

COPY

IN THE SUPREME COURT OF APPEALS, FOR THE STATE OF MISSISSIPPI

No. 2003-UP 1286 CoA

Anthony Henderson

APPELLANT

VS.

CAUSE NO. CV 2008-01750P2

STATE OF MISSISSIPPI

FILED RESPONDENTS



ORIGINAL

AUG 25 2008

OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS

APPELLANT BRIEF FOR DENIAL OF POST-CONVICTION COLLATERAL RELIEF, PURSUANT §99-39-5 (1)(c)

Anthony Henderson #K3787

DCF/ CE-40

3800 COUNTY Rd. 540

GREENWOOD, MISSISSIPPI 38930

IN THE SUPREME COURT OF APPEALS, FOR THE STATE OF MISSISSIPPI

No. _____

Anthony Henderson

APPELLANT

VS.

CAUSE NO. cv2008-01756P2

STATE OF MISSISSIPPI

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

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

1) STATE OF MISSISSIPPI ----- JAMES M. HOOD (3rd.)

2) PRO-SE APPELLANT -----

Anthony Henderson

NAME

THIS the 10th DAY OF July 2008

BY:

Anthony Henderson

Anthony Henderson #K3787
DCF/ CE-40

3800 COUNTY Rd. 540

GREENWOOD, MISSISSIPPI 38930

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104 S. Ct. 2052 (1990)

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80 L. Ed. 674 (1984)

OTHER STATUTE AND RULES

Miss. Code Ann. § 99-39-5 (1) (c)

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Miss. Code Ann. § 99-39-5 (1) (d)

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Miss. Code Ann. § 41-29-139 (2) (c)

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1) Whether Appellant was deprived of his 6th Amendment right to counsel at every critical stage?

2) Whether Appellant's probation was unlawfully revoked?

3) Whether Appellant's sentence exceeds the maximum authorized by law?

4) Whether Appellant's plea was voluntary and intelligently entered?

In 2007, The ~~2007~~ original sentence imposed in this case was (3) years to serve and (10) years suspended. In March of 2005 I fought the (2) year sentence, that I was ordered to serve in the State Penitentiary. I had no probation, just a suspended portion of this sentence. In November 2005 I fought a felony possession of marijuana. In December 2005 I bonded out and a preliminary hearing was scheduled. I was later arrested on multiple infractions, which was satisfied by the lower court thru paying off fines or working them off. A bench warrant was issued in March 2006 that I didn't leave about until I was arrested for probation. Therein after I was held in custody by the Sheriff's Department, and later issued a 2007 dated bench warrant, with misdemeanor charges, none was felones, I was never indicted on the November 2005 possession of marijuana charge nor convicted of it as a misdemeanor. On April 2007 I was arraigned or had a revocation hearing on this suspended sentence. I was not appointed counsel at this revocation hearing, sentenced this suspended sentence without counsel to represent me.

On April 24th 2008 I filed a Post-Conviction Petition in the Circuit Court of Tanala County, Indiana. On 20th 2008 a hearing was held by the Trial Judge and his determination no evidentiary hearing was need, therefore the Circuit Court denied my Post-Conviction without a hearing and the Trial Judge admitted I was sentenced without counsel.

Mississippi Supreme Court has held in other cases if the Court acknowledges that a defendant was deprived of a constitutional right during a conviction, a evidentiary hearing must be held. The Circuit Court of Pauls County acknowledges Appellant was sentenced without counsel in revocation hearing April 27th 2007. (see page 2 of exhibit-F-)

The Sixth Amendment Right of an accused in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an Court to have compulsory process for obtaining witnesses in his favor and to have the assistance of counsel for his defense.

SUMMARY OF THE ARGUMENT

The Circuit Court of Panola County never appointed Appellant a counsel April 27th 2007 nor ask him did he want counsel representation.

Accordingly to the Trial Courts June 26th 2008 Court order, they assumes that a defendant is to ask for counsel representation.

