IN THE SUPREME COURT OF MISSISSIPPI

STEPHEN E. SEAL	**APPELLANT**
VS.	**NO. 2008-KA-01424-COA**
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. Honorable Dewayne Richardson, District Attorney, and Honorable Mickey Mallette, Assistant District Attorney;

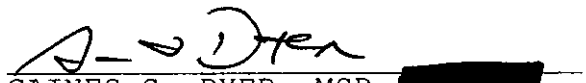
2. The Plaintiff and Appellant, STEPHEN E. SEAL, and his family and relatives;

3. The Plaintiff's initial counsel, Honorable Joe Buchanan, Indianola, Mississippi;

4. The Plaintiff's trial counsel and counsel on this appeal, Honorable Gaines S. Dyer and Honorable Rabun Jones of Dyer, Dyer, Dyer & Jones, 149 North Edison Street, Greenville, Mississippi, and Honorable Johnnie E. Walls, Jr. of Walls Law Firm, 163 North Broadway Street, Greenville, Mississippi; and

5. Honorable Margaret Carey-McCray, Circuit Court Judge, Post Office Box 1775, Greenville, Mississippi.

RESPECTFULLY SUBMITTED,



GAINES S. DYER, MSB [redacted]
Attorney for Appellant

TABLE OF CONTENTS

TABLE OF CASES

OTHER CITES:

STATEMENT OF ISSUES

I. DOES THIS COURT PROPERLY HAVE JURISDICTION OVER THIS APPEAL.

II. SHOULD MR. SEAL'S MOTION FOR REDUCTION OF SENTENCE HAVE BEEN RECAST AND CONSIDERED AS A POST-CONVICTION COLLATERAL RELIEF PETITION AND SHOULD HE HAVE BEEN GRANTED RELIEF FROM HIS SENTENCE.

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STATEMENT OF THE CASE

A.

NATURE OF THE CASE

Less than two days after the Defendant, Stephen E. Seal a/k/a Bo Seal, entered an open plea to two counts of manslaughter and was sentenced on January 9, 2008, to twenty years on each count to run concurrently, the trial court on her own volition contacted the attorneys for the State and Defendant and informed them that upon reconsidering the sentence, she determined she should have, under the facts, suspended some portion of each twenty year sentence. Despite her determination that she had been too harsh in her sentence, the trial court determined that since the guilty plea and sentence were both done in vacation, she had no authority whatsoever to alter the sentence she had given the Defendant even though she now believed it was too severe.

Following a telephone conference which is transcribed in the record (RE-59-62; CP-Vol. 2, p. 230-233) in which a record was made of what transpired following the sentencing, Mr. Seal filed a

Motion for Reduction of Sentence on January 22, 2008. (RE-52-70; CP-Vol. 2, p. 223-241). This motion was denied by an Order dated June 30, 2008, but not filed with the Clerk until July 15, 2008. (RE-71; CP-Vol. 2, p. 242).

On August 7, 2008, Mr. Seal filed a motion asking the court to designate his original Motion for Reduction of Sentence as a post-conviction collateral relief motion. (RE-72-96; CP-Vol. 2, p. 243-267). Since the trial court had failed to rule on this second post sentence motion within approximately thirty days of the denial of the Motion for Reduction of Sentence, Mr. Seal filed his Notice of Appeal on August 14, 2008 (RE-97-98; CP-Vol. 2, p. 268-269). Thereafter, by an Order dated October 2, 2008, but not filed until October 31, 2008, the trial court refused to consider the original motion as a post-conviction collateral relief motion. (RE-99-101; CP-Vol. 2, p. 274-276).

B.

