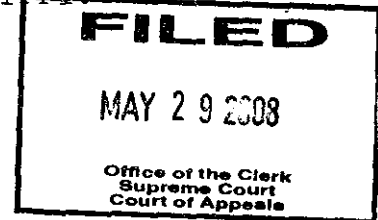


COPY

IN THE SUPREME COURT OF MISSISSIPPI

No. 2008-CP-00731



ROBERT STANLEY ROWLAND,

PLAINTIFF-APPELLANT,

VS.

STATE OF MISSISSIPPI,

DEFENDANT-APPELLEE.

APPELLANT BRIEF

On appeal from the Washington County Circuit Court

The Honorable Ashley Hines, Judge

Oral Arguments not requested

/s/ Robert S. Rowland

Robert S. Rowland, pro se

Robert S. Rowland
MDOC #34450
Unit 26B, Zone-E, Bed-256
Parchman, MS 38738

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STATEMENT OF ISSUES

I. THE TRIAL COURT ERRED IN DENYING ROWLAND'S POST
CONVICTION RELIEF MOTION AS BEING TIME BARRED.

II. THE TRIAL COURT VIOLATED THE PROHIBITIONS OF THE
DOUBLE JEOPARDY CLAUSE OF BOTH THE UNITED STATES
AND MISSISSIPPI CONSTITUTIONS BY CONVICTING ROWLAND
OF THE CAPITAL MURDER AND THE UNDERLYING FELONY OF
ARMED ROBBERY, EFFECTIVELY CONVICTING AND SENTENCING
ROWLAND TWICE FOR THE CRIME OF ARMED ROBBERY. THEREBY
ROWLAND HAS AN ILLEGAL SENTENCE.

STATEMENT OF THE CASE

On the night of February 16, 1979, a group of citizens was at the Leflore County Country Club, at a social event, that social event being a poker game, when three individuals [Robert Rowland, Donald Keeton and Keith Ouzts], masked and dressed with their identification completely concealed and armed with shotguns, entered the room and proceeded to "perform an armed robbery". They [Rowland, Keeton and Ouzts] had the men line up against the wall of the room with their backs toward the robbers. As one of the robbers was reaching across the table where the game had been held to pick up the money, a shotgun that he was holding discharged and shot Mr. James Campbell, killing him. At that point, Mr. Paul Hughes, one of the participants in the game, broke and run to get out of the room and he was shot in the back. The robbers then secured an automobile from one of the participants in the game and made their getaway from the County Club. Exhibit "A", Plea Transcript at page 6-7, quoting Mr. George A. Everett, District Attorney.

Rowland, Keeton and Ouzts were all charged with two counts of Capital Murder and two counts of Armed Robbery. On March 8, 1979, the defendants was indicted by the Leflore County Grand Jury in Cause No. 19,267 for the Armed Robbery of Pat Bolton, Exhibit "B", in Cause No. 19,268 for the Armed Robbery of O.B. Singleton, Exhibit "C", in Cause No. 19,266 for the Capital Murder of James Campbell while engaged in the armed robbery of Pat Bolton, Exhibit "D", and in Cause No. 19,265 for the Capital Murder of Paul Hughes while engaged in the armed robbery of

O.B. Singleton. Exhibit "E".

On change of venue the case was transferred from Leflore County to Washington County, Cause No. 19,267 become Cause No. 16,728, Cause No. 19,268 become Cause No. 16,727, Cause No. 19,266 become Cause No. 16,729 and Cause No. 19,265 become Cause No. 16,730. See Exhibit "A" at page 3-4.

The three defendants appeared at their plea hearing before Judge B.B. Wilkes, Circuit Court Judge of Leflore County. Prior to the hearing, the State made an offer to all three defendants wherein they would all plead guilty in exchange for two life sentences each on the Capital Murder charges and two twenty-four year sentences each on the Armed Robbery charges, all sentences to run consecutively. On August 2, 1979, Rowland, Keeton and Ouzts, under the advisement of Counsels, took the State's deal and pled guilty to all counts for which they had been charged. Rowland pled guilty to the crimes of Capital Murder and the underlying felony of Armed Robbery (two counts each). Exhibit "A" at page 10.

On November 13, 2007, Rowland filed a Petition for Post Conviction Collateral Relief in the Washington County Circuit Court, Cause No. 2007-256, alleging that his armed robbery convictions and sentences violated the Double Jeopardy Clause, the protection against multiple punishments for the same offense, in violation of the third aspect of the Double Jeopardy Clause, amounting to an illegal sentence. Further, pleading that the illegal sentences were not subject to any procedural bars, that the Mississippi Supreme Court had carved out an exception to such bars.

