

CERTIFICATE OF INTERESTED PARTIES

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. Antonio Parco Roland, MDOC # 74518, Appellant
2. Richard A. Smith, Circuit Court Judge
4. Jim Hood, Mississippi Attorney General

The undersigned counsel further certifies that the following attorneys have an interest in the outcome of this case:

For Appellees:

1. Jane Mapp, Special Assistant Attorney General, State of Mississippi
2. James Norris, Special Assistant Attorney General, State of Mississippi

By: Jane Mapp

TABLE OF CONTENTS

CERTIFICATE OF INTERESTED PARTIES	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	iv
ISSUES	v
STATEMENT OF THE CASE	1
SUMMARY OF THE ARGUMENT	3
ARGUMENT	4
CONCLUSION	9
ADDENDUM	11
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

<u>Case(s)</u>	<u>Page(s)</u>
<i>Carter v. Mississippi Dept. of Corrections</i> , 860 So.2d 1187 (Miss. 2003)	6
<i>Griffis v. Miss. Dept. of Corrections</i> , 809 So.2d 779 (Miss.Ct.App. 2002)	4
<i>Hentz v. Miss. Dept. of Corrections</i> , 766 So.2d 1 (Miss.Ct.App. 1999)	3, 5, 8
<i>McFadden v. State</i> , 580 So.2d 1210 (Miss. 1991)	3, 5, 8
<i>McKnight v. Johnson</i> , 277 F.3d 1373, 1373(5 th Cir. 2001)	3, 5, 9
<i>Miss. State Bd. of Pub. Accountancy v. Gray</i> , 674 So.2d 1251(Miss.1996)	4
<i>Puckett v. Stuckey</i> , 633 So.2d 978 (Miss. 1996)	3, 5, 8

<u>Other Authorities</u>	<u>Page(s)</u>
Miss. Code Ann. § 11-46-9	6
Miss. Code Ann. § 47-5-807	4
M.R.C.P. 7(a)	4
MDOC Standard Operating Procedure 31-03-01	5, 7, 8

ISSUES

I. Whether the Circuit Court of Leflore County, Mississippi Abused its Discretion in the Sua Sponte Dismissal of Appellant's Civil Complaint Without Requiring the Defendants to Respond to Complaint.

II. Whether the Circuit Court of Leflore County, Mississippi Abused its Discretion in Dismissing Appellant's Civil Complaint on the Grounds That Defendants Had Absolute Immunity Pursuant to Mississippi Code Ann. Section 11-46-5.

III. Whether the Findings of the Circuit Court of Leflore County, Mississippi in its Dismissal Order Is in Clear Error That Appellant Is Being Granted Visitation in Accordance with All Applicable M.D.O.C. Policies.

IV. Are the Actions of the Defendants in the Denial of Appellant's Visitation with His Wife Arbitrary and Capricious Without a Legitimate Penology [sic] Interest.

STATEMENT OF THE CASE

On or about November 13, 2007, Antonio Parco Roland, an inmate legally incarcerated within the Mississippi Department of Corrections, filed a "Civil Complaint" in the Circuit Court of Leflore County, Mississippi against Christopher Epps, Commissioner of the Mississippi Department of Corrections ("MDOC"), and others. (C.P. at 2)¹. Roland sought judicial review of an adverse decision rendered in response to a grievance filed with MDOC's Administrative Remedies Program ("ARP"). In his complaint, Roland claims his rights were violated when officials at Delta Correctional Facility, a private correctional facility which houses Mississippi state inmates, barred his wife, Teresa Baskins Roland ("Baskins"), from visiting him. (C.P. at 6).

According to his complaint, Baskins and Roland met and formed a relationship while he was a state prisoner housed and the Kemper-Neshoba Regional Correctional Facility ("KNRCF") and she was employed there as a nurse. (C.P. at 4). When their relationship was discovered Baskins was terminated from her position and permanently barred from entering the facility. (C.P. at 4-5). Subsequently, Roland was transferred to the Mississippi State Penitentiary at Parchman, Mississippi. Although Baskins had been banned from visiting Roland at KNRCF she was inadvertently allowed to visit him once he was transferred to Parchman. (C.P. at 5) When Roland was transferred to the Delta Correctional Facility ("D.C.F.") in November 2005 visitation was allowed to continue in error for a period of time.

¹ C.P. = Clerk's Papers

Once officials were made aware that Baskins was a former employee at KNRCF and had been banned from visiting Roland the ban was properly enforced by officials at D.C.F. (C.P. at 5).

In February 2007, even though she was banned from visiting him otherwise, Baskins and Roland were allowed to marry. (C.P. at 6). Roland states that Baskins contacted Commissioner Christopher Epps in March 2007 to inquire as to why the visitation ban had been extended to D.C.F. and was informed that she was banned because of a contraband issue at KNRCF where she had been terminated. (C.P. at 6). He states that the explanation on the visitation report banning her stated "extortion and receiving \$1,000 from inmate Roland." (C.P. at 7). Roland maintains that neither he or Baskins were ever notified of these allegations nor were they ever given a hearing on the issue. Roland argues that the explanation given for the ban was not reflected in Baskins' termination notice. He also argues that Baskins' has not been banned from visiting another inmate² at a different facility and that if the allegations against her were true she should have been banned from visiting him as well. (C.P. at 8). Roland sought injunctive relief, as well as compensatory and punitive damages.

On or about December 13, 2007 Circuit Court Judge Richard A. Smith dismissed Roland's petition on its face without requiring the defendants to file a response. (C.P. at 26).

²According to statements made in Roland's Appellant's Brief the inmate that Baskins has been allowed to continue visiting his her son.

He found that the Defendants had immunity from Roland's damages claims pursuant to Miss. Code Ann. § 11-46-5. He also found that Roland was being allowed visitation in accordance with MDOC policies and therefore was not entitled to relief. (C.P. at 26-27).

