

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

COPY

Petitioner

Case no: 2008-CF-00370-COA

Respondent

FILED

MAY 12 2008

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

State of Mississippi

v.

Jonathan McAniggs

CERTIFICATE OF INTERESTED PERSONS

The petitioner, Jonathan McAniggs, pro se, certifies that to the best of my knowledge, that there are no persons that are interested in the outcome of this case.

15/Jonathan McAniggs
K5930

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STATEMENT OF ISSUES

- 1.) The conviction was obtained by a plea of guilty which was not made voluntarily with the understanding of the nature of the charge.

- 2.) Counsel was ineffective throughout the proceeding and if counsel would have been effective then the outcome would have been different.

- 3.) Trial Court was without authority to impose a natural life sentence for the crime of murder.

- 4.) The petitioners motion is an exception to any procedural or successive bars.

STATEMENT OF THE CASE

Nature

The petitioner, Jonathan McGinnis, was indicted by the grand jury of Copiah County, Mississippi, during the November term of 1999 on the charge of capital murder. Thereafter the petitioner pled guilty to murder on the 6th day of March, 2001, and was

sentenced to a term of natural life in the Mississippi Department of Correction by the Honorable Judge Lamar Pinkard. Thereafter the petitioner filed a motion for post-conviction relief on or about the 3rd day of December, 2003 and the Honorable Judge Lamar Pinkard denied the motion. The petitioner then filed a

notice of appeal and this Honorable Court denied the motion as well. (2003-CF-00047-COR) On February 12, 2008 the petitioner again filed a motion for post-conviction relief and it was denied by the Circuit Court of Copiah County on the 20th day February, 2008. The petitioner then filed a notice of appeal on the 20th day of February, 2008 and this matter is before this Honorable Court now.

Facts

During the plea hearing the petitioner was asked about understanding the nature of the charge of murder, in which the petitioner stated "I did not understand". The Court never advise the petitioner of the nature of the charge at anytime, nor did counsel advise the petitioner about the nature of the charge of murder. The Court then proceeded

with sentencing the petitioner and as a result the Court sentence the petitioner to an illegal sentence of natural life which exceeds the maximum sentence by law.

SUMMARY OF THE ARGUMENT

1. I will show unto this Honorable Court that during the proceeding the petitioner was never, at anytime, giving the understanding of the nature of the charge of murder to which the petitioner was pleading.

a. I will also show that because of counsel's ineffectiveness. counsel's performance fell below an objective standard of reasonableness.

3. I will also show that the trial court was in error when it imposed a natural life sentence on a charge of murder when at the time the maximum sentence was life with parole.

4. I will also show unto this Honorable Court that the petitioners motion meets the requirements of Miss. Code Ann. Sec. 99-39-37 (3) and presents a claim procedurally alive substantially showing a denial of a state and federal right.

I.

Conviction was obtained by a plea of guilty which was not made voluntarily with the understanding of the nature of the charge

Before a Court can accept a guilty plea, it must address the nature of the charge to which the defendant is pleading guilty. (U.R.C.C. 8.04(A)(1)(a), Miss. Const. Art. 3 Sec. 26, U.S. Const. 6th Amend.) The record clearly shows that the court did not at anytime try to explain the nature of the charge to which the Defendant was pleading, even after the Defendant stated in open court "I did not understand." (Appendix A page 7, 8) In McCarthy v. U.S., 394 U.S. 459, 29 S.Ct. 1166, 22 L.Ed.2d 418 (1969), the United States Supreme Court held that a guilty plea cannot be truly voluntary unless a defendant possesses an understanding of law in relation to the facts. The Mississippi Supreme Court has previously stated in Wittfoe v. State, 556 So.2d 1062, 1063 (Miss. 1992), that before a person may plead guilty to a felony, he must be informed of his rights, the nature and consequences of the act he contemplates, and any other relevant facts and circumstances, and thereafter, voluntarily enter the plea. (Cited in White v. State, 751 So.2d 481 (Miss. Ct. App. 1999)) Also in Gaskin v. State, 418 So.2d 103, 107 (Miss. 1993), the Mississippi Supreme Court explained the importance of this aspect of accepting a guilty plea with the following observation: "[Knowledge of the elements of the crime] is obviously a

prerequisite to an intelligent assessment by the defendant of, 1) whether he has in fact done anything wrong under the law, and a) the likelihood that he stands to be convicted if he exercises his right to a jury trial. (Emphasis added) The fourteenth Amendment Due process clause requires that a plea of guilty be knowingly and voluntarily entered because it involves a waiver of a number of the defendant's constitutional rights. (Gaddy v. Linahan, 780 F.2d 935, 943 (11th Cir. 1986))

A plea of guilty cannot support a judgment of guilty unless it was voluntary in a constitutional sense. (Henderson v. Morgan, 426 U.S.