On January 10, 2008, "relying on Section 99-39-5 of the Mississippi Code, the Court [found] this action [to be] barred by the three (3) year statute of limitations". As such, finding it unnecessary to discuss the merits of the Motion, the Court dismissed with prejudice. Rowland now appeals the lower court's decision to this Court.

SUMMARY OF THE ARGUMENTS

The right to be free from an illegal sentence has been found to be fundamental in the State of Mississippi. This Court has held multiple times that errors affecting fundamental constitutional rights may be excepted from procedural bars which would otherwise prohibit their consideration. As a result, the trial court incorrectly barred Rowland's petition for violation of the three (3) year statute of limitation in Miss. Code Ann. §99-39-5. Rowland's petition alleged that he was serving time under an illegal sentence and such claim should have been considered on the merits. Instead, Rowland's petition was summarily dismissed with prejudice without any comment on the merits.

Rowland pled guilty, under the advisement of counsel, to both Capital Murder and the underlying felony of Armed Robbery. This Court has clearly held that the trial courts commits error by convicting a defendant of both felony murder and the underlying felony, even in the guilty plea context. Therefore, the trial court erred in sentencing Rowland on the underlying felony of armed robbery (two Counts) after Rowland plead guilty to the felony murder (two counts). The armed robbery sentences in

Cause No. 16,727 and 16,728 must be vacated as unenforceable sentences under the Double Jeopardy Clause.

ARGUMENTS

I. THE TRIAL COURT ERRED IN DENYING ROWLAND'S POST
CONVICTION RELIEF MOTION AS BEING TIME BARRED.

The Trial Court's entire disposition of this case was based on the charge that Rowland's motion for post-conviction relief was time barred under §99-39-5 of the Mississippi Code. As such, we will first speak to the issue of the statute of limitation since the entire case rests on whether the statute has effectively run against Rowland.

Rowland pled guilty on August 2, 1979. Although the Mississippi Uniform Post-Conviction Collateral Relief Act did not go into effect until 1984, it would still apply to Rowland's case. Odom v. State, 483 So.2d 343, 344 (Miss. 1986). "Individuals convicted prior to April 17, 1984, have three years from April 17, 1984, to file their petitions for post-conviction relief." Id. Therefore, Rowland's deadline for timely filing his petition was April 17, 1987. Rowland, however, did not file this petition until November 13, 2007, some nineteen (19) years after the deadline. Normally, the judge below would have been correct in finding that Rowland's claim was time barred.

However, there are certain exceptions carved out to procedural bars where there is a question that a party's fundamental rights have been violated. Sneed v. State, 722 So.2d

1255, 1257 (p7) (Miss. 1998). "The right to be free from an illegal sentence has been found to be fundamental." Id. In Ivy v. State, 731 So.2d 601, 603 (p13)(Miss. 1999), the Supreme Court of Mississippi reiterated its former ruling that "errors affecting the fundamental constitutional rights, such as the right to a legal sentence, may be excepted from procedural bars which would otherwise prevent their consideration." Ivy, 731 So.2d at 603 (p13)(citations omitted).

In Ivy, the Court recognized that the lower court wrongfully dismissed Ivy's petition for post-conviction relief because the lower court overlooked the fact that, due to the allegation of an illegal sentence, the petition was not subject to the time-bar. See also Lockett v. State, 582 So.2d 428, 430 (Miss. 1991)(denial of due process in sentencing excepted case from procedural bars). Additionally, in Stevenson v. State, the Mississippi Supreme Court held that "Even though an imposed sentence is otherwise barred, an unenforceable sentence is nevertheless plain error and capable of being addressed". Stevenson, 674 So.2d 501, 505 (Miss. 1996); Grubb v. State, 584 So.2d 786, 789 (Miss. 1991); Smith v. State, 477 So.2d 191, 195-96 (Miss. 1985).

According to the above cited case law, the lower court should have heard Rowland on his motion for relief, which consisted solely of his claim that he was illegally sentenced, regardless of the time-bar in this case. Therefore, since the merits were not addressed by the lower court, the claim must be properly addressed by this Court. Does Rowland have enforceable sentences for armed robbery?

II. THE TRIAL COURT VIOLATED THE PROHIBITIONS OF THE DOUBLE JEOPARDY CLAUSE OF BOTH THE UNITED STATES AND MISSISSIPPI CONSTITUTIONS BY CONVICTING ROWLAND OF THE CAPITAL MURDER AND THE UNDERLYING FELONY OF ARMED ROBBERY, EFFECTIVELY CONVICTING AND SENTENCING ROWLAND TWICE FOR THE CRIME OF ARMED ROBBERY. THEREBY ROWLAND HAS AN ILLEGAL SENTENCE.

Mr. Rowland asserts that he pled guilty to both felony murder and the underlying felony of armed robbery (two counts each), effectively convicting and sentencing him twice for the crime of armed robbery. Rowland contend that the trial court's conviction of both capital murder and armed robbery constituted double jeopardy in violation of the third aspect of the Double Jeopardy Clause of the Fifth (5th) Amendment to the United States Constitution.

