/2004	Subpoena issued Da For Fax For Dr. Steven Hayne
12/03/2004	D.A. Exc. Subpoena Filed (Faxed Dr. Steven Hayne) Faxed 12-3-2004
12/03/2004	D. A. Exc. Subpoena Filed (Faxed Bryon McIntire) Faxed 12-3-2004
12/07/2004	Sheriff Exc. Subpoena Filed (Personal Harry Rutledge) Served 12-6-04
12/07/2004	Sheriff Exc. Subpoena Filed (Personal Dan Nunn) Served 12-6-04
12/10/2004	Sheriff Exc. Subpoena Filed (Personal Shea Erica Parker) Served 12-9-2004
12/10/2004	Sheriff Exc. Subpoena Filed (Personal Chakila Kyles) Served 12-9-2004
12/14/2004	Request To Issue Subpoena (State) Filed
12/14/2004	Subpoena issued Yazoo Co. Sheriff for Tonya Crockett
12/15/2004	Sheriff Exc. Subpoena Filed (Personal Tonya Crockett) Served 12-14-04
12/16/2004	Request To Issue Subpoena (State) Filed
12/16/2004	Subpoena issued DA For Fax for Rosie Thomas
12/16/2004	D.A. Exc. Subpoena Filed (Faxed copy To Rosie Thomas At Yazoo City Police Dept.) Faxed 12-16-04
12/17/2004	Jury Verdict And Sentence Filed (Life In MDOC)
01/06/2005	Commitment Issued
01/06/2005	Order To Pay Cost Of Prosecution Filed
01/18/2005	Notice Of Appeal Filed (Pro Se By Defendant) (Copy mailed Court Reporter, DA, and Supreme Court Clerk)
02/01/2005	Motion For New Trial Filed
02/01/2005	Motion For A Judgement Notwithstanding The Verdict, Or In The Alternative A New Trial Filed
02/03/2005	Notice From Supreme Court Clerk Filed
02/09/2005	Notice Of Motion Filed (Set for 2/25/05 at 9:00 a.m. in Holmes Co.)
02/15/2005	Copy Of Motion To Stay Appeal And Preparation Of The Record Filed In Supreme Court Filed

** CONTINUED ON NEXT PAGE **

No. 24-9548

CFN 1625

THE STATE OF MISSISSIPPI
Vs.

Counsel for Plaintiff

YOUNG, CORNELIUS
MURDER
MurderCounsel for Defendant
Alva Peyton Taylor
Judge Jannie M. Lewis
97-3-19(1)

DATE

ORDERS, JUDGMENTS, ETC.

** CONTINUED FROM PREVIOUS PAGE **

02/16/2005 Motion For Discovery Filed
02/25/2005 Order Granting New Trial Filed
(Copy mailed Alva Taylor and Supreme Court Clerk)
03/07/2005 Order For Transfer Filed (Copy hand delivered Sheriff)
03/10/2005 Request To Issue Subpoena (State) Filed
03/10/2005 Copy Of Motion To Dismiss Appeal Filed With The Supreme
Court Filed
03/14/2005 Subpoena issued Yazoo Co. Sheriff for Dan Nunn, Harry
Rutledge, Shea Erica Parker, Chakila Kyles, Rosie Thomas,
and Tonya Crockett
03/14/2005 Subpoena issued DA For Fax To Bryon McIntire, MS Crime Lab
03/14/2005 Subpoena issued DA For Fax To Dr. Steven Hayne
03/14/2005 DA Exc. Subpoena Filed (Faxed Copy To Bryon McIntire Ms
Crime Lab) Faxed 3-14-05
03/14/2005 DA Exc. Subpoena Filed (Faxed Copy To Dr. Steven Hayne)
Faxed 3-14-05
03/15/2005 Order To Pay Cost Of Prosecution Filed
03/15/2005 Defendant's Second Motion For Discovery Filed
03/15/2005 Notice Of Motion Filed (Set for 3/21/05 at 9:00 A.M.)
03/15/2005 Sheriff Exc. Subpoena Filed (Personal Dan Nunn)
Served 3-14-2005
03/18/2005 Sheriff Exc. Subpoena Filed (Personal Harry Rutledge)
Served 3-15-2005
03/18/2005 Sheriff Exc. Subpoena Filed (Personal Tonya Crockett)
Served 3-15-2005
03/18/2005 Witness List To Be Subpoenaed Filed
03/18/2005 Subpoena issued Yazoo Co. Sheriff for Roosevelt Cole, Jr.,
Patrick Cole, Catherine Burns, Deon Burns, James Young,
Prentiss Young, Linda Young, Owen Young, David Gower,
Shiquita Kelly, Betty Sibley, And Patricia Young
03/18/2005 Subpoena issued Yazoo Co. Sheriff for Tony Richardson and
Deputy Harry Rutledge
03/18/2005 Motion In Limine Filed
03/18/2005 Notice Of Motion Filed (Set for 3/21/05 at 9:00 A.M.)
03/21/2005 Sheriff Exc. Subpoena Filed (Personal Deputy Harry Rutledge)
Served 3-21-05
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Betty Sibley)
Served 3-21-05
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Prentiss Young)
Served 3-21-05