The argument is that a Trial Court must ask a defendant do he wish to have counsel representation, then if he states "no" he has not been denied counsel, If record does not indicate a defendant was offer counsel nor sign a petition waiving appointment of counsel, he has been denied counsel "6th Amendment constitutional right of an accused.

Whether Appellant was deprived of his 6th

Amendment Right to counsel at every critical stage?

Appellant received ineffective assistance of August 9th

2000 because Alton Mississippi Crime Lab Examinated

his Drug analysis as for Controlled Substance G, which

is possession of marijuana in a motor vehicle. The Trial

Court indicted him for possession with intent to sell marijuana

and Appellant's counsel allowed him to plea guilty to the

offense charged, when Appellant's indictment was defective.

Appellant was deprived of his right to have counsel

present April 27th 2007 at his revocation hearing. A

finding of ineffective assistance of counsel on appeal or post-

conviction relief is, and necessarily, should be a rare occasion.

It requires a trial record which affirmatively shows ineffectiveness

of constitutional dimensions. Clayton v. State, So. 3d 2006

WL 1679386, 5 (Miss. App. June 20th 2006)

In doing so the reviewing court should "look to the totality

of the circumstances in determining whether a defendant was

deprived of effective assistance of counsel, and part in this

case April 27th 2007 totally deprived counsel.

Stickland v. Washington, 406 U.S. 668, 80 L. Ed. 2d 674,

104 S. Ct. 2052 (1990), Stickland at 406 U.S. 668, 687, 104

S. Ct. 2052, 80 L. Ed. 674 (1984)

The application of the procedural bar of Miss. Code §

99-39-2 (b) would be inappropriate to a defendant -

petitioner who had no earlier meaningful opportunity to present

issue of denial of effective assistance of counsel

Moody v. State, 644 So. 2d 451, 453 (Miss. 1994)

Whether Appellant's probation was unlawfully revoked?
Appellant's counsel was ineffective, which deprived him
of a fair and impartial revocation hearing April 27, 2007.
Appellant's counsel should have filed a motion to dismiss
petition to amended that was submitted by the Trial
Court March 19, 2006 because appellant was denied
a fast and speedy revocation hearing. The hearing held on
the amended petition filed March 19, 2006, was not
held until April 27, 2007.
Appellant was not convicted of any felony crimes,
was not on probation, thus it was unlawful for the
Trial Court to revoke a suspended sentence and appellant
had no probation period in effect

authorized by law?

Appellant should have been indicted for § 41-29-139

(c) (2) (c) because the crime lab report was 108.4 grams.

§ 41-29-139 (c) (2) (c) states

(c) More than thirty (30) grams, but less than two hundred

fifty (50) grams, may be fined not more than one thousand

dollars (\$1,000.00) or confined in the county jail for not more

than one (1) year or both, or fined not more than three

thousand dollars (\$3,000.00) or imprisoned in the State Penitentiary

for not more than (3) years or both.

Therefore the maximum sentence that the petitioner could have

received in this case was three (3) years.

Appellant was sentenced and indicted under the wrong statute,

violation of § 99-39-5 (c) and § 99-39-5 (d) (2), the

sentence exceeds the maximum authorized by law.

Burns v. State, (Miss. 1983) 438 So. 2d 1347

Whether Appellant's plea was voluntary and intelligently entered?

Relevant Western Rule of Circuit and County Court

Practice Rule 8.04 "Entry of guilty pleas before the trial

Court may accept a plea of guilty, the court must

determine that the plea is voluntarily and intelligently made

and that there is a factual basis for the plea. A plea

of guilty is not voluntary, if induced by fear, violence,

deception or improper inducements. Appellant's plea was

improperly ~~not~~ introduced, because it was with deception,

the maximum sentence petitioner could have received

for § 41-29-139 (a) (2) (C) was three (3) years

in prison. This made Appellant's plea involuntary and

intelligently made, because he did not know the maximum

and minimum of the sentence that could be imposed

Appellant's Denial of Post-Conviction Collateral Relief should be reversed and remanded for an Evidentiary Hearing by the Circuit Court of Tanala County, and all cost of Appeal to be assessed to Tanala County.

