

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

JESSIE L. WILSON

APPELLANT

V.

NO. 2008-KA-1919-SCT

STATE OF MISSISSIPPI

APPELLEE

BRIEF OF THE APPELLANT

MISSISSIPPI OFFICE OF INDIGENT APPEALS

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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 this court may evaluate possible disqualifications or recusal.

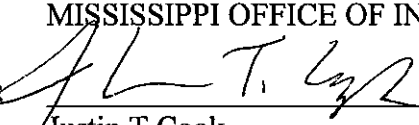
1. State of Mississippi
2. Jessie L. Wilson, Appellant
3. Honorable Dewayne Richardson, District Attorney
4. Honorable Ashley Hines, Circuit Court Judge

This the 7th day of July, 2009.

Respectfully Submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS

BY:


Justin T Cook

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STATEMENT OF THE ISSUES

None

STATEMENT OF THE CASE

This appeal follows a conviction of murder against Jessie L. Wilson and a sentence of life imprisonment in Circuit Court of Sunflower County, Mississippi, following a trial held on October 14-15, 2008, the Honorable Ashley Hines, Circuit Judge, presiding. Jessie Wilson is presently incarcerated with the Mississippi Department of Corrections.

FACTS

Martha Benford, an officer for the Mississippi Department of Corrections (MDOC), was a

tower officer in Unit 32, on August 28, 2007. (T. 34). After feeding time at night, Benford made a "viewing check" and everything appeared to be quiet. (T. 35). Earnest Lee Hargon cleaning the tier. (T. 35). Hargon was sentenced to death and serving on death row at the time. (T. 56).

After monitoring everything, Benford went to retrieve her isolation logs. (T. 36). After a few minutes, Benford heard a clack that sounded like a broom or mop had fallen to the ground. (T. 36). Benford turned around noticed that Jessie Wilson was out of his cell. (T. 36).

Benford immediately called for help. (T. 36). Benford then noticed Wilson stabbing Hargon. (T. 37). Benford testified Hargon was attempting to defend himself against Wilson. (T. 38)

Benford testified that Wilson had a shank which appeared to be a metal object with tape wrapped around it. (T. 39-40). MDOC Officer Walter Hicks was escorting an offender in Unit 32 when he heard a radio call that there was an incident. (T. 52). When Officer Hicks arrived on the scene, he saw Wilson stabbing Hargon. (T. 54). He ordered Wilson to stop stabbing, and Wilson did so. (T. 39, T. 54). After the incident, Wilson dropped the shank and returned to his cell. (T. 40, T. 54).

Officer Hicks then went to check on Hargon where he noticed there were wounds to Hargon's head, back, and neck. (T. 56). Paramedics arrived to help Hargon, but he ultimately died. (T. 57). Officer Hicks then escorted Wilson to a holding area, when Wilson informed Hicks that he "saved the state millions of dollars because you were going to kill him anyways." (T. 58).

Hicks testified that Williams informed him that Williams had received a "scroll" indicating that some offenders on that tier were "out to get" him and another inmate, Lamarcus Hilliard. (T. 62). The scroll and the weapon in question were apparently intended to go to another inmate, but went to Wilson instead. (T. 62). Wilson informed Officer Hicks that it was Hargon who delivered the items. (T. 63).

MDOC Officer Larum Henderson testified that when she became aware of the incident, she notified ESOP, which is the camera that helps monitor Unit 32. (T. 71). Officer Avon Latham, the third watch commander of Unit 32 testified that he was working the night in question. (T. 81).

Officer Latham testified that he transported Wilson from his cell to a holding cell. (T. 87). Officer Latham testified that Wilson said that Hargon was not the inmate he intended to stab, but, because he could not get to that inmate, he simply stabbed Hargon. (T. 88). Wilson told Officer Latham about the crime that Hargon had committed and said that Hargon would handle food and not wash his hands. (T. 88). Wilson further reiterated that he saved the state some money by killing Hargon. (T. 88).

Marvin Overstreet, the chief investigator for MDOC at Parchman testified that he was working the night in question. (T. 98). Investigator Overstreet got a call to come to Unit 32 and obtained the shank in question, collected evidence, including pieces of Wilson's cell door that had been cut out to allow him to escape. (T. 100).

After securing the scene, Investigator Overstreet went to the electronic surveillance operation center and viewed the video of the incident to determine exactly how the incident took place. (T. 114). These surveillance videos showed Wilson's cell door moving a few hours before, as if being tested. (T. 114).