It is irrefutable that Rowland was convicted of the Capital Murder of James Campbell while "engaged in the commission of the crime of armed robbery of Pat Bolton and others". Exhibit "D" and Exhibit "A" at page 10. Then Rowland was further convicted of the armed robbery of Pat Bolton. Exhibit "B" and Exhibit "A" at page 10. In this case, Rowland was not only convicted of the capital murder of James Campbell, but Rowland was also convicted of the underlying armed robbery of Pat Bolton that was used to elevate the murder of James Campbell to capital murder under §97-3-19(2)(e), Miss. Code Ann. (1972).

Likewise, Rowland was convicted of the Capital Murder of Paul Hughes while "engaged in the commission of the crime of armed robbery of O.B. Singleton and others". Exhibit "E" and Exhibit "A" at page 10. Here again, Rowland was not only convicted of the capital murder but he was also convicted of the armed

robbery of O.B. Singleton. Exhibit "C" and Exhibit "A" at page 10. Rowland was not only convicted of the capital murder of Paul Hughes, but Rowland was further convicted of the underlying armed robbery of O.B. Singleton that was used to elevate the murder of Paul Hughes to capital murder under §97-3-19(2)(e), Miss. Code Ann. (1972).

In the case at bar, Rowland was not convicted and sentenced on a plea of guilty to the offenses of simple murder and armed robbery, two separate and distinct crimes; rather Rowland was convicted of Capital Murders as proven by the Plea Transcript and the Sentencing Orders in Cause No. 16,729 and 16,730. See Exhibit "A" at page 10; Exhibits "F" and "G" respectively. Thus putting Rowland twice in jeopardy for the same armed robberies. Therefore, the trial court imposed multiple punishments for the same armed robberies in violation of the Double Jeopardy Clause. In context of double jeopardy, underlying felony in ~~felony~~ murder is, by definition, included in greater offense and may not be punished separately. Ballenger v. State, 667 So.2d 1242 (Miss. 1995), cert. denied, 518 U.S. 1025, 116 S.Ct. 2565 (1996).

In support of his double jeopardy claim, Mr. Rowland cites to the case of Fuselier v. State, 654 So.2d 519 (Miss. 1995), as being substantially similar to the instant case. In Fuselier, a defendant was indicted for Capital Murder "while engaged in the commission of the crime of burglary, in violation of Miss. Code ann. §97-3-19(2)(e)." Id at 521. After having his original conviction and sentence of death for murder while engaged in the commission of a felony reversed by the Mississippi Supreme Court, Fuselier, on remand, entered a plea bargain whereby Fuselier

would "plead guilty to both capital murder and burglary and in exchange receive a nonrecidivist life sentence for capital murder and a consecutive twenty-five year sentence for the burglary." Id at 520.

On collateral review, the Mississippi Supreme Court reversed the trial court's dismissal of Fuselier's petition for post conviction relief finding that the trial court committed error by convicting Fuselier of both felony murder and the underlying felony of burglary. Id at 522. The Supreme Court stated that a defendant's initial conviction and sentence for both felony murder and the underlying felony violated the third aspect of the Double Jeopardy Clause, the protection against multiple punishments for the same offense imposed in a single proceeding. Id (quoting Jones v. Thomas, 491 U.S. at 381). The Supreme Court held that by allowing Fuselier to plead guilty to felony murder and the underlying felony of burglary that the trial court was "effectively convicting and sentencing him twice for the same burglary" and to do so was in violation of the Court's holding in Meeks v. State, 604 So.2d 748 (Miss. 1992), where the court held that convicting a defendant of both felony murder and the underlying felony of kidnapping put the defendant "twice in jeopardy for the same kidnapping." Id.

The United States Supreme Court in two unanimous opinions has expressed the same view as the Mississippi Supreme Court in Fuselier. In Payne v. Virginia, 468 U.S. 1062, 104 S.Ct. 3573 (1984) in a per curiam opinion, it was held that were conviction of a greater crime cannot be had without a conviction of a lesser crime, the double jeopardy clause bars prosecution for the lesser

crime after conviction of the greater one. A robbery conviction, following a prior conviction for capital murder committed during the perpetration of the robbery while armed with a deadly weapon, as in Rowland's case, is barred by the double jeopardy clause.

In Harris v. Oklahoma, 433 U.S. 682, 97 S.Ct. 2912 (1977)(per curiam), the Court held that a subsequent prosecution for robbery with a firearm was barred by the double jeopardy clause, because the defendant had already been tried for felony murder based on the same underlying felony.

