



IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2008-CP-01255-COA

GAIL LEE BURRIS

APPELLANT

VS.

FILED

MAY 04 2009

STATE OF MISSISSIPPI

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

APPELLEE

REPLY BRIEF FOR APPELLANT

BY:

Gail Lee Burris

Gail Lee Burris

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2792 Hwy. 8 West

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MAY 06 2009

This appeal meets the requirements of the challenge to the legality of the sentence. Appellant was subjected to a denial of due process of law where the trial court failed to advise Burris of the correct law in regards to appealing a sentence rendered upon a plea of guilty to the Supreme Court. Appellant Burris was never told that, under applicable law, his sentence could be appealed to the Supreme Court for direct review independent to the plea of guilty to the charge. The state has failed to refute the claim in its brief. This Court should find that the sentence should be vacated.

CONCLUSION

Burris would respectfully ask this Court to reject the state's argument and to vacate the sentence as being excessive. Appellant would ask that in the alternative to remand this case to their trial court for a proper showing and for hearing.

Respectfully submitted,

BY: 
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APPELLEE

APPELLANT'S REPLY BRIEF

The State of Mississippi has filed its brief in this case and has failed to refute Appellant's claims that Appellant was denied effective assistance of counsel during the criminal proceedings where counsel advised appellant to plead guilty to an enhanced sentence which enhancement was based upon a prior misdemeanor conviction and sentence and where counsel was aware of such matters and also aware that a misdemeanor conviction and sentence was not sanctioned as a usable offense for a second and subsequent offense to enhance the sentence under Miss. Code Ann. §41-29-147.

Burris brings a sentencing matter before this court. Appellant was advised to plead guilty to an enhanced sentence which enhancement was based upon a prior misdemeanor conviction and sentence and where counsel was aware of such matters and also aware that a misdemeanor conviction and sentence was not sanctioned as a usable offense for a second and subsequent offense to enhance the sentence under Miss. Code Ann. §41-29-147.

CERTIFICATE OF SERVICE

This is to certify that I, Gail Lee Burris, have this date served a true and correct copy to the above and foregoing Brief for Appellant, by United States Postal service, first class postage prepaid, upon Honorable Jim Hood, P. O. Box 220, Jackson, MS 39205.

This, the _____ day of May 2009.

Respectfully submitted,

BY: Gail Lee Burris
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