The video surveillance further indicated that Wilson opens his door and comes out of his cell, walking down the hall way and "encountering" Hargon. (T. 122-23). Dr. Stephen Hayne, a forensic pathologist who performed the autopsy on Wilson testified that, during the course of the autopsy, he located thirty-seven (37) stab wounds on Hargon. (T. 137). Dr. Hayne ultimately concluded that Hargon's cause of death was homicide.

Wilson took the stand in his own defense, testifying that, throughout the time he has been

incarcerated, he has seen numerous psychiatrists. (T. 148). Wilson testified he had been diagnosed with both bipolar and intermittent explosive disorder. (T. 149).

After deliberation, the jury returned found Wilson guilty of murder. (C.P. 78, R.E. 10). Wilson was subsequently sentenced to life imprisonment in the Mississippi Department of Corrections. (C.P. 78, R.E. 10).

On November 4, 2008, Wilson filed a Motion for a Judgment N.O.V. or, in the Alternative, for a New Trial. (C.P. 82-83, R.E. 8-9). The motion was denied by the trial court on November 6, 2008. (C.P. 85, R.E. 11). On November 13, 2008, feeling aggrieved by the verdict of the jury and the sentence of the trial court, the Appellant filed a notice of appeal. (C.P. 89, R.E. 12).

SUMMARY OF THE ARGUMENT

None

ARGUMENT

None

STATEMENT OF COUNSEL

1. Counsel for the Appellant hereby represents to the Court pursuant to *Lindsey v. State*, 939 So. 2d 743 (Miss. 2005), that counsel has diligently searched the procedural and factual history of this criminal action and scoured the record searching for any arguable issues which could be presented to the court on Mr. Wilson's behalf in good faith for appellate review, and upon conclusion, has found none.

2. The matters considered, reviewed and included in counsel's search were:

(a) the reason for the arrest and the circumstances surrounding arrest of Jessie Wilson; (b) any possible violations of Wilson's right to counsel; © the entire trial transcript and content of the record; (d) all rulings of the trial court; (e) possible prosecutorial misconduct; (f) all jury instructions; (g) all exhibits, whether admitted into evidence or not; (h) possible misapplication of the law in sentencing; and (i) the indictment and all of the pleadings in the record; and (j) any possible ineffective assistance of counsel issues. (i) A potential violation of discovery, which, though objected to by trial counsel, was not preserved for appeal, insofar as trial counsel did not ask for a continuance. (j) whether the verdict was supported by the overwhelming weight of the evidence. (k). Wilson's mental state insofar as it applies to both competency to stand trial as well as culpability due to diminished capacity.¹ (l) Wilson's assertion that *Alabama v. Baseman*, 533 U.S. 146 (2001) was applicable to his case and that the trial court did not have jurisdiction.

3. Counsel further confirms that he has, as of the date of filing this brief, mailed by first class mail, postage prepaid, a copy of this brief and correspondence informing Wilson that counsel finds no arguable issues in the record and that Wilson has a right to file a *pro se* brief.

4. Counsel for appellant requests that the Court grant Wilson forty (40) days of additional time in which to file a *pro se* brief if he desires to do so.

5. Counsel stands ready to prepare supplemental memoranda of law on any issues requested by the court.

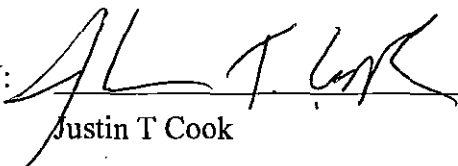
1. Wilson respectfully requests that the issue of Wilson's psychiatric history be preserved for post-conviction proceedings, wherein Wilson might submit a more extensive medical history containing any and all psychological treatment received.

CONCLUSION

There are no issues that counsel can in good faith present to the court in this appeal.

Respectfully Submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS

BY: 
Justin T Cook
COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I, Justin T Cook, Counsel for Jessie L. Wilson, 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 above and foregoing **BRIEF OF THE APPELLANT** to the following:

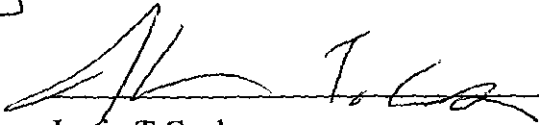
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This the 7th day of July, 2009.


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