Feeling aggrieved, Roland filed his notice of appeal to the Mississippi Supreme Court and this matter now ensues. (C.P. at 28).

SUMMARY OF THE ARGUMENT

The courts have repeatedly held that "visitation privileges are a matter subject to the discretion of prison officials." *McFadden v. State*, 580 So.2d 1210, 1216 (Miss. 1991); see also *Hentz v. Miss. Dept. of Corrections*, 766 So.2d 1, 2 (Miss.Ct.App. 1999). The only limitation on this discretion is that the "restrictions on an inmate's visitation privileges should not be imposed arbitrarily or discriminatorily." *Puckett v. Stuckey*, 633 So.2d 978, 982 (Miss. 1996). Baskins was not denied visitation with Roland for any arbitrary or discriminatory reason, instead the restriction is in accordance with MDOC policy which prohibits current or former employees from visiting inmates they meet during the course of their work. Such bans have been held by the courts to serve "legitimate penological objectives" since "the former employees' inside knowledge of prison procedure poses a security risk, and that prison officials want to discourage such relationships generally...." *McKnight v. Johnson*, 277 F.3d 1373, 1373(5th Cir. 2001).

ARGUMENT

I. Whether the Circuit Court of Leflore County, Mississippi Abused its Discretion in the Sua Sponte Dismissal of Appellant's Civil Complaint Without Requiring the Defendants to Respond to Complaint.

Roland maintains that the Circuit Court's sua sponte dismissal of his complaint without first requiring the defendants to file an answer was an abuse of the court's discretion. He states that Rule 7(a) of the Mississippi Rules of Civil Procedure requires that an answer to a complaint be filed. He also argues that his complaint properly stated facts that would support a claim that the defendants violated his constitutional rights by denying him visitation with his wife.

Roland's action before the court was in fact a petition for judicial review of an adverse decision rendered by MDOC's Administrative Remedies Programs filed pursuant to Miss. Code Ann. § 47-5-807. "The decision of an administrative agency shall not be disturbed unless unsupported by substantial evidence; arbitrary or capricious; beyond the agency's scope or powers; or violative of the constitutional or statutory rights of the aggrieved party." *Griffis v. Miss. Dept. of Corrections*, 809 So.2d 779, 782 (Miss.Ct.App. 2002) (quoting *Miss. State Bd. of Pub. Accountancy v. Gray*, 674 So.2d 1251, 1253 (Miss.1996)).

The Circuit Court did not abuse its discretion in dismissing Roland's petition without requiring a response from the defendants since it was clear on the face of the petition that MDOC's decision to prohibit his wife from visiting him was not arbitrary or capricious;

beyond the agency's scope or powers; or violative of Roland's constitutional or statutory rights.

The courts have repeatedly held that "visitation privileges are a matter subject to the discretion of prison officials." *McFadden v. State*, 580 So.2d 1210, 1216 (Miss. 1991); see also *Hentz v. Miss. Dept. of Corrections*, 766 So.2d 1, 2 (Miss.Ct.App. 1999). The only limitation on this discretion is that the "restrictions on an inmate's visitation privileges should not be imposed arbitrarily or discriminatorily." *Puckett v. Stuckey*, 633 So.2d 978, 982 (Miss. 1996). Baskins was not denied visitation with Roland for any arbitrary or discriminatory reason, instead the restriction is in accordance with MDOC policy 31-03-01³ entitled "Offender Visitation" which specifically states that "MDOC employees, ex-MDOC employees, contract workers, or regional and private prison employees will not be approved to visit offenders they met during the course of their employment." Such bans have been held by the courts to serve "legitimate penological objectives" since "the former employees' inside knowledge of prison procedure poses a security risk, and that prison officials want to discourage such relationships generally...." *McKnight v. Johnson*, 277 F.3d 1373, 1373(5th Cir. 2001). The trial court also correctly found that the defendants were entitled to immunity from any state law claims Roland might assert regarding the denial of visitation.

³A copy of MDOC SOP 31-30-01 which was in effect in November 2007 when Roland filed his petition is attached as an addendum hereto pursuant to M.R.A.P. 28(f) which states that "[i]f determination of the issues presented requires the study of statutes, rules, or regulations, etc., they shall be reproduced in the brief or in an addendum at the end and they may be supplied to the court in pamphlet form." (See page 3, line 113-115).

The trial court correctly found that Roland asserted no allegations in his complaint that would indicate that he was entitled to the relief requested. Accordingly, this issue is without merit.

II. Whether the Circuit Court of Leflore County, Mississippi Abused its Discretion in Dismissing Appellant's Civil Complaint on the Grounds That Defendants Had Absolute Immunity Pursuant to Mississippi Code Ann. Section 11-46-5.

The Circuit Court dismissed Roland's petition in part on the basis of immunity. Roland argues that his complaint alleges an intentional tort; and therefore, the defendants are not entitled to immunity.

The state defendants have immunity from suit as to any state law claims pursuant to the Mississippi Tort Claims Act. Specifically, Miss. Code Ann. § 11-46-9 states in pertinent part as follows:

(1) A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim:

...

(m) Of any claimant who at the time the claim arises is an inmate of any detention center, jail, workhouse, penal farm, penitentiary or other such institution, regardless of whether such claimant is or is not an inmate of any detention center, jail, workhouse, penal farm, penitentiary or other such institution when the claim is filed;

See also, *Carter v. Mississippi Dept. of Corrections*, 860 So.2d 1187 (Miss. 2003).

MDOC officials, acting in the course and scope of their employment, corrected a previous administrative error, by enforcing a visitation ban against Baskins and Roland.