** CONTINUED ON NEXT PAGE **

No. 24-9548

CFN 1625

THE STATE OF MISSISSIPPI
Vs.YOUNG, CORNELIUS
MURDER
Murder

Counsel for Plaintiff

Counsel for Defendant
Alva Peyton Taylor

Judge Jannie M. Lewis

97-3-19(1)

DATE

ORDERS, JUDGMENTS, ETC.

** CONTINUED FROM PREVIOUS PAGE **

03/22/2005 Sheriff Exc. Subpoena Filed (Personal Patrick Cole) Served 3-21-05
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Roosevelt Cole, Jr.) Served 3-21-05
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Catherine Burns) Served 3-21-05
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Shiquita Kelly) Served 3-21-05
03/22/2005 Subpoena issued Yazoo Co. Sheriff for Demetrius Westbrook
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Demetrius Westbrook) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Chakila Kyles) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Shea Erica Parker) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Tony Richardson) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Linda Young) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal James Young) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Owen Young) Served 3-22-2005
03/22/2005 Sheriff Exc. Subpoena Filed (Personal Patricia Young) Served 3-22-05
03/23/2005 Request To Issue Subpoena (State) Filed
03/23/2005 Subpoena issued Yazoo Co. Sheriff for Angela Mitchell and Monica Mitchell
03/23/2005 Order From Supreme Court Filed (Motion To Dismiss Appeal Granted)
03/24/2005 Jury Verdict And Sentence Filed (Life In MDOC)
03/28/2005 Motion For A Judgment Notwithstanding The Verdict, Or In The Alternative A New Trial Filed
03/28/2005 Notice Of Motion Filed (set for March 30, 2005 at 9:00 am)
03/30/2005 Order To Pay Cost Of Prosecution Filed
03/31/2005 Sheriff Exc. Subpoena Filed (Personal Monica Mitchell) Served 3-23-2005
04/04/2005 Sheriff Exc. Subpoena Filed (Personal Angela Mitchell) Served 3-23-2005
04/13/2005 Mandate From Court Of Appeals Filed (Motion To Dismiss Appeal Granted)

** CONTINUED ON NEXT PAGE **

No. 24-9548

CFN 1625

THE STATE OF MISSISSIPPI
Vs.

Counsel for Plaintiff

YOUNG, CORNELIUS
MURDER
MurderCounsel for Defendant
Alva Peyton Taylor
Judge Jannie M. Lewis
97-3-19(1)

DATE

ORDERS, JUDGMENTS, ETC.