Based on the opinions of Fuselier, Payne and Harris, it seems very clear that where, as in this case, a person has been tried and convicted for a crime which has various incidents included in it, he cannot be a second time punished for one of those incidents without being put in jeopardy for the same offense. Based solely on the trial court documents in this case, Rowland was convicted and sentenced on the two felony murders with the underlying felony of armed robbery, plus the same two underlying felonies, thus putting Rowland twice in jeopardy for the armed robberies. Therefore, the trial court imposed multiple punishments for the armed robberies in violation of the Double Jeopardy Clause and both armed robbery sentences are unenforceable, thereby the armed robbery sentences must be vacated.

CONCLUSION

Rowland prays that the armed robbery convictions and sentences will be vacated forthwith as being unenforceable under the Double Jeopardy Clause, and further grant any such other relief as the court deems proper and just.

Robert S. Rowland

Robert Stanley Rowland

Appellant / pro se

CERTIFICATE OF SERVICE

This is to certify that I, Robert Stanley Rowland, pro se, have this date, mailed via the Inmate Legal Assistance Program, a true and correct copy of the foregoing "Appellant Brief" to:

Hon. Jim Hood
Attorney General
Po Box 220
Jackson, MS 39205-0220

This the 29th day of May, 2008.

Robert S. Rowland

Robert S. Rowland

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, MISSISSIPPI

JULY, 1979 TERM

STATE OF MISSISSIPPI

VS.

DONALD L. KEETON,
ROBERT STANLEY ROWLAND,
AND
KEITH OUZTS

16,727 (A.R.)
16,728 (A.R.)
16,729 (Murder)
NO. 16,730 (Murder)

DEFENDANTS

CHANGE OF PLEA & SENTENCE

PRESIDING JUDGE:

Honorable B. B. Wilkes
Circuit Judge
Fourth Circuit Court District
State of Mississippi
Greenville, Mississippi

COUNSEL FOR STATE:

Mr. George A. Everett
District Attorney
Greenwood, Mississippi

COUNSEL FOR DEFENSE:

Mr. Joe Buchanan (Keeton & Ouzts)
Attorney at Law
Indianola, Mississippi

Mr. John Ed Stillions (Rowland)
Attorney at Law
Indianola, Mississippi

COURT REPORTER:

Mrs. Linda M. Hall
12 Lewis Circle
Indianola, Mississippi

13 AUG 13 1979
13 AUG 13 1979
13 AUG 13 1979

On August 2, 1979, during the regular July, 1979 Term of Circuit Court of Washington County, Mississippi, when all of the above stated parties were present in open court, there appeared before Honorable B. B. Wilkes, Circuit Judge, Fourth Circuit Court District, State of Mississippi, the above said defendants, Donald L. Keeton, Robert Stanley Rowland, and Keith Ouzts, charged with two counts of armed robbery and two counts of murder each. At said time and place, their attorneys, Honorable Joe Buchanan (representing Donald L. Keeton and Keith Ouzts) and Honorable John Ed Stillions

Donald L. Keeton
Robert Stanley Rowland
Keith Ouzts

(representing Robert Stanley Rowland), and all other parties listed above were present and the following matters were recorded:

BY MR. EVERETT:

If the Court please, the State understands that these three accused, Keeton, Rowland, and Ouzts, wish to withdraw their previously entered pleas of not guilty to these four charges - two of capital murder and two of armed robbery - and now to enter pleas of guilty to each of those four charges. And with that understanding, the State would recommend to the Court that in Case #16,729, the capital murder of James Campbell, that all three be sentenced to life imprisonment in the Mississippi State Penitentiary in the custody of the State Department of Corrections. In Cause #16,730, the capital murder of Paul Hughes, the State would recommend a similar sentence - life in the State Penitentiary.

BY THE COURT:

To run consecutively?

BY MR. EVERETT:

Yes, sir. In Cause #17,727, the armed robbery of O. B. Singleton, the State would recommend twenty-four years in the custody of the State Department of Corrections. And in Cause #16,728, the armed robbery of Pat Bolton, the State would recommend twenty-four years in the custody of the State Department of

Donald L. Keeton
Robert Stanley Rowland
Keith Ouzts

Corrections. All four sentences are to run consecutively.

BY THE COURT:

Q Which is Donald L. Keeton?

A (By Keeton) Right here.

Q And this is your attorney Mr. Joe Buchanan standing here beside you?

A (By Keeton) Yes, sir.

Q And you are Keith Ouzts?

A (By Ouzts) Yes, sir.

Q And this is your attorney Mr. Buchanan Standing here? He also represents you. Is that right?

A (By Ouzts) Yes, sir.

Q And you are Robert Stanley Rowland?

A (By Rowland) Yes, sir.

Q And this is your attorney Mr. John Ed Stillions standing here beside you?

A (By Rowland) Yes, sir.