637, 644-46, 96 S.Ct. 2253, 2257, 49 L.Ed.2d 108 (1975)) Aside from the

obvious involuntariness of a coerced plea, the Supreme Court has identified two other ways that a defendant's guilty plea may be involuntary in a constitutional sense: A plea may be involuntary

either because the accused does not understand the nature of

the constitutional protections that he is waiving, or because he

has such an incomplete understanding of the charge that his

plea cannot stand as an intelligent admission of guilt. Without

adequate notice of the nature of the charge against him, or proof

that he in fact understood the charge, the plea cannot be voluntary

in this latter sense. (Smith v. O'Grady, 312 U.S. 329, 61 S.Ct. 572, 85

L.Ed. 859 (1941))

II.

Ineffective Assistance of Counsel

The Sixth Amendment guarantees the right to effective assistance of counsel in all criminal prosecutions. In Strickland v. Washington, 466 U.S. 687 (1984), the Supreme Court established

a two prong test to evaluate ineffective assistance claims. To obtain reversal of a conviction, the defendant must prove, 1) that counsel's performance fell below an objective standard of reasonableness and 2) that counsel's deficient performance prejudiced the defendant, resulting in an unreliable or fundamentally unfair outcome in the proceeding. I submit that because counsel did not object to the illegal sentence and also did not have the court nor

did counsel advise the Defendant of the elements of the nature of the charge of murder, counsel's performance fell below an objective standard of reasonableness. Counsel's deficient performance prejudiced the Defendant because if I had known the elements of the charge of murder then I would not have pled guilty to that charge. I would have exercised my right to a trial by jury. So therefore counsel's performance resulted in an unreliable and a fundamental unfair outcome in the proceedings.

III.

Trial Court was without authority to impose a natural life sentence for murder on a guilty plea

The Defendant asserts that the trial court did exceed its statutory authority when the court sentence the Defendant to a term of natural life for murder. (Appendix b) The maximum punishment which the court may impose for the offense of murder is life with parole. (Appendix c page a1) It is plain that the sentence imposed by the circuit court of Copiah County on the Defendant is an illegal sentence that must be vacated as a matter of law. (Grubb v. State, 584 So.2d 786 (Miss. 1991))

IV.

Petitioners Motion is an exception to any procedural or successive bars

There are certain exceptions carved out to procedural bars where there is a question that a defendant's fundamental rights have been violated. (Sneed v. State, 773 So.2d 1256, 1267 (Miss. 1993)) In Luckett v. State, 583 So.2d 423, 430 (Miss. 1991), the court held that errors affecting fundamental constitutional rights may be excepted from procedural bars which would otherwise prohibit their consideration. Also this Honorable court held in Gray v. State, 819 So.2d 573 (Miss. Ct. App. 2000), that when

The petitioner has shown unto this Honorable Court that at the plea hearing I was never told the nature of the charge of murder and that if I had been giving the explanation of the charge then I would not have plead guilty. Also I have shown that because of counsel's ineffective assistance the proceedings resulted in an unreliable and unfair outcome. I have also shown that the Court was in error when it imposed a natural life sentence when the status at that time did not apply. I have shown that the petition is excepted from any procedural or successive bars and that this petition shows a valid violation of state and federal rights.

Conclusion

a petitioner raises a fundamental state constitutional right, that claim overcomes the successive motion bar and cannot be summarily dismissed pursuant to Miss. Code Ann. Sec. 99-39-11(a). The petitioner has met the requirements of Miss. Code Ann. Sec. 99-39-27(5) and has shown unto this Honorable Court that the Defendants state and Federal constitutional rights have been violated, so that the Petitioners claims are an exception to any procedural and successive bars and deserves consideration by this Honorable Court.