Current MDOC policy 31-03-01 entitled “Offender Visitation” specifically states that “MDOC employees, ex-MDOC employees, contract workers, or regional and private prison employees will not be approved to visit offenders they met during the course of their employment.” The trial court correctly held that any tort claim Roland might assert concerning his visitation claims would be barred on immunity grounds. Accordingly, this issue is without merit.

III. Whether the Findings of the Circuit Court of Leflore County, Mississippi in its Dismissal Order Is in Clear Error That Appellant Is Being Granted Visitation in Accordance with All Applicable M.D.O.C. Policies.⁴

IV. Are the Actions of the Defendants in the Denial of Appellant’s Visitation with His Wife Arbitrary and Capricious Without a Legitimate Penology [sic] Interest.

In his Order dismissing Roland’s Complaint, the Circuit Judge found that Roland “is being granted visitation in accordance with all applicable M.D.O.C. policies.” In his brief Roland argues that the decision to ban visitation between his wife and himself is not in accordance with MDOC policies. Roland cites to MDOC policy 31-03-01 entitled “Offender Visitation” which contains a subsection on “Banned Visitors.” Roland cites to just one type of banned persons, those posing a threat to the offender or facility, to make his argument that the visitation policies are not being followed because he claims there is no evidence that Baskins poses any type of threat. 31-03-01 also states in pertinent part that “MDOC

⁴Roland combines his arguments on Issues 3 and 4 into one single argument and the Appellee will do likewise.

employees, ex-MDOC employees, contract workers, or regional and private prison employees will not be approved to visit offenders they met during the course of their employment.” (See, MDOC S.O.P. 31-03-01 attached as an addendum hereto.)

Roland readily admits that he and Baskins met when he was an inmate housed at KNRCF, a regional correctional facility, and she was employed there as a nurse. He also admits that this relationship violated MDOC Policy, Number 03-01 which prohibits fraternization between inmates and employees.

Whether or not Baskins was banned from visiting Roland due to an attempt to extort money from him in addition to being banned as a former employee is irrelevant. Clearly, MDOC policy prohibits Baskins, as a former employee, from visiting Roland whom she met during the course of her employment. This policy also explains why Baskins has not been banned from visiting her inmate son.

The courts have repeatedly held that “visitation privileges are a matter subject to the discretion of prison officials.” *McFadden v. State*, 580 So.2d 1210, 1216 (Miss. 1991); see also *Hentz v. Miss. Dept. of Corrections*, 766 So.2d 1, 2 (Miss.Ct.App. 1999). The only limitation on this discretion is that the “restrictions on an inmate’s visitation privileges should not be imposed arbitrarily or discriminatorily.” *Puckett v. Stuckey*, 633 So.2d 978, 982 (Miss. 1996). Baskins was not denied visitation with Roland for any arbitrary or discriminatory reason, instead the restriction is in accordance with MDOC policy which prohibits current or former employees from visiting inmates they meet during the course of

their work. This policy is applied across the board, not just to certain employees or certain inmates. The fact that Baskins and Roland were temporarily allowed visitation after he was transferred from KNRCF can be written off as merely a failure by KNRCF staff to let MDOC officials know that Baskins and Roland formed a relationship while she was employed at that regional facility⁵.

Not only was Roland not denied visitation with Baskins arbitrarily, but such bans have been held to serve “legitimate penological objectives.” The Fifth Circuit Court of Appeals in *McKnight v. Johnson*, 277 F.3d 1373, 1373(5th Cir. 2001), found that “prison officials’ prohibition on former employees’ visiting their inmate-spouses” served “legitimate penological objectives” since “the former employees’ inside knowledge of prison procedure poses a security risk, and that prison officials want to discourage such relationships generally....”

Inasmuch as MDOC’s prohibition on visitation between Roland and Baskins was not arbitrarily or discriminatorily applied; is in accordance with MDOC policy; and serves a legitimate penological objective, the decision of the circuit court to dismiss Roland petition seeking judicial review of the agency’s decision should be affirmed.

CONCLUSION

Based on the arguments of fact and law herein above, it is clear that the trial court did not commit reversible error and the dismissal of this action by the lower court should be affirmed.

⁵Regional Correctional Facilities are run by regional or county authorities, not by the Mississippi Department of Corrections.

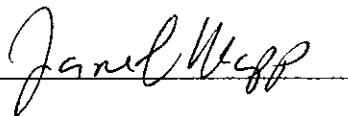
Respectfully submitted,

CHRISTOPHER EPPS
DEFENDANT-APPELLEE

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


JAMES M. "JIM" NORRIS
SPECIAL ASSISTANT ATTORNEY GENERAL
MS BAR NO.: 3882

JANE L. MAPP
SPECIAL ASSISTANT ATTORNEY GENERAL
MS BAR NO.: 9618

BY: 

ADDENDUM

- Miss. Dept. of Corrections, Standard Operating Procedure Number 31-03-01

	MISSISSIPPI DEPARTMENT OF CORRECTIONS	SOP NUMBER 31-03-01
		AGENCY WIDE INSTITUTIONS
OFFENDER VISITATION		INITIAL DATE 10-01-1996
ACA STANDARDS: 2-CO-5D-1, 4-4498 thru 4-4500-01, 4-4501, 4-4503, 4-4504		EFFECTIVE DATE 05-01-2008
STATUTES: 25-1-53, 47-5-95, 99-19-203	NON-RESTRICTED	PAGE 1 of 15

APPLICABILITY:

This procedure applies to all offenders and employees of the Mississippi Department of Corrections involved with offender visitation.

POLICY STATEMENT:

It is the policy of the Mississippi Department of Corrections (MDOC) to provide visitation as a privilege to eligible offenders.

DEFINITIONS:

Conjugal Visitation – A private form of visitation reserved for legally married offenders.

Contraband – Any items not authorized by Mississippi Code, MDOC policy, procedure, or post order.