WHEREFORE, PREMISES CONSIDERED, Appellant respectfully requests that this Honorable Court enter and Order requiring the State to file an Answer or other Pleadings as to take any other action as the Panel deems to be appropriate under these circumstances.

This 10th day of July 2008 A.D.

Respectfully Submitted

Anthony Henderson

Anthony J. Henderson # K3787
DCF/CE - 33

3800 County Rd 540

Brewwood Ms. 38930

North Mississippi Laboratory
220 Power Drive
Batesville, MS 38606
662-563-5681

Crime Lab Case # 00-002968

Agency Case # 100299B2

1 of 1

Requesting Officer Paul Shivers

Requesting Agency Batesville Police Dept.

Address 106 College St.
Batesville, MS 38606

Phone #

Individual(s) JAMIE TEDFORD (S)

Offense CONTROLLED SUBSTANCE

County Panola

Evidence Submitted

0001 One sealed evidence bag containing two plastic bags that contains a green leafy substance and several small plastic bags containing a green leafy substances. TPW = 108.4 grams

Sections

DRUG ANALYSIS
(BATESVILLE)

Service

Examination for Controlled Substances (B)

Notes-
Examine submission 0001 for the presence of controlled substances.

Delivered By
Signature

Received By
Signature

Paul Shivers

Jennifer Hall

Date

March 07, 2000

Time

7:03 AM

EXHIBIT

- A -

**THE STATE OF MISSISSIPPI
SEVENTEENTH CIRCUIT COURT DISTRICT**

K3787

**PANOLA COUNTY
SECOND JUDICIAL DISTRICT**

JULY, 2000 GRAND JURY TERM

CAUSE NO. CR 2000-90cP2

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful citizens of the Second Judicial District of Panola County, duly elected, empaneled, sworn and charged to inquire in and for the District, County and State aforesaid, at the Grand Jury Session aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present:

That, **ANTHONIE JERMAINE HENDERSON**, late of the District, County and State aforesaid, on or about the 2nd day of October, in the year of our Lord, 1999, in the District, County, and State aforesaid, and within the jurisdiction of this Court, did wilfully, unlawfully and feloniously, knowingly and intentionally possess with intent to sell, barter, transfer, distribute or dispense a controlled substance, to-wit: Marihuana, more than one (1) ounce, in direct violation of Section 41-29-139 (a), Mississippi Code 1972 Annotated, as amended, contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Mississippi.

A TRUE BILL

Robert Kelly
District Attorney

Brenda Black
Foreman of the Grand Jury

WITNESSES:

Filed this 12th day of July, 2000.

W. Joe Reid Clerk,

By Ann Rysse D.C.

EXHIBIT

- B -

IN THE CIRCUIT COURT OF PANOLA COUNTY, MISSISSIPPI

BR 3038

SECOND JUDICIAL DISTRICT

MAR 13 2006

STATE OF MISSISSIPPI

VS.

CAUSE NO. CR 2000-90-B(P2)

ANTONIE JERMAINE HENDERSON

B/M DOB: 02-22-80

SSN: 427-39-2368

BENCH WARRANT

TO THE SHERIFF OF SAID COURT:

GREETINGS:

YOU ARE HEREBY COMMANDED TO take ANTONIE JERMAINE HENDERSON and bring him before the Circuit Court Judge of said County to answer the charge of violation of probation that has been filed by the District Attorney, to-wit: 1.) Failure to pay assessments, as ordered and 2.) Committing new crimes; to-wit: On or about November 2, 2005 the Defendant was convicted of the crimes of Possession of Marijuana and Failure to Obey a Police Officer in the Municipal Court of Batesville. On or about November 3, 2005 the Defendant committed the crimes of Possession of Marihuana, Obstructing Public Streets and No Proof of Liability Insurance, ^(Felony) contrary to the Statutes of the State, in such cases made and provided, and against the peace and dignity of the State of Mississippi, and have with you the original of this warrant with your return thereon.

SO ORDERED this the 12th day of March, 2006.

