

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

2008-CP-01499

**STEVEN EASON
APPELLANT**

vs.

**CHRISTOPHER B. EPPS, ALICIA BOX and RONALD KING
APPELLEES**

**On Appeal From the Circuit Court
of Greene County, Mississippi**

BRIEF OF APPELLEE

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

**JANE L. MAPP
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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. Steven Eason, Appellant
2. Christopher Epps, MDOC Commissioner, Appellee
3. Alicia Box, Chief Records Officer, SMCI, Appellee
4. Ronald King, Superintendent, SMCI, Appellee
5. Robert P. Krebs, Circuit Court Judge
6. Jim Hood, 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

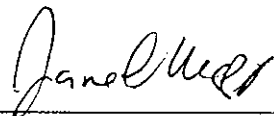
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ISSUES

I. Whether the Circuit Court in Dismissing this Case, Improperly Decided Factual Disputed Issues as to the Application of Law and the Rights of the Appellant.

II. Whether the Appellant, Due to the Appellee's Erroneous Computation of His Sentence, Is Being Subjected to Cruel and Unusual Punishment and the Denial of Due Process of Law.

III. Whether the Circuit Court Abused It's Discretion and Violated Cannon Law 3 in It's Denial of Relief in this Cause.

STATEMENT OF THE CASE

Steven Eason, an inmate legally incarcerated within the Mississippi Department of Corrections (“MDOC”), is appealing to this Court from the July 17, 2008 Order of the Circuit Court of Greene County, Mississippi, dismissing his pleading entitled “Petition for Writ of Habeas Corpus and/or Motion to Show Probable Cause”. (C.P. at 33).¹ Eason sought judicial review of an adverse decision rendered by MDOC’s Administrative Remedy Program regarding the computation of his term to serve.

Eason was convicted in Perry County Circuit Court on or about February 20, 2006 on four counts of Sexual Battery. (C.P. at 12) Per his sentencing order Eason was sentenced to thirty (30) years on each of the first three counts to run consecutively. On Count IV Eason was sentence to a consecutive thirty (30) years with ten (10) years to serve followed by five (5) years post-release supervision (“PRS”). (C.P. at 12). This gives Eason a total term of 120 years with 100 years to serve followed by five (5) years PRS. Eason argued that the while he was sentenced to a total term of 120 years, all but ten (10) years was suspended. (C.P. at 3). To support his argument, Eason attached to his petition a copy of an Order denying appeal bond which states, in seeming contradiction to his sentencing order, that Eason “was sentenced to thirty (30) years in each count for a total of one-hundred twenty (120) years in the custody of the Mississippi Department of Corrections with said sentences to run consecutively with ten (10) years to serve and the remainder suspended pursuant and

¹C.P. = Clerk’s Papers

in conformity with the Post-Release Supervision set out and authorized in Miss. Code Ann. § 47-7-34 (1972), as amended.” (C.P. at 15).

The Defendants filed their Response on or about July 14, 2008 denying Eason’s interpretation of his sentence. To support the department’s contention that Eason has a sentence of 120 years with 100 years to serve the Defendants refer to the sentencing order itself, the Notice of Criminal Disposition issued by the Circuit Clerk, and the decision of the Mississippi Court of Appeals in the direct appeal of Eason’s conviction. (C.P. at 29).

The Circuit Court denied Eason’s motion in an Order dated July 17, 2008 and filed July 21, 2008. (C.P. at 33). The lower court found that the decision rendered by MDOC’s Administrative Remedy Program (“ARP”) “was not arbitrary or capricious, was supported by substantial evidence, was not beyond to [sic] powers of the ARP, and was not in violation of the right of the plaintiff.” (C.P. at 33).

On or about July 24, 2008 Eason filed a pleading entitled “Objection, and Motion for an Evidentiary Hearing and Issuance of a Writ of Habeas Corpus and Testificandum.” (C.P. at 35). On or about August 27, 2008, more than 30 days after final judgment was entered in this case, Eason filed his Notice of Appeal along with a Motion for Leave to Appeal *In Forma Pauperis*. (C.P. at 38). The Circuit Court subsequently entered an Order Denying leave to Appeal *In Forma Pauperis*. (C.P. at 43). Thereafter, Eason apparently paid the costs of appeal and this matter now ensues.