** CONTINUED FROM PREVIOUS PAGE **

04/27/2005	Commitment Issued
06/10/2005	Motion For Judgment Notwithstanding The Verdict, Or In The Alternative A New Trial Filed
06/10/2005	Notice Of Motion Filed (Set For 4/20/05 at 9:00 a.m. in Holmes Co.)
06/08/2006	Motion For Records By Defendant Filed
06/13/2006	Notice Of Motion Filed (JNOV set for 6/19/06 at 10:00 A.M. in Belzoni)
08/02/2006	Notice Of Motion Filed
03/08/2007	Notice Of Motion Filed
08/24/2007	Order Denying Motion Filed
10/01/2007	Notice Of Appeal Filed (Copy mailed Supreme Court Clerk, DA & Court Reporter)
10/01/2007	Designation Of The Record Filed (Copy mailed Supreme Court Clerk, DA & Court Reporter)
10/01/2007	Certificate Of Compliance With Rule 11(b)(1) Filed (Copy mailed Supreme Court Clerk, DA & Court Reporter)

STATE OF MISSISSIPPI
YAZOO COUNTY

I, Susie Bradshaw, Clerk of the Circuit Court, in and for the State and County aforesaid hereby certify that the foregoing is a true and correct copy of the Doyle Memo as the same appears of record in Book 12 Page 1474-4 of the records in my office.

Given under my hand and official seal this the 8th day of October 2007

SUSIE BRADSHAW, Circuit Clerk

Susie Bradshaw D.C.

1 IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI
2 STATE OF MISSISSIPPI

3 Vs.

NO. 24-9548

4 CORNELIUS YOUNG
5

6 *****
7 TRANSCRIPT OF PROCEEDINGS HAD AND DONE IN THE TRIAL
8 IN THE ABOVE-STYLED AND -NUMBERED CAUSE BEFORE
9 HONORABLE JANNIE M. LEWIS, CIRCUIT COURT JUDGE, AND
10 A JURY OF TWELVE MEN AND WOMEN, DULY IMPANELED, ON
11 THE 21ST, 23RD, AND 24TH DAY OF MARCH, 2005, AT THE
12 YAZOO COUNTY COURTHOUSE, YAZOO CITY, MISSISSIPPI.
13 *****

14 APPEARANCES:

15 HONORABLE STEVEN WALDRUP
16 HONORABLE WILTON McNAIR
17 District Attorney's Office
18 Post Office Box 108
19 Yazoo City, MS 39194

20 REPRESENTING STATE

21 HONORABLE ALVA TAYLOR
22 Attorney at Law
23 Post Office Box 268
24 Yazoo City, MS 39194

25 REPRESENTING DEFENDANT

26 REPORTED BY:

27 Deborah H. Nelson, CSR 1256
28 P. O. Box 21
29 Benton, MS 39039
(662) 673-9350

TABLE OF CONTENTS

PROCEEDINGS HELD ON MARCH 21, 2005:

Style & Appearances	1
Index	2
Preliminary Remarks by the Court.	6
Qualification of Jurors by the Court.	8

PROCEEDINGS HELD ON MARCH 23, 2005:

Preliminary Remarks by the Court.	24
Voir Dire Examination	
By the Court.	28
By Mr. Waldrup.	37
By Ms. Taylor	48
Jury Selection (In Chambers).	64
Jury Impaneled.	71

OPENING STATEMENTS

By Mr. Waldrup.	74
BY MS. TAYLOR	82

WITNESSES: STATE

BRYON McINTIRE

Direct Examination by Mr. Waldrup	87
Cross-Examination by Ms. Taylor	98

OFFICER DAN NUNN

Direct Examination by Mr. McNair.	100
Cross-Examination by Ms. Taylor	125
Redirect Examination by Mr. McNair.	130

DR. STEVEN T. HAYNE

Direct Examination by Mr. Waldrup	135
Cross-Examination by Ms. Taylor	157
Redirect Examination by Mr. Waldrup	159

