

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**REGINALD LADALE EDWARDS**

**APPELLANT**

**VS.**

**NO. 2009-CP-0108**

**STATE OF MISSISSIPPI**

**APPELLEE**

**BRIEF FOR THE APPELLEE**

**APPELLEE DOES NOT REQUEST ORAL ARGUMENT**

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**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

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**VERSUS**

**NO. 2009-CP-0108**

**STATE OF MISSISSIPPI**

**APPELLEE**

**BRIEF FOR APPELLEE**

**STATEMENT OF THE CASE**

Reginald Ladale Edwards pleaded guilty in the Circuit Court of Claiborne County to a charge of sale of cocaine and was sentenced on September 24, 2007, to a term of eight years in the custody of the Mississippi Department of Corrections with two years suspended. (C.P.34-35) On December 8, 2008, Edwards filed in the circuit court a Motion for Post-Conviction Collateral Relief, which the court denied summarily on December 12, 2008.<sup>1</sup> (C.P.12, 36-37) Aggrieved by the judgment rendered against him, Edwards has perfected an appeal to this Court.

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<sup>1</sup>This order is not subject to reversal "absent a finding" that it "was clearly erroneous." *Taylor v. State*, 766 So.2d 830, 832 (Miss.App.2000), citing *Kirksey v. State*, 728 So.2d 565, 567 (Miss.1999). Accord, *Black v. State*, 963 So.2d 47, 48 (Miss.App.2007).

## **SUMMARY OF THE ARGUMENT**

First, the state contends the circuit court did not err in summarily dismissing Edwards's challenge to the effectiveness of his counsel. This claim was belied by Edwards's testimony under oath in his petition to plead guilty and at the plea colloquy.

Furthermore, Edwards has not shown that the court erred in summarily denying the challenge to the validity of the plea. Contrary to his claims, Edwards was informed of the elements of the offense charged and admitted his guilt thereto.

Moreover, Edwards has not shown that the circuit court imposed an illegal sentence. Additionally, the state submits Edwards has not demonstrated error in the court's rejection of his claim that he was entitled to be informed of his right to appeal his sentence. Finally, the record has been supplemented to include the transcript of the plea colloquy. Accordingly, Edwards's final issue is moot.

### **PROPOSITION ONE:**

#### **EDWARDS CANNOT SHOW THAT THE CIRCUIT COURT ERRED IN SUMMARILY DENYING HIS CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL**

Edwards's challenge to his counsel's effectiveness was belied by his sworn statements, both in the Petition to Enter Plea of Guilty and at the plea hearing, that he was fully satisfied with the advice and help that his attorney had given him. (C.P.7, Supp.Vol.6-7) Indeed, during the plea colloquy, the court asked whether the Edwards was "satisfied with the representation, advice, help Ms. Stewart" had given him. Edwards answered, "Yes, sir." The court pursued the issue, inquiring, "No problems with your lawyer, right?" and "Good lawyer, right?" Edwards replied "Yes, sir" to both questions. (Supp. Vol. 6-7)

This "unimpeachable documentary evidence" belies Edwards's post-conviction claim. *Davis v. State*, 5 So.3d 435, 438 (Miss.App.2008). Under these circumstances, Edwards cannot show error in the court's summary denial of his claim of ineffective assistance of counsel. His first proposition should be denied.

**PROPOSITION TWO:**

**EDWARDS HAS NOT SHOWN THAT THE COURT ERRED  
IN SUMMARILY DENYING THE CHALLENGE  
TO THE VALIDITY OF HIS PLEA**

Edwards contends additionally that the circuit court erred in summarily denying his claim that his plea was invalid because it had been made "without Edwards fully admitting the elements of proof ... " (C.P.18) Rejecting this claim, the court found that "[t]he Movant at the time of said plea, was fully apprised of the nature of the charges against him and all the facts and circumstances surrounding said charges, and having been placed under oath, did voluntarily and intelligently enter a plea of guilty to Sale of Cocaine ... " (C.P.36) This finding and conclusion are supported by the record. In his Petition to Enter Plea of Guilty, Edwards swore that his lawyer had advised him that the elements of the crime charged were a) sale [of] b) cocaine c) to another (d) knowing same to be cocaine. Edwards went on to admit under oath that he had on the date and place set out in the indictment, sold cocaine, knowing it was cocaine, to another. (C.P.7) During the plea hearing, after the prosecutor set out the evidence the state intended to introduce to establish Edwards's guilt, the court asked, the defendant, "Mr. Edwards, is that the truth now?" Edwards replied, "Yes, sir." (Supp.Vol. 8-9)

Under these circumstances, no error can be shown in the circuit court's summary denial of this claim. Edwards's second proposition should be rejected.

**PROPOSITION THREE:**

**EDWARDS HAS NOT SHOWN THAT THE CIRCUIT COURT  
IMPOSED AN ILLEGAL SENTENCE<sup>2</sup>**

Edwards contends additionally that court erred in dismissing his claim that his sentence was illegal. The order clearly imposes a statutorily-authorized sentence of eight years with two years suspended. (C.P.10)

Moreover, it is well-settled that the identity of the buyer and is not an essential element of the crime of sale of illegal drugs. Thus, the failure to include the name of the buyer in the indictment did not make the charging instrument fatally defective. *Belk v. State*, 8 So.3d 272, 274 (Miss. App. 2009), quoting *Jones v. State*, 912 So.2d 973, 976 (Miss.2005).

**PROPOSITION FOUR:**

**EDWARDS HAS NOT DEMONSTRATED ERROR IN THE  
CIRCUIT COURT'S REJECTION OF HIS CLAIM THAT  
HE WAS ENTITLED TO BE INFORMED OF HIS  
RIGHT TO APPEAL HIS SENTENCE**

Under his fourth proposition, Edwards claims that the circuit court erred in denying his claim that he was entitled to be informed of right to appeal his sentence. The state counters that "[w]hile it is true that a defendant may appeal the sentence resulting from a plea of guilty independently of the plea itself, there is no corresponding requirement that the circuit court notify the defendant of that right during the plea process." *Elliott v. State*, 993 So.2d 397, 399 (Miss. App. 2008). Accordingly, Edwards's fourth proposition plainly

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<sup>2</sup>Under this proposition, the state addresses Edwards's third and sixth issues.

lacks merit.

**PROPOSITION FIVE:**

**BECAUSE THE RECORD HAS BEEN SUPPLEMENTED TO  
INCLUDE THE TRANSCRIPT OF THE PLEA COLLOQUY,  
EDWARDS' FIFTH ISSUE IS MOOT**

Edwards next attempts to predicate error on the fact that the transcript of the plea colloquy was absent from the appeal record. Upon the motion of the state, the record was supplemented to include this transcript. It follows that Edwards's fifth issue is moot.

**CONCLUSION**

The state respectfully submits the arguments presented by Edwards are without merit. The judgment entered below should be affirmed.

Respectfully submitted,

JIM HOOD, ATTORNEY GENERAL  
STATE OF MISSISSIPPI

  
BY: DEIRDRE McCRORY  
SPECIAL ASSISTANT ATTORNEY GENERAL



**CERTIFICATE OF SERVICE**

I, Deirdre McCrory, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing **BRIEF FOR THE APPELLEE** to the following:

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Circuit Court Judge  
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Honorable Alexander C. Martin  
District Attorney  
P. O. Drawer 767  
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Reginald Edwards, #R9451  
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This the 14th day of December, 2009.



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