COURSE OF THE PROCEEDINGS AND THE RULINGS IN THE COURT BELOW

Bo Seal, a twenty-four year old who had no prior felony convictions (RE-102; T-5), was indicted on May 10, 2006, for the murder of Laurie Thomas "by an act imminently dangerous" under Miss. Code Ann. § 97-3-19(1)(b)and a count of manslaughter for the subsequent death of Laurie Thomas' unborn child pursuant to Miss. Code Ann. § 97-3-47. (RE-104; CP-Vol. 1, p. 11). A trial date of

July 11, 2006, having been set on this charge, Mr. Seal's then attorney, Honorable Joe Buchanan, filed a Motion for Continuance to allow completion of pretrial discovery. (RE-20-21; CP-Vol. 1, p. 22-23). The case having been reset for trial on October 17, 2006, Mr. Buchanan filed a second Motion for Continuance in order to allow time to obtain the results of any gunpowder residue testing and other materials from the Mississippi Crime Lab. (RE-22-23; CP-Vol. 1, p. 42-43).

In November, 2006, Honorable Gaines S. Dyer and Honorable Johnnie E. Walls, Jr. entered their appearances on behalf of Mr. Seal in place of Mr. Buchanan. (RE-24-27; CP-Vol. 1, p. 56-59). Thereafter the case was set for trial on February 26, 2007, but due to the fact that Mr. Walls, a Mississippi state senator, was in legislative sessions at that time and for other reasons, Mr. Seal again moved for a continuance. (RE-28-41; CP-Vol. 1, p. 71-84). This proceeding was then set for trial on June 20, 2007, but due to the fact that it could not procure the attendance of John Bell, a material witness, the State moved for a continuance. (RE-42-43; CP-Vol. 1, p. 146-147). There after the trial was set for January 9, 2008 (RE-44; CP-Vol. 2, p. 200). This trial setting was in vacation.

One day before the scheduled trial, Mr. Seal filed a petition to enter an open guilty plea to two counts of manslaughter by

culpable negligence under Miss. Code Ann. § 97-3-47. (RE-45-49; CP-Vol. 2, p. 214-218). Upon the filing of this petition, the Court set the hearing on the plea for January 9, 2008, the date previously set for the trial. On that date, the Court accepted the Mr. Seal's plea and on the same day sentenced him to two concurrent twenty year sentences. (RE-50-51; CP-Vol. 2, p. 219-220).

Within a day or two of Mr. Seal's sentencing, the trial judge of her own volition determined that the appropriate sentence should have resulted in her suspending some of the time she sentenced Mr. Seal to serve. (RE-60; CP-Vol. 2, p. 231). However, the trial judge (Judge Margaret Carey-McCray) determined she was precluded by the case of *Leverette v. State*, 812 So. 2d 24 (Miss. App. 2002), from modifying her order. (RE-60-61; CP-Vol. 2, p. 231-232). Thereafter, on January 22, 2008, Mr. Seal filed his Motion for Reduction of Sentence (RE-52-70; CP-Vol. 2, p. 223-241) which was denied in an Order dated June 30, 2008, but not filed until July 15, 2008. (RE-71; CP-Vol. 2, p. 242).

C.

STATEMENT OF THE FACTS

A transcript of the sentencing hearing reveals that on the evening of March 6, 2006, Bo Seal and a friend, John Bell, went to the residence of Xan Steed where Laurie Thomas, the pregnant victim, was visiting. (RE-103; T-10). As Bell and Seal were

entering Mr. Steed's home to show off a muzzle loader Mr. Seal had just purchased, Mr. Seal handed a pistol to Mr. Bell to carry into the house with them. (RE-103-104; T-10-11). Once in the house, Mr. Seal began playing with the muzzle loader, waiving it around in the bedroom where all four individuals were located. At the same time, Mr. Seal was making a noise as if the muzzle loader was firing. (RE-104; T-11). A short while later, Mr. Seal asked Bell for the pistol and he began playing with it in similar fashion, waiving it around and mimicking gunfire sounds. (RE-104; T-11). During this process, Mr. Seal pointed the weapon in the direction of Laurie Thomas and pulled the trigger, firing one bullet which struck Ms. Thomas in the forehead ultimately killing her and her unborn fetus who died two days later. (RE-104-105; T-11-12).