CERTIFICATE OF SERVICE

This is to certify that I have this date, caused to be mailed, via United States Mail, postage pre-paid, a true and correct copy of the above and foregoing pleading in the United States mail addressed to the following:

Betty W. Sephton, clerk
Supreme Court and Court of Appeals
Post Office Box 249
Jackson, MS 39205

So certified, this the 12th day of May, 2008

151 Jordan Springs
MDOC # K5930
Madison County Detention Center
2935 Hwy 51 South
Canton, MS 39046

IN THE CIRCUIT COURT OF
COPIAH COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

v. **APPENDIX A**

NO. 2001-103CR-B

JONATHAN McGRIGGS

TRANSCRIPT OF THE PROCEEDINGS HAD AND DONE IN THE
GUILTY PLEA AND SENTENCING OF THE ABOVE STYLED AND
NUMBERED CAUSE, BEFORE THE HONORABLE LAMAR PICKARD,
CIRCUIT JUDGE, ON THE 5TH DAY OF MARCH, 2001

APPEARANCES:

MIKELL BUCKLEY, ESQ.
District Attorney's Office
Post Office Box 767
Hazlehurst, Mississippi 39083

PRESENT AND REPRESENTING STATE

DAN W. DUGGAN, ESQ.
Attorney at Law
1700 W. Government Street
Brandon, Mississippi 39042

MARC KING, ESQ.
Attorney at Law
Post Office Box 959
Crystal Springs, Mississippi 39059

PRESENT AND REPRESENTING THE DEFENDANT

REPORTED BY: Theresa S. Lumley, CSR
Official Court Reporter
CSR Number 1231
Post Office Box 226
Wesson, Mississippi 39191
(601) 643-5757

FILED

JAN 16 2003

EDNA E. STEVENS
CIRCUIT CLERK
BY *Lara Anderson* D.C.

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1 THE COURT: This will be Cause Number
2 2000-103CR-B, State of Mississippi versus Jonathan
3 McGriggs. Let the record reflect that Mr. Jonathan
4 McGriggs is present in the courtroom with his
5 attorneys, the Honorable Mark King and the
6 Honorable Dan Duggan. Is that correct, counsel?

7 MR. DUGGAN: That's correct, Your Honor.

8 THE COURT: Mr. McGriggs, I have a
9 petition here where you wish to enter a plea of
10 guilty to the offense of murder; is that correct?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Mr. McGriggs, are you guilty of
13 that offense?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If you would, stand and raise
16 your right hand, please.

17 (DEFENDANT SWORN.)

18 THE COURT: Do you understand you're under
19 oath?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You can put your hand down now.
22 That means anything you tell me has to be the
23 truth. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: If you make a material
26 misrepresentation to me intentionally, that would
27 carry up to ten years in the penitentiary. Do you
28 understand that?

29 THE DEFENDANT: Yes, sir.

1 THE COURT: If you would, move over to the
2 microphone, please, Mr. McGriggs. Mr. McGriggs,
3 the petition that you filed with the court, I want
4 to make sure that you have read this petition and
5 you have gone over it with both of your attorneys.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: First of all, we don't have any
8 jurors in the courtroom; is that correct? Any
9 jurors in the courtroom? Mr. McGriggs, you have
10 gone over this petition with your attorneys, and
11 they have explained it all to you?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Is there anything about your
14 petition you don't understand?

15 THE DEFENDANT: No, sir.

16 THE COURT: Do you understand everything?
17 Is it all true?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Word for word; is that correct?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: I also noticed you're 22 years
22 old, you completed 9th grade, and you can read and
23 write okay; is that right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. McGriggs, before I touch on
26 the question of your guilt or innocence, I want to
27 go over some things with you. You have certain of
28 your constitutional rights which you waive or give
29 up by pleading guilty. I want to make sure you

1 have discussed these in detail with your attorneys,
2 that you thoroughly understand your constitutional
3 rights that you give up by pleading guilty. If you
4 do, tell me, and we'll proceed. Otherwise, stop
5 me, and I'll explain them to you or I'll let your
6 lawyers explain them to you, okay.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand you would
9 have the right to question or challenge the
10 composition of the grand jury that indicted you and
11 the petit jury that would hear your case?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You would have the right to a
14 speedy public trial by jury.

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You would have a right to be
17 present at that trial and cross-examine and
18 confront all witnesses who might testify against
19 you.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You would have the right to
22 subpoena into court evidence and witnesses on your
23 behalf.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You would have the right to the
26 assistance of two lawyers in this case at all steps
27 of the prosecution against you.

28 THE DEFENDANT: Yes, sir.

29 THE COURT: You would have the right to

1 remain silent if you chose to remain silent, or you
2 would have the right to testify in your own behalf.
3 That would be your choice to make, and we would
4 honor either choice you made.

5 THE DEFENDANT: Yes, sir.

6 THE COURT: In the event you chose not to
7 testify and remain silent, you can have the Court
8 instruct the jury that they can hold that against
9 you because that's your right under the law.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: I would also instruct the jury
12 that they could not at your request, that they
13 could not summarily disregard your testimony simply
14 because you're the defendant. They must weigh your
15 testimony against other testimony and evidence and
16 give it such weight, faith and credit as they, the
17 jury, deemed appropriate.