EXHIBIT
- C -

Andrew Baker
CIRCUIT COURT JUDGE

IN THE CIRCUIT COURT OF PANOLA COUNTY, MISSISSIPPI

SECOND JUDICIAL DISTRICT

STATE OF MISSISSIPPI

VS.

ANTONIE JERMAINE HENDERSON

B/M DOB: 02-22-80

SSN: 427-39-2368

CAUSE NO. CR 2000-90-B(P2)

BENCH WARRANT

TO THE SHERIFF OF SAID COURT:

GREETINGS:

YOU ARE HEREBY COMMANDED TO take **ANTONIE JERMAINE HENDERSON** and bring him before the Circuit Court Judge of said County to answer the charge of violation of probation that has been filed by the District Attorney, to-wit: 1.) Failure to pay assessments, as ordered and 2.) Committing new crimes; to-wit: On November 2, 2005 the Defendant was convicted of the crimes of Possession of Marijuana and Failure to Obey a Police Officer in the Municipal Court of Batesville. On June 14, 2006 the Defendant was convicted of the crime of Loud Music in the Municipal Court of Batesville. On June 28, 2006 the Defendant was convicted of the crimes of Possession of Marijuana in a Motor Vehicle, No Seatbelt in Use and Open Container in the Municipal Court of Batesville. On September 6, 2006 the Defendant was convicted of the crimes of Expired Tag and No Seatbelt in Use in the Municipal Court of Batesville. On September 13, 2006 the Defendant was convicted of the crime of Expired Tag in the Municipal Court of Batesville. On September 27, 2006 the Defendant was convicted of the crime of Expired Tag in the Municipal Court of Batesville. On January 17, 2007

FILED

MAR 27 2007

W. JOE PETERSON
CIRCUIT CLERK

106/224

the Defendant was convicted of the crimes of Failure to Obey a Police Officer and Possession of Marijuana in the Municipal Court of Batesville. On January 24, 2007 the Defendant was convicted of the crimes of Failure to Obey a Police Officer and Expired Tag in the Municipal Court of Batesville, contrary to the Statutes of the State, in such cases made and provided, and against the peace and dignity of the State of Mississippi, and have with you the original of this warrant with your return thereon.

SO ORDERED this the 22 day of March, 2007.

Andrew B. Bate
CIRCUIT COURT JUDGE

STATE OF MISSISSIPPI
COUNTY OF PANOLA
W. Joe Reid, Clerk of the Circuit Court of the state and
County of Panola, hereby certify that the foregoing is a true
and correct copy of the original instrument now on file in
my office at Batesville, Mississippi.
This the 22nd day of March, 2007
W. Joe Reid
W. Joe Reid, Circuit Clerk

STATE OF MISSISSIPPI
PANOLA COUNTY
I have this day executed the within
warrant personally by delivering to the within
named Antonie Terrence
Henderson
a true copy of this writ.
This the 28th day of March, 2007
HUGH W. BRIGHT
Sheriff of Panola County
By Larry Bryant
Deputy Sheriff

100/227

IN THE CIRCUIT COURT OF PANOLA COUNTY, MISSISSIPPI

SECOND JUDICIAL DISTRICT

STATE OF MISSISSIPPI

VS.

CAUSE NO. CR2000-90-B(P2)

ANTONIE JERMAINE HENDERSON

B/M DOB: 02-22-80

SSN: 427-39-2368

AMENDED PETITION TO REVOKE SUSPENDED SENTENCE

COMES NOW the State of Mississippi, by and through the District Attorney, and files this Amended Petition to Revoke the Suspended Sentence of the above named Defendant; and in support thereof, the State would show unto the Court the following facts, to wit:

- 1.) That the State files its Petition to Revoke the Suspended Sentence in the above styled and numbered cause on February 23, 2006.
- 2.) The original Petition to Revoke the Suspended Sentence shall remain as previously set forth except that:

Paragraph 4 of said original Petition shall read as follows: That the Defendant has violated the good behavior conditions of his suspended sentence as follows: 1.) Failure to pay assessments, as ordered and 2.) Committing new crimes; to -wit: On November 2, 2005 the Defendant was convicted of the crimes of Possession of Marijuana and Failure to Obey a Police Officer in the Municipal Court of Batesville. On June 14, 2006 the Defendant was convicted of the crime of Loud Music in the Municipal Court of Batesville. On June 28, 2006 the Defendant was convicted of the crimes of Possession of Marijuana in a Motor Vehicle, No Seatbelt in Use and Open Container in the Municipal Court of Batesville. On September 6, 2006 the Defendant was convicted of the crimes of Expired Tag and No Seatbelt in Use in the Municipal Court of Batesville. On September 13, 2006 the Defendant was convicted of the crime

EXHIBIT

- D -

Expired Tag in the Municipal Court of Batesville. On September 27, 2006 the Defendant was convicted of the crime of Expired Tag in the Municipal Court of Batesville. On January 17, 2007 the Defendant was convicted of the crimes of Failure to Obey a Police Officer and Possession of Marijuana in the Municipal Court of Batesville. On January 24, 2007 the Defendant was convicted of the crimes of Failure to Obey a Police Officer and Expired Tag in the Municipal Court of Batesville.

Respectfully submitted this the 15 day of MARCH, 2007.

**STATE OF MISSISSIPPI
OFFICE OF THE DISTRICT ATTORNEY
SEVENTEENTH CIRCUIT COURT DISTRICT
POST OFFICE BOX 1635
BATESVILLE, MISSISSIPPI 38606**

BY: Robert J. Kelly
**ROBERT J. KELLY
ASSISTANT DISTRICT ATTORNEY
MSB NO. 3559**

DISTRICT ATTORNEY

ROBERT J. KELLY
ASSISTANT DISTRICT ATTORNEY

SMITH MURPHEY, V
ASSISTANT DISTRICT ATTORNEY

SUSAN M. BREWER
ASSISTANT DISTRICT ATTORNEY

ALLEN B. COUCH, JR.
ASSISTANT DISTRICT ATTORNEY

RHONDA M. AMIS
ASSISTANT DISTRICT ATTORNEY

CELESTE E. WILSON
ASSISTANT DISTRICT ATTORNEY



STATE OF MISSISSIPPI

DISTRICT ATTORNEY
17TH CIRCUIT COURT DISTRICT

101 Eureka Street
P. O. Box 1635
BATESVILLE, MS 38606
PHONE: 662-563-6636
FAX: 662-563-6652

CRIMINAL INVESTIGATOR

JACKIE SMITH
CRIMINAL INVESTIGATOR

BRYAN D. COX
CRIMINAL INVESTIGATOR

SHERRI FRANKS
VICTIM ASSISTANCE COORDINATOR

IDA M. BRYAN
VICTIM ASSISTANCE COORDINATOR

April 2, 2007

Antonie Henderson
David M. Bryan Justice Complex
Batesville, Miss. 38606

Dear Mr. Henderson:

Your brother Andra delivered your letter to my home. Your revocation hearing is scheduled for April 24, 2007 at the Batesville Courthouse at 9 a.m.. The original revocation petition was filed on February 23, 2006. I can't explain why you were not arrested after the bench warrant was issued. The amended petition was filed on March 15, 2007 after I was informed that you had misdemeanor convictions in Batesville Municipal Court. A bench warrant was signed on March 12, 2006 so I told the officers to arrest you. These convictions are listed in the amended petition, a copy of which is included with this letter.

Jackie Smith

Criminal Investigator

SERVING THE COUNTIES OF: DeSOTO, TATE, PANOLA, YALOBUSHA AND TALLAHATCHIE

EXHIBIT
-E-

IN THE CIRCUIT COURT OF PANOLA COUNTY, MISSISSIPPI

SECOND JUDICIAL DISTRICT

STATE OF MISSISSIPPI

VS.