At that point, John Bell (a witness) dashed out of the house with Mr. Seal following and yelling for him to come back. (RE-105; T-12). Unsuccessful in persuading Bell to return, Seal went back in the house and called 911. (RE-105; T-12). Mr. Seal remained at the scene attempting to assist the victim until police and other emergency response personnel arrived. (RE-105; T-12).

Most of the above facts were recited by the Assistant District Attorney as the basis for Defendant's plea. The Court, based on Mr. Seal's acknowledgment that these were the charges he was pleading to, accepted Mr. Seal's guilty plea and ruled that he was

guilty of said charges. (RE-106-109; T-13-16).

The case then immediately proceeded into the sentencing phase, the Court noting that she already had a pre-sentence report. (RE-109-110; T-16-17). After hearing testimony from seven witnesses for the State (RE-110-135; T-17-42) and five for the defense (RE-136-160; T-43-67), the Court heard argument of counsel and then sentenced the Defendant as noted above. (RE-161; T-93).

SUMMARY OF THE ARGUMENT

Two days after Bo Seal's January 9, 2008 guilty plea and sentencing in vacation, the sentencing trial judge determined of her own volition that although she had sentenced Mr. Seal within the statutory parameters for manslaughter, that nevertheless she had been too harsh in her sentencing of him. However, based upon the case of *Leverette v. State*, 812 So. 2d 241 (Miss. App. 2002), she determined she had no authority "in vacation" to make any correction to the sentence despite her own thoughts that the sentence should be corrected to suspend some of the time she gave Mr. Seal.

On January 22, 2008, within thirteen days of the Sentencing Order, Mr. Seal filed a Motion for Reduction of Sentence which, under Rule 4(e) of the Mississippi Rules of Appellate Procedure, did not toll the thirty day period for a direct appeal of these two concurrent twenty year sentences. The sentences, however, being

within the statutory limits of Miss. Code Ann. § 97-3-25, a direct appeal of this sentence would have been of no benefit to Mr. Seal.

The trial court on June 30, 2008, denied Mr. Seal's motion for a reduction of his sentence. Clearly the trial court believed that the appropriate sentence should have resulted in some of the sentence being suspended. Although the Order was dated June 30, 2008, it was not filed in the Circuit Clerk's office until July 15, 2008. On August 7, 2008, before filing his Notice of Appeal from this Order, Mr. Seal filed a motion asking the trial court to consider his original Motion for Reduction of Sentence as a petition under the Mississippi Uniform Post-Conviction Collateral Relief Act, Miss. Code Ann. § 99-39-1, *et seq.* The trial court did not rule on the same within thirty days of the July 15, 2008 order. However, Mr. Seal filed his Notice of Appeal on August 14, 2008, within thirty days of July 15, 2008.

This appeal, therefore, is clearly timely. Numerous cases in this Court have recast motions such as Mr. Seal's Motion for Reduction of Sentence as Post-Conviction Collateral Relief proceedings. The jurisprudence of this state notes that this recasting is done in order to promote judicial economy. Mr. Seal, therefore, requests this Court also recast his Motion for Reduction of Sentence. That being done, the order denying his motion to reconsider is an appealable order and his appeal is timely.

In determining whether to recast Mr. Seal's Motion for Reduction of Sentence as a Post-Conviction Collateral Relief petition, the trial court considered this proposition and declined to do so because she, citing *Leverette v. State, supra,* held that she had no jurisdiction to correct her Sentencing Order which was entered in vacation. She also concluded that the grounds stated by Mr. Seal for a modification of his sentence fell within none of the provisions of Miss. Code Ann. § 99-39-5. Accordingly, for those reasons she denied Mr. Seal any relief.