Identification (ID) – Valid photo ID denoting vital statistical information specific to an individual. Forms of ID include: driver's license, state I.D. or federal I.D.

Immediate Family – A spouse, children, stepchildren raised prior to age 12, brothers, sisters, parents, grandparents, grandchildren, or person documented as acting in place of parent as surrogate prior to age 12 (i.e., foster parent, stepparent, or relative who raised the individual as a child) and can be documented by law enforcement, school, Human Services records, or employer statement.

Offendertrak – Computerized program that among other functions, provides an offender visitation database to include, but not be limited to photo, physical profile, housing location, classification, sentencing orders, conditions/attributes of inmate, approved visiting dates/times, categories of visitors, and visitors' list (names, relationships, driver's licenses, additional identifications, photos, banned visitors).

Sexually Transmitted Diseases (STDs) – Diseases that are passed from one person to another through oral, anal or vaginal exchange of fluids.

Visitor – Any person entering an MDOC facility who is not an authorized agency staff member, a contract employee, a volunteer, or a consultant.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 2 of 15

PROCEDURES:

Administration of Correctional Agencies (Central Office): There is an agency policy concerning mail, telephone, and visiting services for inmates/juveniles/residents. At a minimum, this policy includes instructions concerning mail inspection, public phone use, and visiting practices [2-CO-5D-1].

General

Visitation is a privilege that will be approved, denied, suspended and/or revoked by the Facility's Controlling Authority.

Each state institution, private, and regional facility will have a designated visitation liaison staff person.

The Mississippi State Penitentiary is located on Highway 49 West at Highway 32, Parchman, Mississippi. The visitation area is open at 0700 hours (7:00 a.m.). Visitation processing begins at 0800 hours (8:00 a.m.) and ends at 1330 hours (1:30 p.m.). Visitation hours are 0900 hours (9:00 a.m.) to 1400 hours (2:00 p.m.).

The South Mississippi Correctional Institution (SMCI) is located at 22689 Highway 63 North. This is approximately three (3) miles north of Leakesville, Greene County, Mississippi. The visitation area is open at 0800 hours (8:00 am). Visitation processing begins at 0900 hours (9:00 a.m.) and ends at 1330 hours (1:30 p.m.). Visitation hours are 0900 hours (9:00 a.m.) to 1400 hours (2:00 p.m.).

The Central Mississippi Correctional Facility (CMCF) is located at 5001 Highway 468, Pearl, Mississippi. The visitation area is open at 0730 hours (7:30 a.m.). Visitation processing begins at 0800 hours (8:00 a.m.) and ends at 1130 hours (11:30 a.m.). Visitation hours are 0830 hours (8:30 a.m.) to 1200 hours (12:00 p.m.) and 1300 hours (1:00 p.m.) to 1630 hours (4:30 p.m.).

Adult Correctional Institutions: The institution provides information to visitors about transportation to the institution and facilitates transportation between the institution and nearby public transit terminals [4-4504].

Parking for visitors will be restricted to designated areas.

MDOC will not be held responsible for lost, stolen or damaged personal possessions that belong to visitors while they are on the grounds of an MDOC facility.

Signs listing MDOC contraband will be posted at the institutional front and back gates.

No offenders will be present at the visitation site except those receiving a visit.

Visitors, while on grounds of the MDOC, will be subject to searches of their person, vehicles, personal property, or any and all items in their possession. All visitor contraband will be confiscated and violators may be subject to prosecution upon discovery of:

- Guns
- Knives
- Ammunition

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 3 of 15

- 89 • Alcohol
- 90 • Drugs
- 91 • Weapons
- 92 • Any instrument that could be used as a weapon
- 93 • Any item declared by MDOC as contraband

94 95 **VISITORS**

96 97 **Banned Visitors**

98
99 Offenders who marry other offenders after January 1, 1999, will not be eligible to participate in
100 the extended family visitation program.

101
102 A child who is a victim of the offender's sexual offense, physical abuse, or other mistreatment
103 will not be eligible to visit.

104
105 Individuals who are convicted felons will be prohibited from visiting offenders except in those
106 cases where immediate family relationships are established. In such cases, the Superintendent
107 or designee may grant permission in writing. Visitors will show this written authorization each
108 time they visit.

109
110 Any individual who, through investigation, is believed to pose a threat to the offender or facility
111 will be excluded from visitation.

112
113 MDOC employees, ex-MDOC employees, contract workers, or regional and private prison
114 employees will not be approved to visit offenders they met during the course of their
115 employment.

116
117 Each state institution, private, and regional facility will maintain and submit a monthly list of
118 banned visitors to the Deputy Commissioner of Institutions or designee.

119 120 **Cause for Termination/Suspension of Visits**

121
122 A visit may be denied or terminated, and visitation privileges suspended temporarily or
123 permanently by assigned staff for any of the following circumstances:

- 124
- 125 • Contraband
- 126 • Visitor fails to produce sufficient identification
- 127 • Visitor possesses unauthorized money or any negotiable instrument while on the grounds of
- 128 the facility
- 129 • Visitor is believed to be under the influence of alcohol or drugs
- 130 • Visitor engages in any behavior which may be designated inappropriate by the
- 131 Superintendent or designee
- 132 • Children act in a disruptive manner in the visitation area
- 133 • Visitor displays excessive physical contact with an offender
- 134 • Necessary order and security cannot be maintained

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 4 of 15

Suspension Protocol

Prohibited acts of behavior by a visitor will be documented on an Incident Report and/or Arrest or Escort Report.

If a visitor's visitation privileges are suspended, the facility's controlling authority or designee will notify the offender and his visitor, in writing, of the specific reasons for such suspension.