Q Now each of you has been indicted by the Leflore County Grand Jury in Cause #19,268 on a charge of armed robbery. That case was transferred to this Court and is now Cause #16,727. Each of you has previously entered a plea of not guilty to that charge. Each of you was also indicted by the Grand Jury of Leflore County, Mississippi in Cause #19,267 on a charge of armed robbery. That case has been transferred to this Court and is now Cause #16,729. And each of you has previously entered a plea of not guilty to

Donald L. Keeton
Robert Stanley Rowland
Keith Ouzts

that charge. Each of you was also indicted by the Grand Jury of Leflore County, Mississippi in Cause #19,266 on a charge of capital murder. That case has now been transferred to this Court and is now Cause #16,729. And each of you has previously entered a plea of not guilty to that charge. Each of you was also indicted in Cause #19,265 by the Grand Jury of Leflore County, Mississippi on a charge of capital murder. That case has been transferred to this Court and is now Cause #16,730. And each of you has previously entered a plea of not guilty to that charge. The Court understands at this time that all three of you wish to change your pleas and that each of you wish to enter a plea of guilty to each of these four charges. Is that right?

A (By Keeton, Rowland, and Ouzts) Yes, sir.

Q Donald L. Keeton, how old are you?

A (By Keeton) Eighteen.

Q And how far did you go in school?

A (By Keeton) ~~XXXX~~ grade. Tenth

Q Now I take it that you've thoroughly discussed your case with your lawyer Mr. Buchanan?

A (By Keeton) Yes, sir.

Q Are you satisfied with the services that Mr. Buchanan has rendered and the advise he has given you?

A (By Keeton) Yes, sir.

Q You have no complaints at all then about your lawyer. Is that right?

A (By Keeton) That's right.

Q And Keith Ouzts, how old are you?

A (By Ouzts) Nineteen.

Q How far did you go in school?

A (By Ouzts) ~~ten~~. Tenth

Q I take it you've also discussed your case with your lawyer Mr. Buchanan?

A (By Ouzts) Yes, sir.

Q Are you satisfied with the services that Mr. Buchanan has rendered and the advice he has given you?

A (By Ouzts) Yes, sir.

Q You have no complaints at all then about your lawyer?

A (By Ouzts) No, sir.

Q And Robert Stanley Rowland, how old are you?

A (By Rowland) Twenty-one.

Q And how far did you go in school?

A (By Rowland) ~~ten~~. Sixth

Q Now I take it that you also discussed your case with your lawyer Mr. Stillions?

A (By Rowland) Yes, sir.

Q Are you satisfied with the services that Mr. Stillions has rendered and the advice he has given you?

A (By Rowland) Yes, sir.

Q You have no complaints at all then about your lawyer. Is that right?

A (By Rowland) That's right.

BY THE COURT:

Mr. District Attorney, give me the results of your

investigation in these four cases.

BY MR. EVERETT:

On the night of February 16, 1979, a group of citizens was at the Leflore County Country Club, a short distance outside of Greenwood in Leflore County, Mississippi, at a social event, that social event being a poker game, when three individuals, masked and dressed similarly with their identification completely concealed and armed with shotguns, entered the room and proceeded to perform an armed robbery with firearms of this group of individuals. They had the men line up against the wall of the building or the room with their backs toward the defendants. And as one of the defendants was reaching across the table where the game had been held to pick up the money, a shotgun that he was holding discharged and shot James Campbell in the back, and killing James Campbell. The shotgun then discharged again and the shot went into the ceiling of the room. At that time, Paul Hughes, one of the participants in the game, broke and ran to get out of the place and he was shot in the back and killed by one of the individuals in the robbery. They then secured an automobile from one of the participants in the game and made their getaway from the Country Club, which they abandoned a short distance away where they got in their own automobile. They were followed by two of the people involved

in the game - discreetly followed - who got enough description to aid the authorities, which led to much hard work in the arrest of these three who have all confessed to that crime.

BY THE COURT:

Q Each of you has heard the District Attorney give me the results of his investigation. Is what he has told me substantially correct?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q And are those the crimes you are pleading guilty to - the ones he has just told me about?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q Now I want to explain to you about a jury trial. Each of you is entitled, if you wish, in each of these cases to have a trial by a jury. Of course that would be a jury of twelve citizens from this county. Going into those trials, under the law you would be presumed to be innocent and the burden of proof throughout those trials would be on the State of Mississippi to prove your guilt to those juries beyond a reasonable doubt and to a moral certainty. You could not be convicted unless all twelve members of those juries agreed among themselves that you were guilty. During the trial, your lawyers would have a right to question or cross-examine any witnesses that the State brought in to testify against you. If you had witnesses, you could bring them in and they could testify so that the jury could hear what they had to say about the case. Since you are the defendants,