The trial court failed to consider cases such as *Creel v. State,* 944 So. 2d. 891 (Miss. 2006), which hold that the Post-Judgment Collateral Relief Act itself provides jurisdiction to alter sentences, even those handed down in vacation. Further, the trial court was in error in holding that Mr. Seal's sentencing problems did not fall within any of the subsections of Miss. Code Ann. § 99-39-5.

The case of *Dickerson v. State,* 731 So. 2d 1082 (Miss. 1998), rev. on other grounds, is clear authority for holding that Mr. Seal's sentence could have been modified in vacation by the trial court under § 99-39-5(1)(i).

Further, the law as comprehended by the trial court that a defendant sentenced in vacation has no right to have a court correct an error in sentencing while a defendant sentenced in term

time does have such right, bears no reasonable relationship to promoting any legitimate state interest. Interesting enough this plea was entered "in vacation" as opposed to "term time" because of the request of the State of Mississippi. Accordingly, the denial to a defendant sentenced "in vacation" the exact rights afforded to a defendant sentenced "in term" to have his sentence corrected by the trial judge, denies Mr. Seal his equal protection rights under the United States Constitution. Accordingly, the trial court should have also granted Mr. Seal relief under Miss. Code Ann. § 99-39-5(1)(a).

ARGUMENT

PROPOSITION I.

DOES THIS COURT PROPERLY HAVE JURISDICTION OVER THIS APPEAL.

Mr. Seal was sentenced on January 9, 2008, to two concurrent twenty year terms. On January 22, 2008, in response to the unsolicited disclosure by the trial court that she believed she had, under the circumstances, given Mr. Seal an excessive sentence, Mr. Seal filed his Motion for Reduction of Sentence. (RE-52-70; CP-Vol. 2, p. 223-241). Clearly, that motion was insufficient under Rule 4(e) of the Mississippi Rule of Appellate Procedure to toll the time for taking a direct appeal from the Sentencing Order. *Norwood v. State*, 846 So. 2d 1048, 1051 (Miss. App. 2003). But see, *Martin v. State*, 635 So. 2d 1352 (Miss. 1994) (court

considered merits of appeal as though motion to reconsider sentence had tolled the thirty day appeal time).

A direct appeal of Mr. Seal's sentence would have been ineffective at any rate, since Mr. Seal's sentence is clearly within the statutory maximum. *Trotter v. State,* 554 So. 2d 313 (Miss. 1989) (Appellate Court does have authority on direct appeal to determine whether sentence is illegal because excessive); *Barry v. State,* 722 So. 2d 706 (Miss. 1998). As noted in *Barry,* "...this court will not review the sentence, if it is within the limits prescribed by statute." *Id.* at p. 707.

What occurred here was not that the trial judge gave a sentence in excess of the statutory maximum. Like Judge Vlahos in the case of *Dickerson v. State,* 731 So. 2d 1082, 1083-1084 (Miss. 1998)[1], the trial judge here of her own volition stated that "within a day or two...in reconsidering the sentence, determined that some of the time that had been imposed in the sentence on both counts, or on each count, should have been suspended." (RE-60; CP-Vol. 2, p. 231). Noting that she perceived that if Mr. Seal's sentencing had been "in term time", she would have had clear authority to amend his sentence by suspending portions of the twenty year sentences (RE-60; CP-Vol. 2, p. 231), nevertheless she

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[1] Overruled on other grounds in *Presley v. State,* 792 So. 2d 950, 953 (Miss. 2001).

determined she had no authority to do so in this case under *Leverette v. State*, 812 So. 2d 241 (Miss. App. 2002), despite the fact that she saw distinguishing features between *Leverette* and the facts of this case. (RE-60-61; CP-Vol. 2, p. 231-232).