OFFENSE	SANCTION/ SUSPENSION
1. Possession of drugs, drug paraphernalia (i.e., roach clips, rolling papers, smoking pipes and steel wool), or alcohol on institution grounds	Permanent
2. Possession of firearms and/or ammunition	Permanent
3. Falsified identification	Permanent
4. Leaving minors on the unit or parking lot at Visitation	Permanent
5. Sexual activity	Permanent
6. Entering the visitation search area with contraband (after being advised to return contraband to visitor vehicle)	Permanent
7. Falsifying visitation application	Permanent
8. Camera in the visitation center	Permanent
9. Attempting to smuggle contraband in purchased canteen items	Permanent
10. Exchanging shoes with an offender	One year
11. Under influence of alcohol or drugs	One Year
12. Concealed contraband on person	One Year
13. Falsifying age to avoid presenting identification	One Year
14. Violation of dress code	One Year
15. Bring contraband from unit	Six Months
16. Attempting to visit on non-visitation days	Six Months

Offender Visitation Facilities

All visits will occur in the Visitation Center or in designated locations.

No visitors will be permitted in offender living quarters in any unit.

Visitation areas, with the exception of close confinement and maximum-security units, will allow for informality of communication as much as possible.

Admission of Visitors

Adult Correctional Institutions: Written policy, procedure, and practice provide that visitors register upon entry into the institution and specify the circumstances under which visitors may be searched [4-4503].

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 5 of 15

By the order of MDOC facility's controlling authority, visitors will:

- Register at the visitation center with approved photographic I.D. (i.e., driver's license, state I.D. or federal I.D.). A copy of this identification should be placed in the offender's visitation file
- Present letter of approval to enter for visitation
- Be documented in Offendertrak
- Fourteen (14) years of age and older will present identification (i.e., driver's license, state I.D., student I.D.)
- Sign the visitor sign-in log
- Staff will check the hair for concealed contraband, and may ask the visitor to take the hair down if the style would prohibit a thorough search
- The hands, arms, armpits, neck, shoulders, back, front, bra, waist, pockets, groin, legs, socks, and shoes will be checked
- Tongue, naval and nose rings or other body piercing accessories/jewelry are prohibited
- Visitors' bodies will be searched via pat-search, electronic scan, and/or Ion scan for contraband
- Signs will be posted for pregnant visitors to notify the scan technician of their condition
- Children will be pat-searched in the presence of their parents
- Be strip-searched when circumstances dictate
- Submit to a search of all allowable items and/or property

Prohibited Items in Visitation Areas

- Wallets
- Purses
- Handbags
- Change purses
- Electronic devices (i.e., pagers, cellular telephones or any of its components or accessories, palm pilots, walkie-talkies, tape recorders)

Note: In accordance with a facility's controlling authority, these said items will remain in the vehicle. Cellular telephones with camera features may be left in the vehicle while on the grounds of an MDOC facility.

MDOC staff will not hold non-allowable items or keep any items for visitors.

Allowable Monies for Visitors

Central Mississippi Correctional Facility (CMCF) visitors will be allowed twenty-five dollars (\$25.00) currency and coins per person to purchase bagged items at the Visitation Processing Center. No currency or coins will be allowed beyond the Visitation Processing Center.

South Mississippi Correctional Institution (SMCI) visitors may enter visitation rooms with a maximum of twenty-five dollars (\$25.00) in coins. Upon penalty of suspension or loss of visitation privileges, all paper money must be converted to coins prior to entering visitation areas. Change machines will be provided as a courtesy to visitors. No currency or coins will be allowed beyond the Visitation Processing Center.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 6 of 15

Mississippi State Penitentiary (MSP) visitors will be allowed twenty-five dollars (\$25.00) currency and coins per person to purchase bagged items at the Visitation Processing Center. No currency or coins will be allowed beyond the Visitation Processing Center.

Private Prisons and **County Regional facilities** will comply with aforementioned MDOC procedures specific to institutions.

Visitors to a **Regimented Inmate Discipline (RID)** facility will **not** be allowed to possess any money.

Allowable Items for Visitors

Tobacco products are prohibited for visitors and offenders in visitation areas.

Visitors with infants may possess one (1) clear diaper bag with up to four (4) diapers, two (2) bottles, one (1) change of baby clothes, one (1) pacifier and diaper wipes in a zip lock bag and any necessary medication for the infant. All diaper bags will be thoroughly searched.

Visitors who are on prescribed medication will be allowed the necessary dosage in the original prescription container. However, all prescribed medication will be secured at a designated area as specified by the controlling authority or designee at each facility.

No canteen or vending items will leave a facility's visitation area.

Rules of Conduct

General rules and regulations will include, but not be limited to the following:

- Visitors will remain in the designated visiting areas. Any visitor leaving the designated areas will have their visit terminated.
- Any visitor not on the offender visitation list will be denied visitation.
- No offender will escort any visitor to restroom areas.
- Offenders and visitors will be prohibited from giving, trading, selling or receiving anything to or from each other, other offenders or visitors.
- Tobacco products are prohibited in all visitation areas.
- Visitors will converse with offenders in a normal tone of voice. Loud talking, laughing, yelling or arguing can result in the termination of visits.
- Any visitor or offender who becomes disruptive or disrespectful to staff will be reported and will be subject to having their visit terminated.
- Children will be the responsibility of the parent and/or adult and will be supervised at all times (At no time will children be left in the care of offenders).
- No toys will be brought into the institution.
- Combing of hair within the visitation area is prohibited.
- Offenders and visitors must keep the area clean. All plastic bottles, paper, and other trash will be placed in trash containers.
- Offenders are not permitted to escort/accompany visitors to walkways or gates.
- Visiting more than one offender is prohibited unless an immediate family relationship has been verified.
- In an emergency or disturbance, visitors will be required to leave the facility.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 7 of 15

- 253 • At the conclusion of visitation, visitors will be prohibited from leaving the facility with any
 254 property or items that was not in their possession upon entering the institution.
 255