1 CHAKILA KYLES

2 Direct Examination by Mr. Waldrup 160

3 Cross-Examination by Ms. Taylor 172

4 Redirect Examination by Mr. Waldrup 186

5 SHAY PARKER

6 Direct Examination by Mr. Waldrup 193

7 Cross-Examination by Ms. Taylor 203

8 Redirect Examination by Mr. Waldrup 211

9 TONYA CROCKETT

10 Direct Examination by Mr. Waldrup 212

11 Cross-Examination by Ms. Taylor 217

12 Redirect Examination by Mr. Waldrup 222

13 ROSIE THOMAS

14 Direct Examination by Mr. Waldrup 223

15 Cross-Examination by Ms. Taylor 230

16 STATE RESTS 237

17 Motion by Defense (Jury Out). 238

18 **WITNESSES: DEFENSE**

19 DEMETRIUS WESTBROOK

20 Direct Examination by Ms. Taylor. 239

21 Cross-Examination by Mr. Waldrup 242

22 PATRICIA YOUNG

23 Direct Examination by Ms. Taylor 247

24 Cross-Examination by Mr. Waldrup 253

25 Redirect Examination by Ms. Taylor 259

26 PATRICK COLE

27 Direct Examination by Ms. Taylor 261

28 Cross-Examination by Mr. Waldrup 265

29 Redirect Examination by Ms. Taylor 271

1 CHAQUITA KELLY

2 Direct Examination by Ms. Taylor 272

3 Cross-Examination by Mr. Waldrup 275

4 LINDA YOUNG

5 Direct Examination by Ms. Taylor 277

6 Cross-Examination by Mr. Waldrup 281

7 Redirect Examination by Ms. Taylor 286

8 OWEN YOUNG

9 Direct Examination by Ms. Taylor 287

10 Cross-Examination by Mr. Waldrup 291

11 Redirect Examination by Ms. Taylor. 294

12 DEFENSE RESTS 294

13 **PROCEEDINGS HELD ON MARCH 25, 2005:**

14 Objections to Jury Instructions (Jury Out). 295

15 Closing Arguments

16 By Mr. Waldrup. 311

17 By Ms. Taylor 327

18 By Mr. McNair 333

19 Jury verdict. 346

20 Sentencing by the Court 348

21 Court Reporter's Certificate. 349

EXHIBIT LIST

		I.D.	I.E.
S-1	Box with Gun	90	96
S-2	Two bags	90	96
S-3	McIntire Report	95	96
S-4	Statement of Def.	107	109
S-5	Statement of Def.	107	110
S-6	Statement of Def.	107	110
S-7	Chakila Kyles' Statement	117	
S-8	Shay Parker's Statement	117	
S-9A-D	Photographs	142	149 A-C
S-10	Autopsy Report	150	151
S-11	Affidavit	235	244
S-12	P. Cole Statement	267	269
D-1	Dispatch Log	230	235
D-2	Justice Ct. Docket	240	242

IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

CAUSE NO.: 24-9548

CORNELIUS YOUNG

DEFENDANT

INDICTMENT
MURDER

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men and women of Yazoo County, Mississippi, being duly selected, empaneled, sworn and charged in the Circuit Court of Yazoo County, Mississippi, upon their oaths, present that: **CORNELIUS YOUNG**, on or about the **1st day of August, 2003**, in Yazoo County, Mississippi, did unlawfully, willfully, feloniously without authority of law kill and murder Wilson Thomas, a human being with the deliberate design to effect the death of Wilson Thomas, to-wit: by shooting him with a gun, in violation of **Section 97-3-19(1)(a) of the Mississippi Code of 1972**, against the peace and dignity of the State of Mississippi.

A TRUE BILL

Linda Culberson
GRAND JURY FOREMAN

Steven Walder
ATTORNEY FOR STATE

FILED: May 28, 2004
SUSIE BRADSHAW, CIRCUIT CLERK

RECORDED: May 28, 2004
SUSIE BRADSHAW, CIRCUIT CLERK

BY: Susie Bradshaw

BY: Susie Bradshaw

Address Available: Yazoo County Jail

IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE NO.24-9548

CORNELIUS YOUNG

JURY VERDICT AND SENTENCE

THIS CAUSE came on to be heard on the 23rd day of March, 2005, on the indictment filed in this Cause, charging the Defendant, CORNELIUS YOUNG, with the crime of Murder. The Court finds as follows:

- (1) The Defendant, CORNELIUS YOUNG, on a previous date, appeared before the Court with his attorney and was duly arraigned on said charge and entered a plea of not guilty to said indictment in this Cause.
- (2) That on said date of March 23, 2005, the District Attorney who prosecutes for the State of Mississippi, and the defendant, CORNELIUS YOUNG, together with his attorney, Alva Taylor, appeared in Court and announced ready for trial on the charge of the said indictment.
- (3) That a jury, consisting of twelve (12) adult residents and citizens of Yazoo County, Mississippi, was duly empaneled and lawfully sworn, and said jury has heard and considered all of the evidence presented, both documentary and oral, and the arguments of counsel retired, and after deliberations, returned a verdict, "We the Jury, find the Defendant, guilty of Murder."