Being of that opinion, the trial court denied Mr. Seal's Motion for Reduction of Sentence on June 30, 2008, but this Order was not filed of record until July 15, 2008. (RE-71; CP-Vol. 2, p. 242). On August 7, 2008, Mr. Seal specifically asked the Court to recast his Motion for Reduction of Sentence as a filing under the Mississippi Post-Conviction Collateral Relief Act, Miss. Code Ann. § 99-39-1, *et seq.*, and to reconsider her ruling. This motion not having been ruled on within thirty days of the July 15, 2008 (the date of the Court's previous Order denying a reduction of sentence), Mr. Seal filed his Notice of Appeal on August 14, 2008. (RE-97-87; CP-Vol. 2, p. 268-9).

There is clear authority allowing either the trial court or this Court to recast motions such as Mr. Seal's Motion for Reduction of Sentence as post-conviction collateral relief petitions. *Bobkoskie v. State*, 495 So. 2d 497 (Miss. 1986) (Petition for Writ of Mandamus considered as post-conviction collateral relief filing); *Wilson v. State*, 772 So. 2d 1093 (Miss. App. 2000) (Court considers motion to correct and modify sentence as post-conviction collateral relief filing); *Ducote v. State*, 970

So. 2d 1309 (Miss. App. 2007) (Trial court properly considered appellant's Motion to Reconsider Sentence as a filing under Post-Conviction Collateral Relief Act even over the objections of the appellant).

Accordingly, Mr. Seal hereby requests this Court to consider his Motion for Reduction of Sentence in said fashion and to consider the trial court's overruling of that motion by the Order filed on July 15, 2008, as an appealable order. In that light, Mr. Seal's Notice of Appeal, filed within thirty days of July 15, 2008, is timely.

Some of the cases which have considered the question of when an appellate or trial court should consider a motion such as Mr. Seal's Motion for Reduction of Sentence as a filing under the Post-Conviction Collateral Relief Act, have considered the question of judicial economy. For example, in *Norwood v. State*, 846 So. 2d 1048, 1052 (Miss. App. 2003), the Mississippi Court of Appeals, citing *Bobkoskie v. State, supra*, notes that judicial economy does provide authority to so recast a post-conviction motion as one falling under Miss. Code Ann. § 99-39-1 *et seq.*

As noted below, in the argument under Mr. Seal's second assignment of error, the trial court, had she recast the Motion for Reduction of Sentence as a post-conviction relief pleading, would have had authority to modify his sentence even in vacation.

Accordingly, judicial economy favors a consideration of this issue on this appeal.

PROPOSITION II.

SHOULD MR. SEAL'S MOTION FOR REDUCTION OF SENTENCE HAVE BEEN RECAST AND CONSIDERED AS A POST-CONVICTION COLLATERAL RELIEF PETITION AND SHOULD HE HAVE BEEN GRANTED RELIEF FROM HIS SENTENCE.

Although on October 2, 2008, the date she ruled on Mr. Seal's Motion and Memorandum for Order Designating Defendant's Motion for Reduction of Sentence as a post-conviction collateral relief motion, the trial court had lost jurisdiction[2] over this cause because of the Notice of Appeal, a perusal of her ruling (RE-99-101; CP-Vol. 2, p. 274-276) is instructive. In that Order, the Judge clearly perceived that under *Leverette, supra*, she had no authority to amend a sentence which was handed down in vacation. She did not perceive that the Mississippi Post-Conviction Collateral Relief Act does provide an additional source of trial court jurisdiction in order to make corrections to, and to modify its sentences. See, *Creel v. State*, 944 So. 2d 891, 894 (Miss. 2006); *Dickerson v. State*, 731 So. 2d 1082, 1086 (Miss. 1998).

As noted in *Dickerson*, a case very similar to the case at bar, Dickerson entered a guilty plea on February 27, 1996, to a charge of sexual battery. On May 29, 1996, the Judge sentenced Dickerson

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[2] The trial court loses jurisdiction when a notice of appeal is filed. *Fitch v. Valentine*, 946 So. 2d 780(Miss. 2007).

to fifteen years with seven suspended. Two days later, Dickerson filed a Motion for a Reconsideration of the Sentence, and on October 7, 1996, the Judge granted defendant's request and reduced his sentence to fifteen years with ten suspended.