under the law you would have a choice. You could testify if you wanted to, or if you and your lawyer felt that it was in your best interest not to testify then under the law you would not be required to testify. And if you decided not to testify, then under the law the jury would not be allowed to presume or infer just from that fact alone that you were guilty. And, of course, if those juries convicted you, you would have a right to appeal each of those confictions to a higher court. Do each of you understand what I'm telling you about jury trials?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q And do each of you understand that by entering these pleas of guilty, you are giving up your right to a jury trial in each of these four cases?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q Now do each of you understand that on each armed robbery charge the Court can sentence you to any term I see fit less than life with no probation and no parole?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q Do each of you understand that on each capital murder charge the Court is required under the law to sentence you to life imprisonment? Do each of you understand that?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q Do each of you understand in this case, the recommendation is that these four sentences will run consecutively and not concurrently? Do each of you understand that?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q Now other than this recommendation that the District Attorney has just made to the Court with reference to the sentence, have there been any promises or hopes of reward - anything like that - made to any of you to induce you to enter these guilty pleas?

A (By Keeton, Rowland, & Ouzts) No, sir.

Q Have there been any threats, or force, or coercion, intimidation - anything at all like that - exerted against you to force you or intimidate you into these pleas?

A (By Keeton, Rowland, & Ouzts) No, sir.

Q I take it then from what you are telling me that you are entering these guilty pleas freely and voluntarily, and that you understand what you are doing?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

Q And I take it from what you've told me that each of you is in fact guilty of these four charges of which you are pleading guilty?

A (By Keeton, Rowland, & Ouzts) Yes, sir.

BY THE COURT:

I will ask you two attorneys whether you have explained their constitutional rights and the consequences of their entering these guilty pleas?

BY MR. BUCHANAN:

Yes, Your Honor, their constitutional rights have been explained to them and they understand them fully.

BY MR. STILLIONS:

Yes, sir.

Donald L. Keeton
Robert Stanley Rowland
Keith Ouzts

BY THE COURT:

Q All right, I'm going to accept each of your pleas of guilty, and I'm going to accept the recommendation of the District Attorney. In Cause #16,729, the Court sentences each of you to the custody of the State Department of Corrections the remainder of your natural life. That was the capital murder of James Campbell. In Cause #16,730, which is the capital murder of Paul Hughes, The Court also sentences each of you to the custody of the State Department of Corrections for the remainder of your natural life, this sentence to run consecutively with the sentence I have just imposed in Cause #16,729. In Cause #16,727, which is the armed robbery of O. B. Singleton, the Court sentences each of you to a term of twenty-four (24) years in the custody of the State Department of Corrections with no probation and no parole, this sentence to run consecutively with the sentence I have just imposed in Cause #16,730. In Cause #16,728, which is the armed robbery of Pat Bolton, the Court sentences each of you to a term of twenty-four (24) years in the custody of the State Department of Corrections with no probation and no parole, and this sentence will run consecutively with the sentence I have just imposed in Cause #16,727.

BY THE COURT:

Does Counsel have any questions?

BY MR. BUCHANAN:

No, Your Honor.

Donald L. Keaton
Robert Stanley Rowland
Keith Ouzts

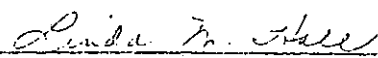
BY MR. STILLIONS:

No, sir.

COURT REPORTER'S CERTIFICATE

I, Linda M. Hall, Court Reporter, Fourth Circuit Court District, State of Mississippi, hereby certify that the foregoing is a complete and correct transcript of all my notes of the matters which transpired at the change of plea and sentencing of the above defendants, at the July, 1979 Term of Circuit Court of Washington County, Mississippi, to the best of my knowledge, skill, and ability.

WITNESS MY SIGNATURE, this the 16th day of August,
A.D., 1979.


OFFICIAL COURT REPORTER
FOURTH CIRCUIT COURT DISTRICT
STATE OF MISSISSIPPI

STATE OF MISSISSIPPI

County of LefloreNo. 19,267

In the Circuit Court in and for said County, at the

March 1979 Term.

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men of the County aforesaid, duly elected, empaneled, sworn and charged at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths, present: That

Donald L. Keeton, Robert Stanley Rowland and Keith Ouzts

late of the County aforesaid, on the 16th day of February 1979 in the County aforesaid,

in and upon Pat Bolton, a human being, unlawfully, willfully

and feloniously did make an assault and they, the said Keeton, Rowland and Ouzts

did then and there by the exhibition of a deadly weapon, to-wit: a shotgun, being a firearm,

unlawfully, willfully and feloniously put in bodily fear of immediate injury to his person, and more than \$100.00

of the personal property of O.B. Singleton, G.W. Putman, Billy Floyd,

~~XXXXXXXXXXXXXXXXXXXX~~ Joe Floyd, Pat Bolton, Steve McHann, James Campbell
and Paul Hughes

of the total and aggregate value of more than \$100.00, in money,

from the presence or from the person and against the will of the said Pat Bolton

did then and there unlawfully, willfully, feloniously and violently take, steal and carry away,

FILED

25 day of June 1979
Erwin Henderson
CIRCUIT CLERK

by J. Clark, Jr. D.C.