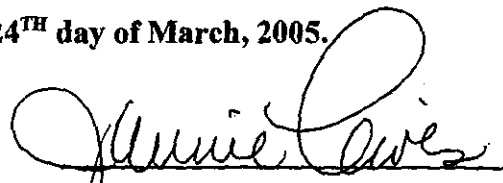
IT IS THEREFORE, ORDERED AND ADJUDGED, by the Court, that CORNELIUS YOUNG, for his crime of Murder, is hereby sentenced to a term of life in the custody of the Mississippi Department of Corrections.

SO ORDERED AND ADJUDGED, this the 24TH day of March, 2005.

SIGNED, this the 24 day of March, 2005.

Filed March 24 2005
SUSIE BRADSHAW, Circuit Clerk

By Susie Bradshaw D.C.


CIRCUIT COURT JUDGE

IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VS

NO. 24-9548

CORNELIUS YOUNG

DEFENDANT

**MOTION FOR A JUDGEMENT NOTWITHSTANDING
THE VERDICT, OR IN THE ALTERNATIVE
A NEW TRIAL**

COMES NOW CORNELIUS YOUNG, by and through Counsel And files this his Motion for a Judgement Notwithstanding the Verdict or in The Alternative, a New Trial, and in support hereof, would show unto this Honorable Court, the following, to wit:

1. That on March 24, 2005, the Defendant, contrary to his plea, was found Guilty on the charge of Murder. Subsequently, he was sentenced to a term of Life, in the Custody of the Mississippi Department of Corrections
2. That the Court erred in failing to sustain Defendant's Motion for a Directed Verdict at the close of the State's case, as a prima facia case of Murder had, not been established.
3. That the verdict was contrary to the overwhelming weight of the evidence.

WHEREFOR PREMISES CONSIDERED, the Defendant respectfully moves.

This Honorable Court to grant relief as herein sought.

Respectfully submitted,
CORNELIUS YOUNG

Alva Peyton Taylor
By: ALVA PEYTON TAYLOR
Attorney for the Defendant

ALVA PEYTON TAYLOR MSB#10788
120 East Jefferson Street
Yazoo City, Ms 39194
(662)746-9711

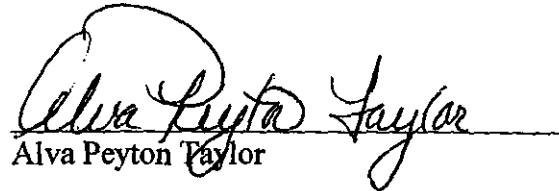
Filed *March 28 2005*
SUSIE BRADSHAW, Circuit Clerk

By *Susie Bradshaw* D.C.

CERTIFICATE OF SERVICE

I, Alva Peyton Taylor, do hereby certify, that I have delivered a true and correct copy of the foregoing Motion to Hon. James Powell, III, Yazoo County District Attorney at His office located in the Yazoo County Courthouse, Yazoo City, MS 39194.

This the 28th day of March, 2005.


Alva Peyton Taylor

IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

PLAINTIFF

VS

NO. 24-9548

CORNELIUS YOUNG

DEFENDANT

**MOTION FOR A JUDGEMENT NOTWITHSTANDING
THE VERDICT, OR IN THE ALTERNATIVE
A NEW TRIAL**

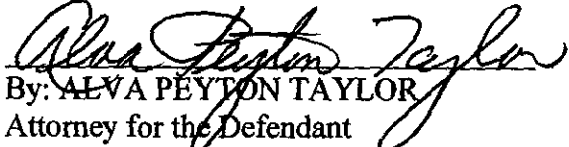
COMES NOW CORNELIUS YOUNG, by and through Counsel And files this his Motion for a Judgement Notwithstanding the Verdict or in The Alternative, a New Trial, and in support hereof, would show unto this Honorable Court, the following, to wit:

1. That on March 24, 2005, the Defendant, contrary to his plea, was found Guilty on the charge of Murder. Subsequently, he was sentenced to a term of Life, in the Custody of the Mississippi Department of Corrections
2. That the Court erred in failing to sustain Defendant's Motion for a Directed Verdict at the close of the State's case, as a prima facia case of Murder had, not been established.
3. That the verdict was contrary to the overwhelming weight of the evidence.