256 **Physical Contact**

257
 258 **Acceptable Behavior**
 259

- 260 A brief kiss and embrace upon entry and exit
 261 Holding hands
 262 Walking or sitting with arms around the shoulder or waist
 263 Hands resting on any part of the body not considered sexual
 264

265 **Prohibited Behavior**
 266

- 267 Hands on or fondling areas considered sexual
 268 Sexual activity
 269 Prolonged body kissing or body embracing
 270 Lip kissing except for the beginning or end of the visit
 271 Sitting in such a manner to expose to view areas of the body considered sexual
 272 No sitting in laps (does not apply to children under the age of 12)
 273 Sitting or lying on the grass
 274

275 **Dress Codes**
 276

277 **Males**
 278

- 279 Shirts must be worn
 280 No pants pulled down below the hip line
 281 No tank tops, sleeveless tops or bare midriffs
 282 No shorts above the knee
 283 No cut-off shorts, jogging shorts or biking shorts
 284 Shoes must be worn (no house or shower shoes)
 285 Underwear must be worn
 286 No jewelry except a wedding ring, religious medallion or medical alert bracelet
 287 Hats, caps and bandanas will not be permitted
 288

289 **Females**
 290

- 291 Shorts at knee level or below
 292 No hip-huggers, cut-off shorts, jogging shorts or biking shorts
 293 Slits on skirts and dresses will not extend above the knee when seated
 294 No see-through clothing
 295 No tank tops, sleeveless tops or bare midriffs
 296 Underwear and bra must be worn
 297 Shoes must be worn (no house or shower shoes)
 298 No jewelry except a wedding ring, religious medallion or a medical alert bracelet
 299 Hats, caps and bandanas will not be permitted
 300

301 The dress code (adults and children) will be strictly enforced at all times during visitation.. The
 302 facility's controlling authority or designee must approve any exception.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 8 of 15

Violation of the dress code may result in the visit being terminated or future suspension.

OFFENDERS

Offender Access to Visitation Information

Adult Correctional Institutions: Written policy, procedure, and practice provide that written information regarding procedures governing visitation be made available to the inmate within twenty-four (24) hours after arrival at the facility. At a minimum, the information will include, but not be limited to, the following:

- facility address/ phone number, directions to facility, and information about local transportation
- days and hours of visitation
- approved dress code and identification requirements for visitors
- items authorized in visitation room
- special rules for children
- authorized items that visitors may bring to give to the offenders (for example, funds, pictures, and so forth)
- special visits (for example, family emergencies) [4-4499].

Visitor Approval

Each proposed visitor will submit completed visitation forms to the MDOC addressee as indicated in the visitor application package.

All information provided by the proposed visitor will be reviewed and verified by the Case Manager or designated visitation personnel using the Offendertrak system. The Case Manager or designated visitation personnel will verify whether the proposed visitor is a current or former MDOC offender, employee, or under the supervision of the MDOC.

Should the proposed visitor be a current or former MDOC offender or currently on supervision, written approval must be obtained from the Superintendent/Warden and Field Officer prior to the visit. Offenders must be of immediate family.

Written approval must be obtained from the Superintendent/Warden for any current or former MDOC employee to visit an offender and they must be of immediate family relationship.

Upon completion of the review, the approved visitation list will be entered into the Offendertrak system.

Proposed visitors will not be permitted to visit until all appropriate forms or information has been submitted, reviewed, approved and all data entered into the Offendertrak system.

The offender will be notified of approval or disapproval by the MDOC facility's designated visitation personnel.

An approval to visit an offender may be revoked when information which would have resulted in denial of visits becomes known after approval to visit has been granted. Banning or

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 9 of 15

suspensions of visits will be ordered by the Facility's Controlling Authority for any activity or event occurring subsequent to approved visits.

Minors

All visitors under the age of eighteen (18) may visit, but must be accompanied by their parent or guardian.

All visitors fourteen (14) years of age and older must have a photographic identification each time they wish to visit.

Offenders' Responsibility

Offenders will be responsible for informing visitors of all visitation rules, regulations and schedules.

Offender Visitation List

Adult Correctional Institutions: Written policy, procedure, and practice provide that the number of visitors an inmate may receive and the length of the visits may be limited only by the institution's schedule, space, and personal constraints, or when there are substantial reasons to justify such limitations [4-4498].

Offenders will be limited to ten (10) persons on their visitation list at any one time. This will not include children under the age of fourteen (14).

A maximum of six (6) visitors will be admitted, including children, per visitation.

Offenders will be required to update their visitation list two (2) times per year (every six (6) months from entry at MDOC Reception Center).

Visitors will not be permitted to be on more than one offender's visitation list at a time, except when a relative has more than one immediate family member incarcerated at the same time.

Relatives desiring to visit more than one offender must submit a certified birth certificate to the visitation officer before the date of the visit.

RID unit will allow a maximum of three (3) visitors per visit due to limited space.

The offender's visitation list will be maintained on the computer and a duplicate copy will remain in the offender's working file and at the visitation center.

Transfer of Offenders

A transferring offender's visitation list/card will not be recreated, nor will there be a visitation waiting period for an eligible offender if the offender's visitors are pre-approved on **Offendertrak**, with the exception of offenders being processed through the Reception and Classification Center.

Upon transfer of an offender to a new facility, each visitor will be required to complete a visitor registration form at the new facility for record purposes.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 10 of 15

This process will not affect any pre-approved visitors whose information is entered into Offendertrak and who are currently on the offender's approved visitation list.

Visitation by Security Level

Adult Correctional Institutions: Written policy, procedure, and practice provide that inmate visiting facilities permit informal communication, including opportunity for physical contact. Devices that preclude physical contact are not used except in instances of substantiated security risk [4-4499-1].