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I would instruct the jury that
20 they must presume that you're innocent of any crime
21 unless and until the state proved your guilt beyond
22 all reasonable doubt.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All 12 jurors must agree on
25 your guilt beyond a reasonable doubt and so vote
26 before the jury could convict you and before you
27 would be sentenced for anything.

28 THE DEFENDANT: Yes, sir.

29 THE COURT: If that were to occur and all

1 jurors found that you were guilty of this offense,
2 the Court would sentence you. Do you understand
3 that you would have the right to appeal your case
4 to the Mississippi Supreme Court and/or the
5 Mississippi Court of Appeals. Mr. McGriggs, if you
6 could not afford that, I would order that the
7 county pay for the cost of your appeal and even for
8 your lawyers to assist you with your appeal at no
9 cost to you.

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you thoroughly understand
12 all the rights we've discussed?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you understand that you
15 waive or give them up by pleading guilty?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Is that what you choose to do?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand I believe
20 that you were originally charged with a crime of
21 capital murder. I believe you're pleading guilty
22 to a lesser included offense of simple murder; is
23 that correct?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Has your lawyer explained both
26 of those offense to you and do you understand the
27 difference in those offenses?

28 THE DEFENDANT: Yes, sir.

29 THE COURT: Do you understand the nature of

1 the offense that you're pleading guilty to?

2 THE DEFENDANT: The nature?

3 THE COURT: Yes, sir, the nature of this
4 offense, murder.

5 THE DEFENDANT: I don't understand.

6 (PAUSE IN PROCEEDINGS.)

7 THE DEFENDANT: Yes, sir.

8 THE COURT: You understand the nature of
9 this offense?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And your lawyers have explained
12 to you all the law relating to this offense and
13 procedures that would be used here in court against
14 you. Do you fully understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Have you made sure that your
17 lawyer knows all the facts and circumstances
18 surrounding your case?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And have they advised you of
21 all possible defenses you might have?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand that you're
24 giving up those defenses -- waiving or giving up
25 those defenses by pleading guilty?

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Are you satisfied with the
28 advice and help that your lawyers have provided?

29 THE DEFENDANT: Yes, sir.

1 THE COURT: Have they done everything they
2 can do at this point?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: No problems with your lawyers;
5 is that right?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: After a full discussion of your
8 case with your lawyers, Mr. McGriggs, whose
9 decision is it to plead guilty?

10 THE DEFENDANT: Mine, sir.

11 THE COURT: Has anyone influenced you or
12 promised you anything? Is there any reward or hope
13 of reward to induce you to plead guilty?

14 THE DEFENDANT: No, sir.

15 THE COURT: Have there been any threats
16 made against you or any force or intimidation used
17 against you to compel you to plead guilty?

18 THE DEFENDANT: No, sir.

19 THE COURT: Are you now under the influence
20 of any type of drug or alcohol?

21 THE DEFENDANT: No, sir.

22 THE COURT: Are you undergoing any type of
23 mental treatment?

24 THE DEFENDANT: No, sir.

25 THE COURT: Do you understand fully what
26 you're doing?

27 THE DEFENDANT: Yes, sir.

28 THE COURT: Mr. McGriggs, are you pleading
29 guilty because you are guilty of the offense of

1 murder and for no other reason?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I want you to listen carefully
4 to the state's attorney. The state's attorney will
5 explain to the court what the evidence will be
6 against you at trial. I want to make sure this is
7 the truth, Mr. McGriggs.

8 THE DEFENDANT: Yes, sir.

9 MS. BUCKLEY: May it please the Court.
10 Your Honor, this is State of Mississippi versus
11 Jonathan McGriggs, 2000-0103CR-B. If the State of
12 Mississippi went to trial on the charge of capital
13 murder, it would be prepared to show that on or
14 about the 19th day of July, in the year 1998, here
15 in Copiah County, Mississippi, out on Reed Town
16 Road, within the jurisdiction of this court, that
17 Joseph McGriggs, Jonathan McGriggs, Pervis Neal and
18 Susan Mitchell, also known as Susan McGriggs, got
19 together and decided to go see a man by the name of
20 W. Q. Bradley. He was the victim in this case.
21 The purpose of going there was to rob Mr. Bradley.