The reason the Judge took this action, is succinctly stated in *Dickerson* as follows:

> "In reviewing the matter, and this has weighed heavily on the Court, because as I pointed out I am not Solomon, I am not perfect, the number of years may be somewhat excessive. And so what I will do is I'll keep the fifteen years, but I'll suspend 10 and give him 5 years to serve. That will be the final order from which you can make any appeal that you wish to make...." *Id.*, 731 So. 2d at p. 1083-1084.

This order, however, for some reason was never filed of record and Dickerson, on August 20, 1997, filed a motion asking the Judge to enter the order reducing his time to serve. Upon hearing that motion on October 8, 1997, the Judge ruled that he lacked jurisdiction at the time he entered the reduced sentence and thus that that order was a nullity. The trial judge did note in making this ruling, however:

> "The only statutory authority to resentence the movant is the Post-Conviction Relief Act. This act establishes the criteria which must be present before the court acquires jurisdiction to consider resentencing a criminal. In this case, there is no filing under the Post-Conviction Relief Act, the term of court at which the defendant was sentenced has ended, and, the defendant had begun to serve his sentence, therefore the court is

> powerless to alter or vacate movant's sentence." *Id.* at 1084.

Dickerson clearly indicates that the Post-Conviction Collateral Relief Act gives a trial court the jurisdiction to correct the problems facing the trial judge in *Dickerson* and likewise confronting the trial judge below. As noted by the Mississippi Supreme Court in its opinion in *Dickerson*:

> "If Dickerson believes that his sentence is improper, the statutory provisions for vacating the sentence contained in the Post-Conviction Relief Act...provide an adequate remedy. In that regard, Miss. Code Ann. § 99-39-5 (1994) states (1) any prisoner in custody under a sentence of a court of record of the State of Mississippi who claims:
>
> (I) that the conviction or sentence is otherwise subject to collateral attack on any grounds...may file a motion to vacate, set aside or correct judgment or sentence....
>
> Dickerson is free to pursue his claim under this provision." *Id.* at 1086.

The trial judge below in her October 2, 2008, ruling (RE-99-101; CP-Vol. 2, p. 274-276) also did not perceive that Mr. Seal's problem fell within any of the categories of relief found in Miss. Code Ann. § 99-39-5 of the Post-Conviction Collateral Relief Act. *Dickerson*, however, is clear authority to the contrary and indicates that the trial court erroneously failed to understand that she did have authority to correct Mr. Seal's sentence. As the Mississippi Supreme Court noted in *Creel v. State*, 944 So. 2d 891,

893-894 (Miss. 2006:

> "Under most circumstances circuit courts do not have jurisdiction to resentence convicted felons. In the absence of some statute authorizing such modifications...once the case has been terminated and the term of court ends, a circuit judge is powerless to alter or vacate its judgment. (Cites omitted). It is clear that there is no inherent authority to alter or vacate a judgment, but rather legislation is required. (Cites omitted). Therefore, a judge may not alter or vacate a sentence once the term of court in which the defendant was sentenced has ended.
>
> However, the Legislature created an exception to the general rule when it enacted the Uniform Mississippi Post-Conviction Collateral Relief Act....The only statutory authority to resentence [a convicted felon] is the Post-Conviction Relief Act." (Internal quotation marks omitted, parenthetical words in original).