SUMMARY OF THE ARGUMENT

Per his sentencing order Eason was sentenced to thirty (30) years on each of the first three counts to run consecutively. On Count IV Eason was sentence to a consecutive thirty (30) years with ten (10) years to serve followed by five (5) years post-release supervision ("PRS"). (C.P. at 12). This gives Eason a total term of 120 years with 100 years to serve followed by five (5) years PRS. Eason's sentencing order is unambiguous and neither MDOC nor the circuit court violated Eason's rights by failing interpret his sentence based on language contained in an order denying him an appeal bond.

ARGUMENT

I. Whether the Circuit Court in Dismissing this Case, Improperly Decided Factual Disputed Issues as to the Application of Law and the Rights of the Appellant.

II. Whether the Appellant, Due to the Appellee's Erroneous Computation of His Sentence, Is Being Subjected to Cruel and Unusual Punishment and the Denial of Due Process of Law.

In his first two "points of error" Eason simply argues that the circuit court erred in affirming the decision of MDOC's Administrative Remedy Program that he was sentenced to a total term of 120 years with 100 years to serve followed by five (5) years PRS. Eason argues that all but 10 years of his 120 year sentence were suspended by the trial court. Eason, citing *Thompson v State*, 734 So.2d 210 (Miss.Ct.App. 1999), argues that any ambiguity in a sentencing order must be resolved in favor of the accused. Eason's sentencing order; however, is not ambiguous. The only ambiguity that arises is from the circuit court's

Order denying appeal bond in which the court in referring to Eason's sentence does seem to state that all but 10 years of the total term had been suspended. Eason has cited no law to support his argument that MDOC should have interpreted and computed his sentence based on the Order denying appeal bond instead of the actual sentencing order issued by the Court and submitted to MDOC. It is doubtful the Circuit Clerk even sent MDOC a copy of the Order denying appeal bond.

The Sentencing Order, in and of itself, is not ambiguous and reads in pertinent part as follows:

IT IS, THEREFORE, ORDERED AN ADJUDGED that the Defendant, **STEVEN WALTER EASON**, for this offense of SEXUAL BATTERY in Count One of the Indictment, for which he has been found guilty by the jury, is hereby sentence to serve a term of THIRTY (30) years in the Mississippi Department of Corrections.

IT IS, FURTHER ORDERED AN ADJUDGED that the Defendant, **STEVEN WALTER EASON**, for this offense of SEXUAL BATTERY in Count Two of the Indictment, for which he has been found guilty by the jury, is hereby sentence to serve a term of THIRTY (30) years, said sentence to run **consecutive** to the sentence in Court One.

IT IS, FURTHER ORDERED AN ADJUDGED that the Defendant, **STEVEN WALTER EASON**, for this offense of SEXUAL BATTERY in Count Three of the Indictment, for which he has been found guilty by the jury, is hereby sentence to serve a term of THIRTY (30) years, said sentence to run **consecutive** to the sentence in Court One and Count Two.

IT IS, FURTHER ORDERED AN ADJUDGED that the Defendant, **STEVEN WALTER EASON**, for this offense of SEXUAL BATTERY in Count Four of the Indictment, for which he has been found guilty by the jury, is hereby sentence to serve a term of THIRTY (30) years, said sentence to run **consecutive** to the sentence in Court One, Count Two, and County [sic] Three, with Ten (10) years to serve in the custody of Mississippi Department of Corrections and the remainder suspended pursuant and in conformity with the

Post-Release Supervision set out and authorized in MISS. CODE ANN. § 47-7-34 (1972), as amended, and Defendant shall be placed on Post-Release Supervision upon the following terms and conditions for a period of five (5) years....