22 And the state would further show that
23 based upon the information related to the state by
24 Mr. Jonathan McGriggs, that Joseph McGriggs advised
25 Jonathan and Pervis Neal to bring a shotgun with
26 them when they got into Joseph McGriggs' late model
27 red Corsica, red or maroon in color Corsica that
28 day to go to pick up Susan and then go to Mr.
29 Bradley's house. There was a discussion between

1 Joseph and Susan in the presence of Jonathan
2 McGriggs and Pervis Neal that the purpose of going
3 to Mr. Bradley's house was to rob him and take some
4 money from him.

5 The state would further show that Susan
6 Mitchell exited the car to distract Mr. Bradley.
7 Joseph McGriggs then proceeded to the front porch
8 where Mr. Bradley was and physically began to
9 assault him. Jonathan McGriggs and Pervis Neal
10 then got out of the automobile. Pervis Neal pulled
11 a white shirt over his face, and that Jonathan
12 McGriggs, during the tussle between Joseph McGriggs
13 and Mr. Bradley, pulled the trigger and shot Mr.
14 Bradley.

15 THE COURT: Is that correct, Mr. McGriggs?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Every bit of it?

18 THE DEFENDANT: Sir?

19 THE COURT: Every bit of that story is
20 correct?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. McGriggs, I also have a
23 statement you have given -- I suppose you have
24 given this in the presence of your lawyers to the
25 state's attorneys this morning.

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Were you advised of your rights
28 at that time?

29 THE DEFENDANT: Yes, sir.

1 THE COURT: So do you understand this
2 statement can and will be used in a court of law?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Do you understand also that you
5 may be called upon to testify as to what you have
6 given in your statement?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: The statement I have before me,
9 you have signed this statement and your lawyers
10 have signed this statement; is that correct?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Have you read and thoroughly
13 understand this statement?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And are you swearing everything
16 in this statement is true and correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: I'm going to order a copy of
19 this statement be attached to the guilty plea as
20 Exhibit A. Do you understand that if I accept your
21 guilty plea to the offense of murder, Mr. McGriggs,
22 do you understand that there's only one sentence
23 that can be imposed. Do you understand that?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: That sentence will be life in
26 the penitentiary.

27 THE DEFENDANT: Yes, sir.

28 THE COURT: The law requires at this time,
29 Mr. McGriggs, a life sentence -- I believe

1 according to the law at this time under the
2 statutes that exist at this time you would be
3 required -- how old are you?

4 THE DEFENDANT: 22.

5 THE COURT: 22 years old. I believe the
6 statutes at this time require that you be
7 incarcerated in the penitentiary until you're 65
8 years old. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Even then no one can assure you
11 early release, parole, good time or anything else,
12 Mr. McGriggs. You may be required to stay in jail
13 for the rest of your life. Do you understand that?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: No one can assure you of any
16 type of early release.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Is there anything about this
19 guilty plea petition or about the discussion that
20 we've had or anything else that you don't
21 understand?

22 THE DEFENDANT: I understand, sir.

23 THE COURT: You fully understand everything
24 we've done and everything we're doing?

25 THE DEFENDANT: Yes, sir.

26 THE COURT: Then I ask you how do you wish
27 to plead to the offense of murder, guilty or not
28 guilty?

29 THE DEFENDANT: Guilty.

1 THE COURT: Is that because you are guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: No other reason?

4 THE DEFENDANT: No other reason.

5 THE COURT: Mr. Duggan, do you know of any
6 reason I should not accept Mr. McGriggs' guilty
7 plea?

8 MR. DUGGAN: No, Your Honor.

9 THE COURT: Mr. King, do you know of any
10 reason I should not accept Mr. McGriggs' guilty
11 plea?

12 MR. KING: No, sir, Your Honor.

13 THE COURT: Let the record reflect, and the
14 Court hereby finds and adjudicates that Mr.
15 Jonathan McGriggs has knowingly and intelligently
16 waived his constitutional rights, that he has
17 voluntarily entered a plea of guilty to the offense
18 of murder. I find there is a factual basis to
19 support the charges against Mr. McGriggs, and I
20 hereby find and adjudicate that he is guilty of the
21 offense of murder in this cause. Are you prepared
22 for sentencing at this time?

23 MR. DUGGAN: We are, Your Honor.

24 THE COURT: Anything you wish to say to
25 the Court prior to sentencing?

26 THE DEFENDANT: I would just like to say to
27 the family that I'm sorry for what happened. It's
28 something I did that I shouldn't have did, and I
29 would just like to apologize and ask for their

1 forgiveness.