WHEREFOR PREMISES CONSIDERED, the Defendant respectfully moves.

This Honorable Court to grant relief as herein sought.

Respectfully submitted,
CORNELIUS YOUNG


By: ALVA PEYTON TAYLOR
Attorney for the Defendant

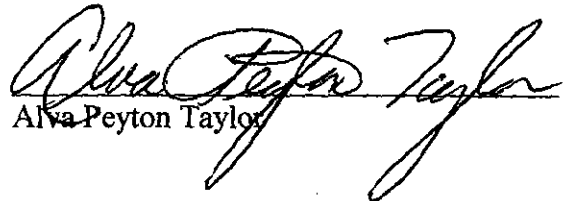
ALVA PEYTON TAYLOR MSB#10788
120 East Jefferson Street
Yazoo City, Ms 39194
(662)746-9711

Filed June 10, 2005
SUSIE BRADSHAW, Circuit Clerk
By Susie Bradshaw D.C.

CERTIFICATE OF SERVICE

I, Alva Peyton Taylor, do hereby certify, that I have delivered a true and correct copy of the foregoing Motion to Hon. James Powell, III, Yazoo County District Attorney at His office located in the Yazoo County Courthouse, Yazoo City, MS 39194.

This the 6th day of June, 2005.


Alva Peyton Taylor

IN THE CIRCUIT COURT OF YAZOO COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS.

NO. 24-9548

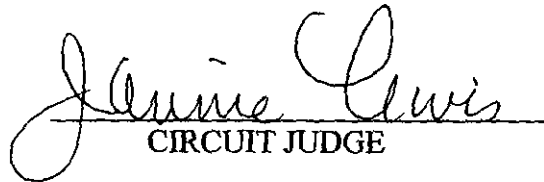
CORNELIUS YOUNG

ORDER DENYING MOTION

THIS CAUSE having come on to be heard on March 19, 2007, on Defendant's Motion for J.N.O.V. or for New Trial filed herein and the Court having considered said Motion and being otherwise fully advised in the premises does hereby FIND, ORDER AND ADJUDGE as follows:

That said Motion is not well- taken and should be and is hereby denied.

SO ORDERED AND ADJUDGED on this the 24 day of August, 2007.


CIRCUIT JUDGE

Filed August 24 2007
SUSIE BRADSHAW, Circuit Clerk
By Susie Bradshaw C.C.

IN THE SUPREME COURT OF MISSISSIPPI

No. 2007-TS-01753-SCT

CORNELIUS YOUNG

APPELLANT

V.

STATE OF MISSISSIPPI

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this court may evaluate possible disqualifications or recusal.

1. State of Mississippi
2. Cornelius Young, Appellant
3. Honorable James H. Powell, III, District Attorney
4. Honorable Jannie M. Lewis, Circuit Court Judge

This the 21st day of April, 2008.

Respectfully Submitted,


ALVA PEYTON TAYLOR
COUNSEL FOR APPELLANT

ALVA PEYTON TAYLOR, MSB#10788
POST OFFICE BOX 268
YAZOO CITY, MISSISSIPPI 39194
TELEPHONE: 662 746-9711
FACSIMILE: 662 746-9775

TABLE OF CONTENTS

CERTIFICATE OF INTERESTED PERSONS	ii
TABLE OF AUTHORITIES	iv
STATEMENT OF THE ISSUE	1
STATEMENT OF INCARCERATION	1
SUMMARY OF THE ARGUMENT	2
STATEMENT OF THE CASE	2
FACTS	2
ARGUMENT	3
CONCLUSION	5
CERTIFICATE OF SERVICE	6

TABLE OF AUTHORITIES

CASES

Baker v. State, 317 So.2d 901 (Miss. 1975) 5

Bush v. State, 895 So.2d 836 (Miss. 2005) 3,4

Leflore v. State, 535 So.2d 68 (Miss.1988) 5

STATUTES

Miss. Code Ann. § 97-3-19(1)(a) 2

Miss. Code Ann § 97-3-35.5

IN THE SUPREME COURT OF MISSISSIPPI

No. 2007-TS-01753-SCT

CORNELIUS YOUNG

APPELLANT

V.