I hereby certify that the foregoing is a true and complete copy of the original thereof, as the same appears to me in my office.

Given under my hand and seal of office this

14th day of June 1979

CHRISTINE CHANDLER, Clerk of the Circuit Court
Leflore County, Miss.

By: Lay Bamer, D.C.

against the peace and dignity of the State of Mississippi.

A TRUE BILL

Geo G. Everett
DISTRICT ATTORNEY

J. C. Morgan Jr.
FOREMAN OF THE GRAND JURY.

WITNESSES:

Filed 8th day of March 1979 Christine L. Chandler Clerk

Recorded 8th day of March 1979

Christine L. Chandler Clerk By _____ D. C.

RECORD BOOK 13 PAGE 22

I hereby certify that I have this day personally delivered to _____
true copies of this indictment and the capias issued hereupon.

Ex. "D"

Date: _____

By: _____

EXHIBIT "B"

STATE OF MISSISSIPPI

County of LEFLORE

No. 19,266

In the Circuit Court in and for said County, at the

MARCH

1979 Term.

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men of the County aforesaid, duly elected, empaneled, sworn and charged at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths, present: That

Donald L. Keeton, Robert Stanley Rowland and Keith Ouzts

late of the County aforesaid, on the 16th day of February 1979, in the County

and State aforesaid, and within the jurisdiction of this Court, unlawfully, wilfully, feloniously, ~~xxx~~ gem

~~xxxxxxx~~ did, then and there, kill and murder one James Campbell

a human being,

said killing being done with or without any design to effect death, while said Donald L. Keeton, Robert Stanley Rowland and Keith Ouzts were engaged in the commission of the crime of armed robbery (Section 97-3-79) of Pat Bolton and others at the Leflore County Country Club, in violation of Section 97-3-19(2) (e)

FILED

25th day of June 1979

CIRCUIT CLERK

J. Clark, Jr.

D.C.

I hereby certify that the foregoing is a true and complete copy of the indictment as the same appears on the records of the Court.

14th day of June 1979

CHRISTINE CHANDLER, Clerk of Circuit Court
Leflore County, Miss.

By: Lay Baker, D.C.

against the peace and dignity of the State of Mississippi.

A TRUE BILL

Dee G. Everett
DISTRICT ATTORNEY

J. C. Mangum, Jr.
FOREMAN OF THE GRAND JURY.

WITNESSES:

Filed 8th day of March 1979 Christine L. Chandler, Clerk

Recorded 8th day of March 1979

Christine L. Chandler, Clerk By _____, D. C.

RECORD BOOK 13 PAGE 21

Ex. -

EXHIBIT "D"

"D"

STATE OF MISSISSIPPI

County of LEFLORE

No. 19,265

In the Circuit Court in and for said County, at the

MARCH

1979 Term.

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men of the County aforesaid, duly elected, empaneled, sworn and charged at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths, present: That

Donald L. Keeton, Robert Stanley Rowland and Keith Ouzts

late of the County aforesaid, on the 16th day of February 1979, in the County

and State aforesaid, and within the jurisdiction of this Court, unlawfully, wilfully, feloniously, ~~xxxx~~

~~xxxx~~ did, then and there, kill and murder one Paul Hughes

human being,

said killing being done with or without any design to effect death, while said Donald L. Keeton, Robert Stanley Rowland and Keith Ouzts were engaged in the commission of the crime of armed robbery (Section 97-3-79) of O.B. Singleton and others, at the Leflore County Country Club, in violation of Section 97-3-19(2) (e).

FILED
25 June 1979
Erwin Henderson
CIRCUIT CLERK
By J. Clark Sr. D.C.

I hereby certify that the foregoing is a true and complete copy of the indictment thereof, as the same appears of record in this office.

Given under my hand and seal of office, on this 14th day of June 1979.

CHRISTINE CHANDLER, Clerk of Circuit Court
Leflore County, Miss.

against the peace and dignity of the State of Mississippi.

By: Jay Barner, D.C.

A TRUE BILL

Dev A. Everett
DISTRICT ATTORNEY

J. L. Morgan Jr.
FOREMAN OF THE GRAND JURY

WITNESSES:

Filed 8th day of March 1979

Christine L. Chandler, Clerk

Recorded 8th day of March 1979

Christine L. Chandler, Clerk By: D. C.