2 THE COURT: Counsel, is a representative
3 of the victim's family present?

4 MS. BUCKLEY: They are, Your Honor.

5 THE COURT: We're ready to proceed with
6 sentencing then; is that correct?

7 MS. BUCKLEY: Yes, sir.

8 THE COURT: Then, Mr. Jonathan McGriggs,
9 for the offense of murder, pursuant to your guilty
10 plea, I find -- I hereby sentence you to serve the
11 remainder of your natural life in the custody of
12 the Mississippi Department of Corrections. That
13 will be the sentence of the Court. I hereby remand
14 you to the custody of the Mississippi Department of
15 Corrections.

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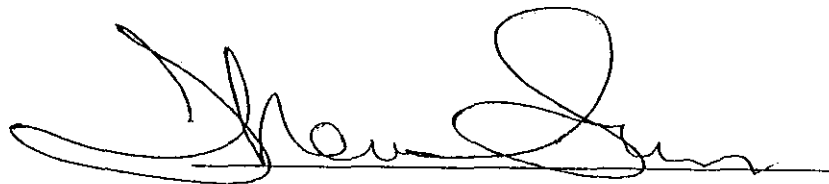
29

1 CERTIFICATE OF COURT REPORTER

2 I, Theresa Lumley, Official Court Reporter
3 for the Twenty-Second Circuit Court District of the
4 State of Mississippi, do hereby certify that to the
5 best of my skill and ability I have reported the
6 proceedings had and done in the guilty plea of
7 Jonathan McGriggs, being No. 20001-103CR-B on the
8 docket of the Circuit Court of the Twenty-Second
9 Judicial District of Copiah County, Mississippi,
10 and that the above and foregoing 14 pages contain a
11 true, full and correct transcript of my
12 stenographic notes and tape taken in said
13 proceedings.

14 I do further certify that my certificate
15 annexed hereto applies only to the original and
16 certified transcript and electronic disks. The
17 undersigned assumes no responsibility for the
18 accuracy of any reproduced copies not made under my
19 control or direction.

20 This the 14th day of January 2003.

21
22
23
24


25 THERESA LUMLEY

26 Official Court Reporter

27 CSR Number 1231

TO THE MISSISSIPPI DEPARTMENT OF CORRECTIONS:

APPENDIX B

NOTICE OF CRIMINAL DISPOSITION

You are hereby notified that at the March 2001 term of the Circuit Court, Judge Lamar Pickard Presiding, the following disposition was imposed for the crime(s) hereinafter described:

I. A. Disposition(s) Reported: ☒ Prisoner Commitment ☐ Suspended Sentence/Probation ☐ Revocation ☐ Acquittal ☐ Other
(check those which apply to all counts reported) Enter in § iv

A-1. Provisional Sentence ☐ Non-Adjudication ☐ Sentenced under RID ☐ Sentenced under Shock Probation
☐ Bad Check Diversionary Program ☐ Restitution in _____ County

B. Conviction as Result of: ☒ Guilty Plea ☐ Guilty Plea after _____ days of Commencement of Trial
☐ Jury Verdict after _____ days in Trial ☐ Revocation Hearing

II. Name Jonathan McGriggs Alias None
SSN 426-37-4368 Race Black Sex Male Date of Birth October 11, 1978
Last Known Residence 2243 Ernie Martin Road, Utrica, MS 31275
Place of Birth Vicksburg, MS Country of Citizenship USA
Alien Registration/Immigration # _____ FBI # _____

III. Count I Charge Murder
Indicted Under MS Code § 97-3-19 (2) (e) Sentenced Under MS Code § 97-3-19
Count II Charge _____ Sentenced Under MS Code § _____
Count III Charge _____ Sentenced Under MS Code § _____
Indicted Under MS Code § _____ Sentenced Under MS Code § _____

V. Date of Sentence March 5, 2001 Credit for Time Served (ONLY for this/these charge(s)) Yes days

Sentence(s) Imposed by Order: Count I Remainder of his natural life in custody of MDOC Count II _____; Count III _____
(Prior to any suspended portion)

☐ Check if reporting additional counts on reverse side
Portion of Sentence to be Served (Yrs/Mos) Portion of Sentence Suspended (Yrs/Mos) To be Served on Probation (Yrs/Mos) Other/Method of Disposition (Refer to legend on back of form)
Count I Remainder of his natural life in custody of MDOC
Count II _____
*Count III _____

To run concurrent with _____
To run consecutive to _____

Conditions/Designation of Sentence: ☐ Habitual ☐ Psychological/Psychiatric ☐ Alcohol/Drug Treatment/Testing ☐ Other _____

Dates Confined May 17, 2000 to Present Date

In Jail _____ to _____

[On this/these _____ to _____

charge(s) only] _____ to _____

Released on Bond Pending Appeal _____ to _____

Defendant Currently Housed in: Lincoln County Detention Center, Brookhaven, MS 39601