STATE OF MISSISSIPPI

APPELLEE

BRIEF OF THE APPELLANT

STATEMENT OF THE ISSUE

THE VERDICT WAS AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.

STATEMENT OF INCARCERATION

The Appellant is presently incarcerated and being housed by the Mississippi Department of Corrections.

SUMMARY OF THE ARGUMENT

Cornelius Young assigns as error on appeal, one issue which is argued to be sufficient to warrant the reversal of his conviction and the vacation of the sentence imposed.

The verdict was against the overwhelming weight of the evidence. The state failed to prove each element of the offense of murder. There was no evidence presented by the state which proved beyond a reasonable doubt that Cornelius Young had a deliberate design to kill Wilson Thomas. The witnesses for Cornelius Young testified of the terrorized state which Wilson Thomas had placed Cornelius Young in by chasing Cornelius with a gun, knife, steel bar and in a car, while Cornelius was on foot, for months prior to the shooting.

The error cited and briefed herein warrants the reversal of Cornelius Young's conviction, the vacation of the sentence imposed and a remand for a new trial on the merits.

STATEMENT OF THE CASE

Cornelius Young was indicted on the charge of murder of Wilson Thomas in violation of § 97-3-19(1)(a) of the Mississippi code of 1972. (C.P. 12). He was found guilty of murder by a Yazoo County Jury. (T345). The trial court sentenced Cornelius Young to life in the custody of the Mississippi Department of Corrections. (C.P.13) (T347-348). Cornelius is presently incarcerated.

Following denial of his Motion for J.N.O.V. and New Trial and being aggrieved Cornelius Young appeals his conviction and sentence to this Honorable Court (C.P.14-17).

FACTS

This is a clear case of manslaughter that turned into a conviction for murder. Over a period of months Wilson Thomas chased Cornelius Young with a knife, a steel pipe, taunted him

and tried to run over him in a car, while Cornelius was on foot. (T250-252, 262-264).

On August 1, 2003, Yazoo County Deputy Dan Nunn and Deputy Harry Rutledge were dispatched to Shandy Lane Apartments in Yazoo City, Mississippi due to a shooting.(T 101-102). The deputies met with Patricia Young at the scene. Patricia Young, the mother of Cornelius Young rode in the officer's car instructing them to go to Magnolia Apartments in Yazoo City, Mississippi in order to show the officers where her son was located. Ms Young went inside the apartments and brought her son to the officers. (T104-105). Cornelius Young and his mother were escorted to the Yazoo County Sheriff's Department, where Cornelius Young made a statement. (T105). Cornelius Young stated that he was in Shady Lane Apartments with his friends, when Wilson Thomas came up to him. Cornelius stated that he started backing up and walking backwards from Wilson. According to Cornelius statement, Wilson still kept coming toward him. Cornelius told Wilson to leave him alone. Cornelius out of fear of another assault by Wilson Thomas, shot Wilson as he was raising up to come toward Cornelius.(T111-112). Testimony was given by Cornelius Young's mother and Patrick Cole that Wilson Thomas was in pursuit of Cornelius Young for months, trying to harm Cornelius. (T250-252, 262-264). Cornelius was put in a state of constant fear by assailant. (T279-281). The Yazoo County Jury found Cornelius Young guilty of murder. (T345). The trial court sentenced Cornelius Young to life in the custody of the Mississippi Department of Corrections. (C.P. 13) (T347-348). Cornelius is presently incarcerated.

ARGUMENT

THE VERDICT WAS AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.