Maximum Security Offenders (General Population C-Custody, C-Custody, D-Custody and Death Row)

- Offenders housed in maximum security facilities will be restricted to non-contact visits.
- Offenders will be strip searched before and after visits.
- Visitors will not be permitted to leave the unit until the offender has been strip searched.
- Death Row offenders will be permitted two (2) hour non-contact visitation, two (2) times each month with approved visitors on their visitation list.
- C-Custody offenders will be permitted a maximum of one (1) hour non-contact visitation, one (1) time per month with approved visitors on their visitation list.
- General Population C-Custody may be allowed two (2) hours of contact visit with immediate family on the 5th weekend. (This does not include Behavior Modification Program offenders)
- D-Custody offenders will be permitted a maximum of one (1) hour non-contact visitation each quarter of a year with any approved visitor on their visitation list.

Medium Security Offenders (B-Custody)

- Offenders may be permitted contact visits.
- Offenders will be pat searched before visits and strip searched after visits.
- Visitors will not leave the unit until the search of the offender is completed.
- Offenders will be permitted a minimum of three (3) hours to a maximum of five (5) hours contact visitation each visit, two (2) times per month, with approved visitors on their visitation list.

Minimum Security Offenders (A-Custody)

- Offenders may be permitted contact visits.
- Offenders will be pat searched before visits and strip searched after visit.
- Visitors will not leave the unit until the strip search of the offender is completed.
- Offenders will be permitted a minimum of three (3) hours to a maximum of five (5) hours of contact visitation each visit, four (4) times per month with approved visitors on their visitation list.

Special Visits

Adult Correctional Institutions: Written policy and procedure govern special visits [4-4500].

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 11 of 15

449 *Adult Correctional Institutions:* Written policy, procedure, and practice require that an
 450 inmate is informed in a timely manner of the verifiable death or critical illness of an
 451 immediate family member. In case of the critical illness of an immediate family member,
 452 the inmate is allowed, whenever statutes and circumstances allow, to go to the bedside
 453 under escort or alone [4-4500-1].
 454

455 Refer to MDOC Policy 27.06, Offenders' Escorted/Emergency Leave, and applicable
 456 procedures.
 457

458 The Commissioner and/or the facility's controlling authority may authorize special visits by
 459 persons on an offender's visitation list or for a person not on the approved visitation list (i.e.,
 460 prospective employers, sponsors, parole advisors, family members under extraordinary
 461 circumstances).
 462

463 Under extraordinary circumstances, the Superintendent or designee may authorize special visits
 464 two (2) times per year for immediate family members not on an offender's approved visitation
 465 list.
 466

467 The Superintendent or designee may grant permission for former MDOC employees to visit
 468 offenders of immediate family.
 469

470 Current and former MDOC employees wishing to visit offenders must be of immediate family
 471 relationship and provide verification of relationship. The Superintendent or designee may
 472 approve or deny this type of request.
 473

474 Any individual currently under supervision will be required to obtain written permission from the
 475 Field Officer and Superintendent or designee before visitation. Visitors must show this written
 476 authorization each time they visit and be immediate family members.
 477

478 **Designated Special Visiting Days**

479
 480 Periodically, the Superintendent will designate special visiting days. Special visiting days will
 481 normally be in conjunction with special holidays or when there are five (5) weeks in a month
 482 creating more than two (2) weeks between regular visiting days. Notification of special visiting
 483 days will be published in sufficient time to allow each offender ample opportunity to notify their
 484 visitors.
 485

486 **Inter-Unit Visitation**

487
 488 Offenders who have immediate family incarcerated at the same facility will be allowed to visit
 489 each other two (2) times per year (January and July).
 490

491 Documentation must be on file at the Visitation Center and the offender must meet certain
 492 requirements in order to visit.
 493

494 Lockdown units will not be allowed inter-unit visits.
 495

496 **Medical Visits**

497
 498 Visits for offenders in an outside medical facility will require the approval of the facility's
 499 controlling authority and MDOC Chief Medical Officer.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 12 of 15

Attorney Visitation

Visitation between offenders and attorneys will be according to MDOC policy and procedure, Inmate Access to Courts and Legal Counsel.

Clergy Visitation

Visitation between offenders and their clergy will be according to MDOC policy and procedure, Religious Programs and Chaplaincy Services.

Conjugal Visitation

Conjugal visitation will be according to MDOC policy and procedure, Conjugal Visitation.

Visitor Inquiries

Visitors may seek clarification, explanation, or address visiting list errors by contacting the involved MDOC facility between the normal working hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Extended Family Visitation Program

Adult Correctional Institutions: Where statute permits, written policy, procedure, and practice provide for extended visits between inmates and their families [4-4501].

Eligibility

Offenders must be classified in minimum custody for at least six (6) months to be eligible to participate in the extended Family Visitation Program.

Offenders must not have a pending Rule Violation Report (RVR) and/or been found guilty of any RVR within the previous twelve (12) month period.

Offenders must have been incarcerated within MDOC facilities for a period of one (1) year. Jail time toward incarceration will not count for this one (1) year time period.

Extended Family Visitation Application

Offenders wishing to request an extended family visit will make formal application through their Unit Administrator or Case Manager.

The Case Manager will submit the application to the Associate Warden who is responsible for completing the record check to verify the offender's and visitor's eligibility to participate in the program.

Once eligibility is established, the application will be submitted to the Family House Coordinator.

An offender will be notified as to whether the request was approved or disapproved.

If approved, the scheduled date for the visit will be confirmed in writing.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 13 of 15

Family House Fee

Ten dollars (\$10.00) per night fee for the use of the family house will be required.

Payment of the fee must be received at least twenty-one (21) days prior to the date of the scheduled visit.

If payment is not received during this time, the visit will be considered cancelled.

Refund of pre-payment due to cancellation will be made if the reserving party cancels the visit no later than fourteen (14) days prior to the scheduled visit.

