

**COPY**

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

CLINTON WYATT NOLAN,

APPELLANT

VS.

**FILED**

CAUSE NO. 2008-KA-00564-COA

STATE OF MISSISSIPPI,

FEB 11 2009

APPELLEE

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

ON APPEAL FROM THE CIRCUIT COURT OF DESOTO COUNTY, MISSISSIPPI  
BEFORE THE HONORABLE ROBERT P. CHAMBERLIN, PRESIDING

REPLY BRIEF OF APPELLANT

ORAL ARGUMENT REQUESTED

Respectfully submitted,

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## **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 the Supreme Court and/or the Court of Appeals may evaluate possible disqualification or recusal:

- |    |                                |  |
|----|--------------------------------|--|
| 1. | Clinton Wyatt Nolan            | Appellant/Defendant                        |
| 2. | Honorable James D. Franks      | Attorney of Record for Appellant/Defendant |
| 3. | Honorable Susan Brewer         | Assistant District Attorney                |
| 4. | Honorable John Champion        | District Attorney                          |
| 5. | Honorable Robert P. Chamberlin | Desoto County Circuit Court Judge          |

  
\_\_\_\_\_  
**JAMES D. FRANKS, Attorney for Appellant/Defendant**

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### **STATEMENT OF ISSUES**

**ISSUE III.** The Appellant's argument that the *M'Naghten* standard is flawed and fails to accomplish its intended purpose is properly before this Court. As such, the standard should be replaced by this Court with a standard which is in keeping with the arguments made in the original *Brief of the Appellant*

### **STATEMENT OF THE CASE**

Please see the Statement of the Case contained in the original *Brief of the Appellant*.

### **STATEMENT OF FACTS**

Please see the Statement of Facts contained in the original *Brief of the Appellant*

### **SUMMARY OF THE ARGUMENT**

The Appellant's argument that the *M'Naghten* standard is flawed and fails to accomplish its intended purpose is properly before this Court. Given the strides we have made in understanding mental illness since the *M'Naghten* decision, it is clear that the *M'Naghten* standard is antiquated, simplistic, and fails to accomplish its intended purpose of exempting from responsibility those Defendants who are unable to form the requisite intent to commit a crime due to mental illness, especially in a case such as the one at bar. As such, the standard should be replaced by this Court with a standard which is in keeping with the arguments made in the original *Brief of the Appellant*.

The Defendant was unfairly prejudiced by the application of this flawed insanity standard. Therefore, the judgment of the Trial Court should be reversed and Nolan's conviction and sentence vacated. Or, in the alternative, this cause should be remanded to the original Trial Court for a new trial on the merits and/or for re-sentencing.

## ARGUMENT

**ISSUE III. The Appellant's argument that the *M'Naghten* standard is flawed and fails to accomplish its intended purpose is properly before this Court. As such, the standard should be replaced by this Court with a standard which is in keeping with the arguments made in the original *Brief of the Appellant***

In its *Brief for Appellee*, the State contends that Nolan's argument that the *M'Naghten* standard is antiquated, simplistic, and fails to accomplish its intended purpose of exempting from criminal responsibility those Defendants who are unable to form the requisite intent for a particular crime due to mental illness is not properly before this Court because Nolan did not raise the issue at trial.

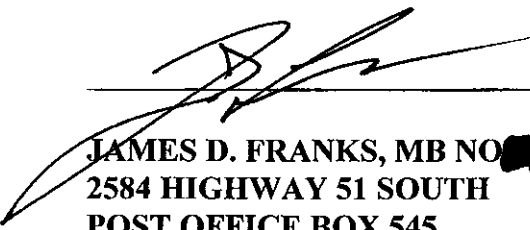
This contention is false, as Nolan's insanity and the standard to be applied was clearly an issue at the trial of this matter. In fact, it was the only issue upon which any evidence was presented at trial. The fact of the matter is that the *M'Naghten* standard is wrong and should be replaced by this Court, or the Mississippi Supreme Court, with a standard which is in keeping with the arguments made in the original *Brief of the Appellant*. Given the strides we have made in understanding mental illness since the *M'Naghten* decision, it is now patently clear that the *M'Naghten* standard is antiquated, simplistic, and fails to accomplish its intended purpose of exempting from responsibility those Defendants who are unable to form the requisite intent to commit a crime due to mental illness. This is particularly true in a case such as the one at bar in which all three (3) experts testified that Nolan was "insane" or "grossly psychotic", and was dealing with schizoaffective disorder causing delusions and hallucinations, as well as the effects of Asperger's Syndrome causing his coping skills and reasoning abilities to be further compromised. Given the totality of the circumstances, an affirmation of the Trial Court's finding of sanity would constitute an "unconscionable injustice".

## CONCLUSION

Given the strides we have made in understanding mental illness since the *M'Naghten* decision, it is clear that the *M'Naghten* standard is antiquated, simplistic, and fails to accomplish its intended purpose of exempting from responsibility those Defendants who are unable to form the requisite intent to commit a crime due to mental illness, especially in a case such as the one at bar. As such, the *M'Naghten* standard should be replaced by this Court with a standard which is in keeping with the arguments made in the original *Brief of the Appellant*.

The Defendant was unfairly prejudiced by the application of this flawed insanity standard. Therefore, the judgment of the Trial Court should be reversed and Nolan's conviction and sentence vacated. Or, in the alternative, this cause should be remanded to the original Trial Court for a new trial on the merits and/or for re-sentencing.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I, James D. Franks, do hereby certify that I have this day mailed, via U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing *Reply Brief of Appellant* to the following individuals at their regular mailing addresses:

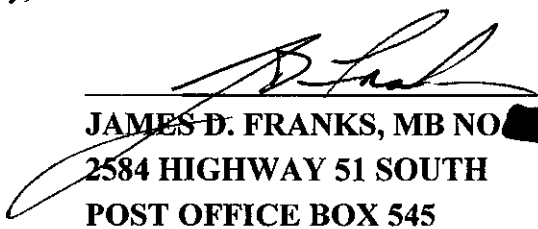
Ms. Betty Sephton  
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This the 11 day of February, 2009.

  
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