I. Fine \$ _____ Indigent Fee \$ _____ Restitution \$ _____
Court Costs \$ _____ Attorney Fees \$ _____ Other Fees \$ _____
Conditions of Payment: Defendant sentenced to serve the remainder of his natural life in the custody of MDOC.

nd Prisoner Commitments, Provisional Sentence

Orders and Revocation Orders to:

Director of Records INS Liaison
DOC MS Supreme Court
P.O. Box 24388 P.O. Box 117
Jackson, MS 39205 Jackson, MS 39205-0711

FILED

MAR 12 2001

Edna E. Stevens
Circuit Clerk

nd Suspended Sentence/Probation Notices, Provisional

Sentence Orders and Revocation Orders to:

Director of Records INS Liaison
DOC MS Supreme Court
P.O. Box 24388 P.O. Box 117
Jackson, MS 39205 Jackson, MS 39205-0711

EDNA E. STEVENS
CIRCUIT CLERK

By: Edna E. Stevens
Date: March 12, 2001

SCRS Form CR-1-3/1/96

MS Code Ann. §

nd Acquittal/Other Notices to: INS Liaison at above address

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IN THE CIRCUIT COURT OF COPIAH COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

APPENDIX C

VS.

CAUSE NO. 2000-0103
CRB

JONATHAN MCGAIGGS

PETITION TO ENTER PLEA OF GUILTY

THE DEFENDANT HEREIN, being duly sworn, states in Open Court under oath that:

1. My full true name is JONATHAN MCGAIGGS,
my age is 22 years and I completed 9 years in school and 0 years in college. I can read and write. I am mentally competent to make this Petition. I understand, should the plea of guilty herein tendered not be accepted and a trial follow, that admissions made herein or during any hearing on this Petition would not be admissible against me at trial, unless otherwise made and admissible.

2. I am represented by MARC KING & DAN DUGGAN,
an attorney who has been court appointed ~~retained by~~ or for me.

3. I plead guilty to the charge(s) of MURDER

as set forth in indictment(s) in cause number(s) 2000-0103 CRB

4. I have told my lawyer all of the facts and circumstances known to me about the charge(s) asserted in the indictment(s). I believe that my lawyer is fully informed on all such matters. My lawyer has advised me of the nature of the charge(s) and the possible defenses that I may have to the charge(s).

5. I understand that I may plead "Not Guilty" and may persist in that plea and that the

READ CAREFULLY

COMPLETE ALL BLANKS AND STRIKE THROUGH

NON-APPLICABLE PORTIONS

FILED

MAR 05 2001

BY EDNA E. STEVENS
CIRCUIT CLERK
D.C.

J.M.
INITIAL FOR IDENTIFICATION

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Constitution guarantees me: (a) the right to a speedy and public trial by jury; (b) the right to see, hear and cross examine all witnesses called to testify; (c) the right to use the power and process of the Court to compel the production of evidence, including the attendance of any witnesses in my favor; (d) the right to have the presence and assistance of a lawyer at all stages of the trial and any appeal; (e) the right to challenge the composition of the Grand Jury, which indicted me; and the petit jury which would hear my case; (f) the right to testify in my own defense; and (g) the right to a jury verdict of all twelve jurors before I could be found guilty.

6. I understand that if I do not have funds to employ an attorney, the Court will appoint an attorney to represent me; that I do not have to testify against myself; that if I should be convicted after a jury trial, I would have an absolute right to an appeal to the Mississippi Court of Appeals and to the Mississippi Supreme Court with assistance of counsel, and at no cost to me should I be determined to be financially unable to pay for same. I understand that by pleading guilty I am admitting that I did commit the crime charged in the indictment(s) and that I am waiving or giving up all of the rights set forth in paragraph number five (5) of this Petition.

7. At the time of the crime referred to herein, I was not, and at this time I am not under the influence of drugs nor alcohol, nor suffering from any mental illness.

8. I declare that no officer or agent of any branch of government, nor any other person has made any promise or inducement of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence, probation, early release, or any other form of leniency if I plead "Guilty". I have not been beaten, threatened, mentally or physically forced, intimidated or coerced in any manner to plead guilty to the crime charged against me. I offer my plea of "Guilty" freely and voluntarily and of my own accord and with full understanding of all the matters set forth in the indictment herein and in this Petition,

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and this plea is with the advice and consent of my lawyer.