CAUSE NO. CR 2000-90-B(P2)

ANTONIE JERMAINE HENDERSON

B/M DOB: 02-22-80

SSN: 427-39-2368

BENCH WARRANT

TO THE SHERIFF OF SAID COURT:

MAR 27 2007

GREETINGS:

YOU ARE HEREBY COMMANDED TO take ANTONIE JERMAINE

HENDERSON and bring him before the Circuit Court Judge of said County to answer the charge of violation of probation that has been filed by the District Attorney, to-wit: 1.) Failure to pay assessments, as ordered and 2.) Committing new crimes; to-wit: On November 2, 2005 the Defendant was convicted of the crimes of Possession of Marijuana and Failure to Obey a Police Officer in the Municipal Court of Batesville. On June 14, 2006 the Defendant was convicted of the crime of Loud Music in the Municipal Court of Batesville. On June 28, 2006 the Defendant was convicted of the crimes of Possession of Marijuana in a Motor Vehicle, No Seatbelt in Use and Open Container in the Municipal Court of Batesville. On September 6, 2006 the Defendant was convicted of the crimes of Expired Tag and No Seatbelt in Use in the Municipal Court of Batesville. On September 13, 2006 the Defendant was convicted of the crime of Expired Tag in the Municipal Court of Batesville. On September 27, 2006 the Defendant was convicted of the crime of Expired Tag in the Municipal Court of Batesville. On January 17, 2007

EXHIBIT
- E -

the Defendant was convicted of the crimes of Failure to Obey a Police Officer and Possession of Marijuana in the Municipal Court of Batesville. On January 24, 2007 the Defendant was convicted of the crimes of Failure to Obey a Police Officer and Expired Tag in the Municipal Court of Batesville, contrary to the Statutes of the State, in such cases made and provided, and against the peace and dignity of the State of Mississippi, and have with you the original of this warrant with your return thereon.

SO ORDERED this the 22 day of March, 2007.


CIRCUIT COURT JUDGE

**IN THE CIRCUIT COURT OF PANOLA COUNTY, MISSISSIPPI
FOR THE SECOND JUDICIAL DISTRICT**

ANTHONIE J. HENDERSON

PETITIONER

VS.

FILED

CAUSE NO. CV2008-0175BP2

JUN 30 2008

STATE OF MISSISSIPPI

**W. JOE REID
CIRCUIT CLERK**

RESPONDENT

ORDER

This came before the Court upon Anthonie J. Henderson ("Henderson"), *pro se*, filing his "Motion for Post-Conviction Collateral Relief" arguing that he should not have been on probation because his sentence was too long in criminal cause CR2000-90BP2. He also asserted his sentence was revoked without counsel; he had not been indicted or convicted of another felony when he was revoked; and his plea was involuntary.

The Court, having reviewed the pleadings and both of the court files, finds that Henderson's petition is without merit and should be dismissed pursuant to MISS. CODE ANN. §99-39-11(2), without benefit of a hearing.

Henderson was indicted in CR2000-90CP2 for possession with intent to sell marijuana, more than one ounce. On August 9, 2000, Henderson entered a plea of guilty to the charge. The Court sentenced Henderson to ten (10) years to serve in the Mississippi Department of Corrections. The Court suspended the sentence. This sentence was to be served consecutive to his three year sentence in CR2000-96BP2. On August 20, 2003, the State filed a petition to revoke suspended sentence. On December 9, 2003, Henderson, by counsel, filed a motion to dismiss

EXHIBIT

- F -

113/527-528-529

petition to revoke suspended sentence. On December 11, 2003, after a hearing, the Court revoked two years of Henderson's suspended sentence. On February 24, 2006, the State filed another petition to revoke suspended sentence. On March 19, 2006, the State filed an amended petition. After a hearing on April 27, 2007, the Court revoked all of the remaining suspended sentence.

First of all, probationers do not have, per se, a right to counsel at revocation hearings. Whether probationers have a right to counsel must be answered on a case-by-case basis in the exercise of a sound discretion by the state authority charged with responsibility for administering the probation and parole system. See *Reily v. State*, 562 So.2d 1206, 1209 (Miss. 1990). Henderson knew full well he could be represented by counsel at the revocation because he had been represented by Azki Shah at his first revocation hearing in this cause. This argument has no merit.