RECORD BOOK 13 PAGE 20

Ex. -

EXHIBIT "E" "E"

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, MISSISSIPPI

JULY TERM

STATE OF MISSISSIPPI

U.S. NO. 16,729
DONALD L. KEETON
~~ROBERT STANLEY ROWLAND~~
KEITH OULTS

ORDER

The Defendant, DONALD L. KEETON, ROBERT STANLEY ROWLAND & KEITH QUZTS, in his ¹⁴⁻¹⁵ own proper person and by attorney, having plead GUILTY ~~NOT GUILTY~~ on a former day of this term of Court during a former term of this Court, on an indictment charging ^{THEM} ~~him~~ with CAPITAL MURDER is now permitted by the Court on motion of the State to withdraw ~~his~~ ^{their} plea of NOT GUILTY and to enter a plea of GUILTY to said indictment, ~~to the lesser offense of~~ _____

IT IS, THEREUPON, ORDERED by the Court that for the offense of CAPITAL MURDER, to which the defendants have plead GUILTY, that the defendant ~~be and~~ ^{he} ~~she~~ is hereby sentenced to the ~~REMAINDER OF THEIR NATURAL LIVES~~ ^{REMAINDER OF THEIR NATURAL LIVES} ~~THEY ARE~~ by this Court to serve ~~for a term of~~ ^{for a term of} ~~years~~ in the Custody of the State Department of Corrections, ~~with~~ ^{with} ~~no~~ ^{no} ~~parole~~ ^{parole} ~~and~~ ^{and} ~~no~~ ^{no} ~~probation~~ ^{probation} ~~being~~ ^{being} ~~suspended~~ ^{suspended} ~~under~~ ^{under} ~~the~~ ^{the} ~~supervision~~ ^{supervision} ~~of~~ ^{of} ~~the~~ ^{the} ~~State~~ ^{State} ~~Department~~ ^{Department} ~~of~~ ^{of} ~~Corrections~~ ^{Corrections} ~~on~~ ^{on} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^{said} ~~person~~ ^{person} ~~was~~ ^{was} ~~on~~ ^{on} ~~parole~~ ^{parole} ~~or~~ ^{or} ~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^{said} ~~person~~ ^{person} ~~was~~ ^{was} ~~on~~ ^{on} ~~parole~~ ^{parole} ~~or~~ ^{or} ~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^{said} ~~person~~ ^{person} ~~was~~ ^{was} ~~on~~ ^{on} ~~parole~~ ^{parole} ~~or~~ ^{or} ~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^{said} ~~person~~ ^{person} ~~was~~ ^{was} ~~on~~ ^{on} ~~parole~~ ^{parole} ~~or~~ ^{or} ~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^{said} ~~person~~ ^{person} ~~was~~ ^{was} ~~on~~ ^{on} ~~parole~~ ^{parole} ~~or~~ ^{or} ~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^{said} ~~person~~ ^{person} ~~was~~ ^{was} ~~on~~ ^{on} ~~parole~~ ^{parole} ~~or~~ ^{or} ~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} 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~~probation~~ ^{probation} ~~at~~ ^{at} ~~the~~ ^{the} ~~time~~ ^{time} ~~of~~ ^{of} ~~his~~ ^{his} ~~conviction~~ ^{conviction} ~~and~~ ^{and} ~~the~~ ^{the} ~~same~~ ^{same} ~~terms~~ ^{terms} ~~and~~ ^{and} ~~conditions~~ ^{conditions} ~~as~~ ^{as} ~~if~~ ^{if} ~~said~~ ^s

SO ORDERED AND ADJUDGED in open Court this the 2 day of AUG. 19 79

B. B. Wilmer
CIRCUIT JUDGE

MINUTE BOOK 40 PAGE 310

FILED

2 day of Aug 1979
E. HENDERSON
Circuit Clerk
By N. Talcom D.C.

JULY _____ TERM _____

U.S. NO. 16,730
DONALD L. KEETON
ROBERT STANLEY ROWLAND
KEITH OUZTS

KEITH OUZTS

IT IS, THEREUPON, ORDERED by the Court that for the offense of CAPITAL MURDER, to which the defendants have plead GUILTY that the defendants be and they ^{do} hereby sentenced they are REMAINDER OF THEIR NATURAL LIVES by this Court to serve a term of XXXX years in the Custody of the State Department of Cor.

rections, ~~with a total of~~ 2023.00 and cannot be held responsible under the supervision of the State
 b6
 b7C

~~THIS SENTENCE TO RUN CONSECUTIVELY WITH THE SENTENCE JUST~~
imposed in CAUSE NO. 16-729
SO ORDERED AND ADJUDGED in open Court this the 2 day of AUGUST 1979

B.B. Wilner
CIRCUIT JUDGE

MINUTE BOOK 40 PAGE 314

FILED

2 day of Aug 1979

E. HENDERSON
Treas. Clerk

By A. F. Johnson D.C.

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