9. My lawyer has informed me as to the maximum and minimum punishment which the law provides for the offense charged in the indictment. The maximum punishment which the Court may impose for this crime that I am charged with is LIFE WITH PAROLE years and \$ _____ fine. The minimum punishment is 0 years imprisonment and a \$ _____ fine.

10(a). No agreement(s) have been reached with regard to a recommended sentence as a result of so-called "plea-bargaining". Neither my attorney nor any other person has represented to me that I will receive any particular sentence if I plead guilty. The final decision as to the sentence rests with the Court.

10(b). As a result of plea bargaining, my attorney and I have reached an agreement with the District Attorney's Office concerning my offer to plead guilty to the charge(s) listed in paragraph number three (3). It is my understanding that the District Attorney will recommend to the Court that I receive a sentence as follows: REDUCE FROM CAPITAL MURDER
TO MURDER- LIFE WITH PAROLE

I understand that there are no side agreements or other promises. I understand that this agreement is not binding on the Court, and that if my guilty plea is accepted by the Court, the Court may impose the same sentence as if I had plead "Not Guilty" and had been found guilty by a jury.

11. I do understand that no one can assure me of parole or early release. I understand that if I am sentenced for an armed robbery or attempted armed robbery by displaying a **firearm**, committed after January 1, 1977, or if sentenced on an armed robbery or attempted armed robbery by displaying a **deadly weapon**, committed after July 1, 1982, I will not be eligible for parole on any sentence less than ten years and will not be eligible for parole on any sentence above ten years until I have served ten

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years. I understand that if I am sentenced as a habitual criminal I will not be eligible for parole. I understand that if I am sentenced for a sex crime, I will not be released on parole until I have been found to be normal or of sound mind by a psychiatrist.

12. I understand that if I am not eligible for parole, I will not receive "good time credits". I also understand that "earned time" or "good time" will not be applied to reduce my parole eligibility date. I understand that this Court has no control over the giving of earned time or good time. I understand that this process is governed by the Mississippi Department of Corrections.

13. I believe that my lawyer is competent and has done all that anyone could do to counsel and assist me, and I am fully satisfied with the advice and help my lawyer has given me.

14. My lawyer advises me that the elements of the charge to which I am pleading guilty are as follows:

- a. INTENTIONALLY, KNOWINGLY FELONIOUSLY
- b. SHOOTING & KILL W.P. BRADLEY
- c. NOT IN NECESSARY SELF DEFENSE
- d. W/O AUTHORITY OF LAW, DONE WITH THE
- e. DELIBERATE DESIGN TO EFFECT HIS DEATH.

I submit the following facts which I state to be true, and, feel that all of the above elements are proven by these facts:

- a. I SHOT MR. BRADLEY
- b. _____
- c. _____
- d. _____
- e. _____

Therefore, I am guilty and ask the Court to accept my plea of guilty.

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15. I understand that I am presenting this Petition under Oath and under the penalty of perjury for any false statements contained herein. I have not been encouraged by any person to answer falsely any question in this Petition in order to have this plea accepted.

16. I understand that my plea of guilty may be withdrawn at any time during a hearing on this Petition prior to the acceptance of the plea by the Court.

17. I have not previously been convicted of any felony, except, NONE

SIGNED BY ME in the presence of my lawyer, this the 5TH day of _____

MARCH, 20 01.

X [Signature] [Signature]
DEFENDANT

The following information has been requested by the Mississippi Department of Corrections:

SS# 426-37-4368 AGE 22 DOB 10-11-78

RACE B SEX M HEIGHT 5'11" WEIGHT 175 HAIR BLK EYES BLK

PLACE OF EMPLOYMENT MAGNOLIA TREE JACKSON

HOME ADDRESS 2243 ERNIE MARTIN UTICA, MS 39175

PLACE OF BIRTH VLICKSBURG, MS

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J.K.K.
INITIAL FOR IDENTIFICATION

STATE OF MISSISSIPPI

COUNTY OF COPIAH

SWORN TO AND SUBSCRIBED before me, this the 5th day of
March, 192001.

Sherry Moss Davis
NOTARY PUBLIC

My Commission Expires: 10.24.01

As attorney for JONATHAN McGRIGGS,
I certify that I have, on or before the above date, discussed all the contents
of the foregoing Petition with said Defendant, and I am satisfied that the
Defendant fully understands same and that the Defendant executes said
Petition knowingly and voluntarily, and that I know of no reason why the
Court should not accept the said Defendant's guilty plea.

Dan W. Duggan
ATTORNEY FOR DEFENDANT

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VOLUME 1 PAGE 24 INITIAL FOR IDENTIFICATION J.M.