Second, for a probationer to be revoked the State does not have to prove that the defendant was convicted of a crime, but when the State does not prove that the defendant was convicted of a crime which would be a basis for revocation, it must present actual proof that the defendant engaged in such criminal conduct. See *Grayson v. State*, 648 So.2d 1129, 1134 (Miss. 1994). The State put on proof that Henderson was convicted of several misdemeanors. Henderson's suspended sentence was conditional on him not committing any crimes, not just felonies. The State met their burden of proving that Henderson had violated his suspended sentence. This argument has no merit.

In CR2000-90BP2, Henderson was indicted for violation of 41-29-139(a) for possession with intent to sell marijuana, more than one ounce. Henderson was also charged in CR2000-96BP2 for possession with intent to sell marijuana, less than one ounce. Henderson entered a

EXHIBIT
-F-

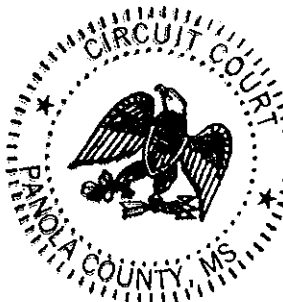
113/528

plea of guilty in CR2000-96BP2 and received a three year sentence to serve in MDOC. Henderson reads the statute under which he was convicted in CR2000-90BP2 incorrectly. He was charged with possession with intent to sell marijuana over one ounce and he is looking at the simple possession statute for what he thinks his sentence should have been. His argument about his sentence being too long also has no merit. Also, his allegation that his plea was involuntary because he did not get the sentence he was promised has no merit. He got exactly what he alleges he was told when he was originally sentenced.

IT IS, THEREFORE, ORDERED that the "Motion for Post-Conviction Collateral Relief" filed by Anthonie J. Henderson in the above styled and numbered cause is **DISMISSED** pursuant to MISS. CODE ANN. § 99-39-11(2); and, that the Clerk of this Court is directed to mail certified copies of this Order to the inmate, Anthonie J. Henderson, #K3787, Delta Correctional Facility, 3800 County Road 540, Greenwood, MS 38930, and Records Department, Mississippi Department of Corrections, P.O. Box 880, Parchman, MS 38738.

SO ORDERED AND ADJUDGED this, the 26th day of June, 2008.

Andrew C. Baker
ANDREW C. BAKER
CIRCUIT JUDGE



STATE OF MISSISSIPPI
 COUNTY OF PANOLA

I, W. Joe Reid, Clerk of the Circuit Court of the state and county aforesaid, hereby certify that the foregoing is a true and correct copy of the original instrument now on file in my office at Batesville, Mississippi.

This the 30th day of June, 2008.

W. Joe Reid
 W. Joe Reid, Circuit Clerk

EXHIBIT

- F -

113/525

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned, have this day and date mailed, via United States Mail, postage pre-paid, a true and correct copy of the foregoing and attached instruments to the following:

Miss Supreme Court of Appeals
Betty W. Septon / Clerk
P. O. Box 249
Jackson, Ms. 39205

Office of the Attorney General
Hon. James M. Ford III
P. O. Box 220
Jackson Ms. 39205

This the 10th day of July, 20 08.

Anthony Henderson

PETITIONER

MDOC# K3787

DCF/CR-40, 3800 CR540
Address

Greenwood, Ms. 38930
Address

Mississippi Supreme Court of Appeals

July 24th, 2008

To: Betty W. Septon/Clerk
Miss. Supreme Court of Appeals
Post Office Box 249
Jackson, Ms. 39205

RE: cv 2008-0175 BP 2

From: Anthony Henderson #K3787
Delta Com. Facility/CE-40
3800 CR 540
Greenwood, Ms. 38930

Dear Mrs. Septon:

please find enclosed is the original copy of my brief in the above numbered cause, I made a mistake and mailed you 3 copies, instead of the original copy, plus 2 copies. Please correct the deficiency in your file. Thank you for your time and service.

Sincerely
Anthony Henderson