Another subsection of Miss. Code Ann. § 99-39-5(1) has application to the predicament that the Appellant and the trial court below found themselves faced with only days after sentencing. In his Motion for Reconsideration of Sentence, Mr. Seal raised an equal protection argument as to the arbitrary and unreasonableness of allowing a judge to correct a sentence and resentence a defendant who happens to be sentenced in term time (so long as the correction is accomplished before the end of the term) while denying a defendant sentenced in vacation any relief although the trial court of its own volition, within two days of sentencing, determines that she should suspend some of the vacation defendant's

time. Since Mr. Seal and others in the same class as he is (convicts sentenced in vacation) are not a suspect classification, the equal protection test to apply to determine whether the treatment of defendants sentenced in vacation versus the treatment of defendants sentenced in term time violates equal protection is the rational relation test. 16B Am. Jur. 2d Constitutional Law § 813. "Under the rational relation test...any classification created by the legislature survives scrutiny so long as the classification is rationally related to promoting a legitimate state interest and is reasonable." 16B Am. Jur. 2d Constitutional Law § 813.

The rationale behind the rule in this state that a circuit court has no authority to amend or alter a sentence handed down in vacation is set forth in *Leverette v. State*, 812 So. 2d 241, 245 (Miss. App. 2002), as follows:

> "To grant inherent power to amend a sentence pronounced in vacation is too open-ended, creating in some counties with only two terms of court per year what could be an almost six-month window to alter a sentence....It would be inconsistent with this clearly limited authority during the few weeks of term-time to grant months-worth of authority during vacation."

The facts of this case show that the trial court below, within two days of sentencing, determined that she had been too harsh in sentencing. This was not a decision made months later as

criticized in *Mississippi Commission on Judicial Performance v. Russell*, 691 So. 2d 929 (Miss. 1997).

The total denial of any right to correct a sentence handed down in vacation because it would allow too much time in vacation to amend a sentence, fails entirely to consider giving a short window of time in vacation to correct a judgment.

While the limitation on corrections of sentences in vacation may promote a legitimate state interest in providing finality to sentences, the method by which that goal is attained is totally unreasonable. The reasonable approach would be to provide a short window of time to correct any sentence whether in term time or vacation.

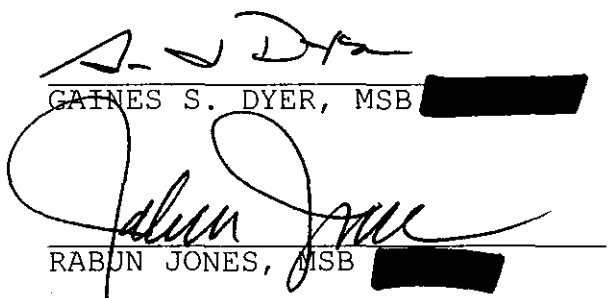
Accordingly, Mr. Seal respectfully contends that under Miss. Code Ann. § 99-39-5(1)(a) and (i), the trial court did have authority to correct his sentence and that her failure to do so was error requiring that this case be remanded for resentencing.

CONCLUSION

In conclusion, this Court does have jurisdiction over this appeal for Mr. Seal's Motion for Reduction of Sentence should have been considered a filing under the Mississippi Post-Conviction Collateral Relief Act. The order overruling Mr. Seal's motion, therefore, should be held to be an appealable order and thus this appeal should be held to be timely.

Moreover, under subsections (a) and (i)of Miss. Code Ann. § 99-39-5(1), Mr. Seal is entitled to relief from his sentence. Accordingly, this matter should be remanded for resentencing.

RESPECTFULLY SUBMITTED,



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CERTIFICATE OF SERVICE

This is to certify that I, GAINES S. DYER, one of the attorneys for the Appellant herein, have this day mailed, via regular U.S. Mail, postage prepaid, a true and correct copy of the above and foregoing Appellant's Brief to Honorable Dewayne Richardson, District Attorney, at his regular business address, Post Office Box 426, Greenville, Mississippi 38702, and Honorable Margaret Carey-McCray, Circuit Court Judge, Post Office Box 1775, Greenville, Mississippi 38702.

This, the 29th day of July, 2009.

GAINES S. DYER, MSB #[redacted]