If the reserving party cancels the visit less than fourteen (14) days prior to the date of the visit, the Family Visitation Coordinator will only consider a refund in lieu of extenuating circumstances.

In the event that the proposed visit is cancelled within the prescribed time frame, the refund will be deposited in the offender's account.

Visitation Mandates for Offenders

Offenders will meet appropriate MDOC dress code and grooming standards.

All offender visitors will be verified by proof of relationship and then entered on Offendertrak.

Without exception, family visitors will be limited to the following immediate family members:

- Wife/husband
- Children
- Stepchildren
- Mother
- Father
- Step-parents
- Sister
- Brother
- Step-siblings
- Half-siblings
- Grandchildren
- Grandparents

Offenders who have ever been convicted of any sex related crime, to include current and previous incarcerations, will not be eligible for the Extended Family Visitation Program.

Visitors will register at the visitation center with approved photographic I.D. (driver's license, state I.D., or federal I.D.) This identification will be copied prior to the visitor(s) entering the guest apartments and this copy made a part of the offender's visitation file.

Visitors who are fourteen (14) years of age and older will present identification (driver's license, state I.D., or federal I.D.).

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 14 of 15

599 A digital photograph will be taken of all visitors eighteen (18) years of age or older and loaded
600 into the Offender Trak database.
601

602 Visitors are required to present a letter of approval to enter visitation.
603

604 The Visitor Sign In Log will be utilized to record the printed names of all visitors participating in
605 the Extended Family Visitation Program.
606

607 Staff will check the hair for concealed contraband, and may ask the visitor to take the hair down
608 if the style would prohibit a thorough search.
609

610 The hands, arms, armpits, neck, shoulders, back, front, bra, waist, pockets, groins, legs, socks,
611 and shoes, will be checked.
612

613 Tongue, naval and nose rings or other body piercing accessories/jewelry are prohibited.
614

615 Visitors' bodies will be pat-searched or electronically scanned for contraband.
616

617 Offenders and visitors will be advised in writing of the rules and procedures and will sign a
618 statement acknowledging that they have read, understand, and agree to comply with the rules
619 for extended family visiting.
620

621 Offenders and/or spouses will provide proof of marriage, in the form of a valid marriage
622 certificate and/or those documents and information as required by MDOC.
623

624 During visitation, offenders will continue to receive earned time credit ("Earned Time"
625 classification) for their work assignment/school program even though they are physically
626 absence from said assignments.
627

628 A facility reserves the right to limit the number of visitors and/or the degree of relationship based
629 on each facility's available capacity for accommodating visitor volume.
630 Use of family visitation will be for a period not to exceed five (5) days.
631

632 The frequency of offender family visits will not exceed once every three (3) months.
633

634 Visitors will furnish their own transportation to and from the institution.
635

636 Visitors will not be permitted to leave the Family Visitation Unit without first obtaining permission
637 from the facility's controlling authority or designee.
638

639 Visitors will be responsible for furnishing all items to be used in extended family visitation.
640 Allowable items will be posted at each institution.
641

642 Prior to departure, each offender will be responsible for cleaning the unit.
643

644 The Office of Visitor Programs will furnish cleaning materials.
645

646 The Supervisor or designee of the Office of Visitor Programs will inspect the visitation unit after
647 each visit to ensure that the unit is clean and in good order.

TITLE: OFFENDER VISITATION		SOP NUMBER 31-03-01
EFFECTIVE DATE: 05-01-2008	NON-RESTRICTED	PAGE 15 of 15

648 All visitors and their vehicles will be searched when entering the facility and will be subject to all
649 contraband penalties as prefaced in this procedure.

650
651 All extended family visitors will be subject to all visitation stipulations and penalties as prefaced
652 in this procedure.

653
654 Violation of facility rules and regulations by either offender or visitor will terminate the visit and
655 may be cause to restrict the offender from future visits and possible prosecution.

656
657 **HIV/AIDS Offenders**

658
659 Offenders diagnosed as having Human Immunodeficiency Virus (HIV) or suffering from
660 Acquired Immune Deficiency Syndrome (AIDS) or any sexually transmitted disease (STD) (i.e.,
661 syphilis, gonorrhea) will, with the exception of their spouse, be permitted to participate in the
662 extended Family Visitation Program with other immediate family members.

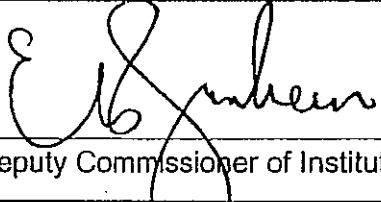
663
664 An infected offender's spouse who is like infected (HIV, AIDS or STD) may petition the
665 Commissioner of Corrections for participation in the extended Family Visitation Program.

666
667 An uninfected spouse may seek an exception to this rule from the Commissioner of Corrections
668 by pledging in a written petition to practice safe sex.

669
670 This procedure will be reviewed annually and revised as necessary.

671
672 **DOCUMENTS REQUIRED:**

673
674 As required by this procedure and through the chain of command.

ENFORCEMENT AUTHORITY		
Reviewed and Approved for Issuance		
	Deputy Commissioner of Institutions	5/1/08 Date

CERTIFICATE OF SERVICE

I, Jane L. Mapp, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day caused to be mailed, via United States Postal Service, first class postage prepaid, a true and correct copy of the foregoing **Brief of Appellee** in the above-styled and numbered cause to the following:

Antonio Parco Roland, #74518
D.C.F.
3800 County Road 540
Greenwood, MS 38930

Hon. Richard A. Smith
Circuit Court Judge
P.O. Box 1953
Greenwood, MS 38935-1953

This, the 4th day of August, 2008.



Jane L. Mapp
Special Assistant Attorney General

510 George Street, Suite 212
Jackson, MS 39202
Telephone: (601) 359-5770