The Court in *Bush v. State*, 895 So.2d 836, 844 (Miss. 2005)(citing *Herring v. State*, 691

So.2d 948, 957 (Miss.1997))., stated, “When reviewing a denial of a motion for a new trial based on an objection to the weight of the evidence, we will only disturb a verdict when it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice.” In reviewing such claims, the Court “sits as a thirteenth juror.” *Bush v. State*, 895 So.2d 836, 844 (Miss. 2005)(citing *Amiker v. Drugs For Less, Inc.*, 796 So.2d 942, 947 (Miss.2000)(footnote omitted)). “[T]he evidence should be weighed in the light most favorable to the verdict.” *Herring*, 691 So.2d at 957. “A reversal on the grounds that the verdict was against the overwhelming weight of the evidence, ‘unlike a reversal based on insufficient evidence, does not mean that acquittal was the only proper verdict.’” *Bush v. State*, 895 So.2d 836, 844 (Miss. 2005)(quoting *McQueen v. State*, 423 So.2d 800, 803 (Miss.1982)). It means that “as the ‘thirteenth juror,’ the court simply disagrees with the jury’s resolution of the conflicting testimony,” and “the proper remedy is to grant a new trial.” *Bush v. State*, 895 So.2d 836, 844 (Miss. 2005)(quoting *McQueen v. State*, 423 So.2d 800, 803 (Miss.1982)(footnote omitted)).

In the case before this court, even if the Court finds that the evidence was sufficient to support the verdict, and the Appellant is not entitled to an acquittal as a matter of law, he is at a minimum entitled to a new trial as the verdict was clearly against the overwhelming weight of the evidence. In the present case, there was absolutely no evidence that disputes Cornelius Young’s witnesses and his statement that Cornelius was not put in a state of being terrorized by Wilson Thomas’ actions. The state relied on testimonial evidence of two witnesses, Chakilla Kyles and Shay Parker.(T161-172, 193-203). The Sheriff’s Deputy who conducted the investigation of the scene stated that neither Chakilla Kyles nor Shay Parker were even present when the deputies

arrived on the scene some eighteen (18) minutes after the call was placed to the Sheriff's Department. (T125-126). When the two state's witness were asked about the officers present at the scene, the two witnesses stated that the officers who conducted the investigation were not even there, only the sheriff. (T161-172, 193-203).

The prosecution is required to prove its case beyond a reasonable doubt and to the exclusion of every other reasonable hypothesis. *Leflore v. State*, 535 So.2d 68, 70 (Miss.1988)(quoting *Guilbeau v. State*, 502 So.2d 639, 641 (Miss.1987)); *Baker v. State*, 317 So.2d 901, 902 (Miss. 1975). Manslaughter, under § 97-3-35 of the Miss.Code, was a reasonable hypothesis which was not excluded by the evidence. The Appellant therefore respectfully asserts that the foregoing facts demonstrate that the verdict was against the overwhelming weight of the evidence, and the Court should reverse and remand for a new trial.


CONCLUSION

Cornelius Young submits that based on the error cited and briefed herein, together with any plain error noticed by the Court which has not been specifically set forth, warrants the reversal of his conviction, the vacation of the sentence imposed and a remand for a new trial on the merits.

Respectfully Submitted,

CORNELIUS YOUNG
Appellant

BY: 
ALVA PEYTON TAYLOR
COUNSEL FOR CORNELIUS YOUNG

ALVA PEYTON TAYLOR
MSB: 
POST OFFICE BOX 268
YAZOO CITY, MISSISSIPPI 39194

CERTIFICATE OF SERVICE

I, Alva Peyton Taylor, counsel for appellant, do hereby certify that I have on this day mailed postage fully pre-paid, a true and correct copy of the foregoing Brief for Appellant to the following:

Honorable Jannie M. Lewis
Circuit Court Judge
Post Office Box 149
Lexington, Mississippi 39095

Honorable James H. Powell, III
Post Office Box 311
Durant, Mississippi 39063

Honorable Jim Hood
Attorney General
Post Office Box 220
Jackson, Mississippi 39205

Mr. Cornelius Young
Appellant
Parchman, Mississippi 38738

This the 21st day of April, 2008.



ALVA PEYTON TAYLOR, MSB#10788
Attorney for Appellant