Pursuant to Miss. Code Ann. § 99-7-2 (3), “[w]hen a defendant is convicted of two (2) or more offenses charged in separate counts of an indictment, the court shall impose separate sentences for each such conviction.” This is exactly what the sentencing judge did in this case. He set out the sentence for each count separately. In reading the order with § 99-7-2(3) in mind there is no reason to believe that the sentencing court meant for the phrase “with Ten (10) years to serve” to apply to each count and not just Count IV. The phrase was not even separated from the rest of the sentence imposed in count four by so much as a period.

If it was the intent of the court for Eason to serve just 10 years of the 120 years, the sentencing order is invalid because the court would not have imposed a separate sentence for each count. *See, Davis v. State*, 933 So.2d 1014, 1022 (Miss.Ct. App. 2006). In fact, it would be impossible for MDOC to compute his time based on the sentencing order as written such that Eason only has to serve 10 years. Clearly, he was sentenced to a consecutive 30 years on each count. If the court intended for him to serve only 10 years, does this mean the sentences on Counts I, II, and III are suspended in their entirety? Certainly, this is not what the order says. Another way would be for 20 years on each count to be suspended, but then all the counts would have to be concurrent, not consecutive as clearly set out in the order. The last way would be for 27 ½ years on each count to be suspended leaving 2 ½ to serve on each of the four consecutive sentences for a total of 10 years to serve. Again, there is nothing in the sentencing order that would lend itself to this interpretation.

Clearly, MDOC's interpretation of the sentencing order is the only interpretation that can be made if the sentencing order is taken at face value. In fact, this is exactly how the sentencing order was interpreted by the Mississippi Court of Appeals on direct appeal of Eason's conviction. In the opinion in that case the Court stated as follows:

Steven Walter Eason was convicted in Perry County of four counts of sexual battery and sentence to serve a total of thirty years each on Counts I, II, and III, each to run consecutively. Eason was also sentence to thirty years on Count IV, with ten years to serve in the custody of the Mississippi Department of Corrections and the remainder suspended with five years of post-release supervision, with all four of the sentences to run consecutively.

Eason v. State, 994 So.2d 785, 787 (Miss.Ct.App. 2008).

Even though there does not appear to be any ambiguity in the sentencing order, if Eason felt that it was the Sentencing Order and not the Order denying appeal bond that incorrectly stated the sentence of the court, then this issue should have been raised on direct appeal. Based on the clear reading of the sentencing order the, Mississippi Department of Corrections did not err in its interpretation of Eason sentence, an interpretation that was also made the Court of Appeals. Accordingly, the lower court did not err in affirming the decision of the ARP and dismissing Eason petition in this matter.

III. Whether the Circuit Court Abused It's Discretion and Violated Cannon Law 3 in It's Denial of Relief in this Cause.

Eason argues that the lower court in this matter violated "Cannon Law 3" when it used a used a "blanket policy" to dismiss his pleading without giving him his "day in court." Even though Eason does not explain what "Cannon Law 3" is, he goes on to argue that the lower

court applied the wrong law to his case and did not even indicate that he had read the case before dismissing it.

The Circuit Court correctly sets out in his Order that Eason was appealing a decision of MDOC's Administrative Remedy Program. The lower court then correctly sets of the standard of review in such cases. The court, finding that Eason had failed to meet his burden of proof, affirmed the decision of the ARP and dismissed the petition.

Eason's sentencing order is unambiguous and neither MDOC nor the circuit court violated Eason's rights by failing interpret his sentence based on language contained in an order denying him an appeal bond.

CONCLUSION

Based on the arguments of fact and law herein above, the dismissal of Appellant's complaint by the lower court was appropriate and should be affirmed.

Respectfully submitted,

CHRISTOPHER B. EPPS, ALICIA BOX, and
RONALD KING
DEFENDANTS-APPELLEES

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

JANE L. MAPP
SPECIAL ASSISTANT ATTORNEY GENERAL
MS BAR NO.: [REDACTED]

BY: Jane L. Mapp

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 Appellees** in the above-styled and numbered cause to the following:

Steven Eason, [REDACTED]
SMCI-II
P.O. Box 1419
Leakesville, MS 39451-1419

Hon. Robert Krebs
Circuit Court Judge
P.O. Box 998
Pascagoula, MS 39568

This, the 1ST day of April, 2009.



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