

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

CHRISTOPHER MASON

APPELLANT

VS.

NO. 2009-CP-0311

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

JIM HOOD, ATTORNEY GENERAL

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SPECIAL ASSISTANT ATTORNEY GENERAL
MISSISSIPPI BAR NO. [REDACTED]**

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TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF THE ISSUES	1
STATEMENT OF THE CASE	1
SUMMARY OF THE ARGUMENT	2
ARGUMENT	3
I. The trial court correctly denied Mason’s claim of ineffective assistance of counsel in reference to Mason’s claim of unreasonable search and seizure.	5
II. The trial court correctly denied Mason’s claim of ineffective assistance of counsel in reference to Mason’s claim of a speedy trial violation.	7
III. The trial court correctly denied Mason’s claim of ineffective assistance of counsel in reference to his claim of lack of probable cause and due process violation. . .	10
CONCLUSION	14
CERTIFICATE OF SERVICE	15

STATEMENT OF THE ISSUES

- I. The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to Mason's claim of unreasonable search and seizure.
- II. The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to Mason's claim of a speedy trial violation.
- III. The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to his claim of lack of probable cause and due process violation.

STATEMENT OF THE CASE

On or about December 4, 2007, Christopher Mason was indicted by the Lincoln County Grand Jury for the possession of more than five (5) kilograms of marijuana with intent to sell. Mason was appointed counsel and waived formal arraignment. Mason pled guilty to possession of more than five (5) kilograms of marijuana with intent to sell and was sentenced to twenty (20) years in the custody of the Mississippi Department of Corrections with eight (8) years to serve and twelve (12) years suspended for five (5) years post release supervision. On or about September 3, 2008, Mason filed a Motion for Post Conviction Collateral Relief. (C.P. 5) On or about March 23, 2009, the circuit judge entered an Order, *Nunc Pro Tunc*, to the 30th day of January, 2009, holding that Mason's claims were without merit and denying his Motion for Post Conviction Relief. (C.P. 113-116) Mason filed his Notice of Appeal on April 8, 2009.

The record, as the State received it, did not include the record of Mason's criminal case or his guilty plea and sentencing transcript. Copies of those items are attached to this brief as Attachments 1 and 2, respectively. Further, the State has concurrently filed a Motion to Supplement with Record with those Attachments.

SUMMARY OF THE ARGUMENT

Mason bears the burden of proof to show evidence of alleged ineffective assistance of counsel. *Leatherwood*, 473 So.2d at 968. He has failed to present this Court with any evidence of his counsel's alleged deficiencies. The record contains no proof to support Mason's claims that his attorney's representation of him was deficient. Mason cannot overcome the first prong of the test in *Strickland*, this Court is not required to consider the second prong of *Strickland*. *Havard v. State*, 988 So.2d 322, 331 (Miss.2008) (citing *Foster v. State*, 687 So.2d 1124, 1129-30 (Miss.1996)). Therefore, Mason's claim of ineffective assistance of counsel is without merit.

Further, Mason's Motion for Post-Conviction Collateral Relief lacks any supporting affidavits or other proof to support his allegation. See Miss.Code Ann. § 99-39-9(1)(d)-(e) (Rev.2007). In cases involving post-conviction collateral relief, "where a party offers only his affidavit, then his ineffective assistance claim is without merit." *Vielee v. State*, 653 So.2d 920, 922 (Miss.1995).

The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to Mason's claim of unreasonable search and seizure. It is well-settled that a valid plea of guilty waives all non-jurisdictional defects incident to trial. *Dennis v. State*, 873 So.2d 1045, 1048 (Miss.Ct.App.2004) (citing *Anderson v. State*, 577 So.2d 390, 391 (Miss.1991)). The Mississippi Supreme Court has squarely held that a guilty plea waives a claim alleging an illegal search or seizure as well as the prosecution's requirement to prove each element of the offense beyond a reasonable doubt. *Ealey v. State*, 967 So.2d 685 (Miss.Ct.App. 2007)

The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to Mason's claim of a speedy trial violation. It is well established that "a guilty plea

waives the right to a speedy trial, whether that right is of constitutional or statutory origin.”

Hardin v. State, 966 So.2d 844, 847 (Miss.Ct.App.2007) (citing *Rowe v. State*, 735 So.2d 399, 400(Miss.1999)).

The trial court correctly denied Mason’s claim of ineffective assistance of counsel in reference to his claim of lack of probable cause and due process violation.

ARGUMENT

Mason’s appeal is without merit as to all issues because Mason has not met either prong of Strickland and because Mason’s Motion for Post-Conviction Relief was not supported by accompanying affidavits as required by Miss.Code Ann. § 99-39-9(1)(d)-(e) (Rev.2007)

In order to prevail on the issue of whether his defense counsel's performance was ineffective, Mason must prove that his counsel's performance was deficient and that he was prejudiced by his counsel's mistakes. *Kinney v. State*, 737 So.2d 1038, 1041 (Miss.Ct.App.1999) (citing *Strickland v. Washington*, 466 U.S. 668, 687-96 (1984)). The two-prong test set forth in *Strickland* to determine whether the defendant has received ineffective assistance of counsel applies to challenges to guilty pleas as well. *Id.* (citing *Hill v. Lockhart*, 474 U.S. 52, 58 (1985)).

An inmate asserting a claim of ineffective assistance of counsel is required to “allege with specificity and detail” the facts which show the attorney's deficient performance and the prejudice to the inmate caused by the deficient performance. *Kinney*, 737 So.2d at 1041 (citing *Cole v. State*, 666 So.2d 767, 777 (Miss.1995)). Further, “[t]here is a strong but rebuttable presumption that counsel's conduct fell within the wide range of reasonable professional assistance.” *Id.* (citing *Moody v. State*, 644 So.2d 451, 456 (Miss.1994)). Additionally, counsel's decisions are presumed to be strategic. *Leatherwood v. State*, 473 So.2d 964, 969 (Miss.1985)

(citing *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir.1984)). Accordingly, “[j]udicial scrutiny of counsel's performance must be highly deferential.... [A] fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time.” *Strickland*, 466 U.S. at 669.

Mason bears the burden of proof to show evidence of alleged ineffective assistance of counsel. *Leatherwood*, 473 So.2d at 968. He has failed to present this Court with any evidence of his counsel's alleged deficiencies. The record contains no proof to support Mason's claims that his attorney's representation of him was deficient. Mason merely relied on the bare allegations contained in his Motion for Post-Conviction Collateral Relief. Therefore, Mason cannot overcome the first prong of the test in *Strickland* and the Court is not required to consider the second prong of *Strickland*. *Havard v. State*, 988 So.2d 322, 331 (Miss.2008) (citing *Foster v. State*, 687 So.2d 1124, 1129-30 (Miss.1996)). Mason's claim of ineffective assistance of counsel is without merit.

Further, Mason's Motion for Post-Conviction Collateral Relief lacks any supporting affidavits or other proof to support his allegation. See Miss.Code Ann. § 99-39-9(1)(d)-(e) (Rev.2007). In cases involving post-conviction collateral relief, “where a party offers only his affidavit, then his ineffective assistance claim is without merit.” *Vielee v. State*, 653 So.2d 920, 922 (Miss.1995). Mason offers only his own statements alleging deficiency on the part of his counsel, therefore his motion was correctly denied by the trial court and the ruling of the trial court should be affirmed.

I. The trial court correctly denied Mason's claim of ineffective assistance of counsel in

reference to Mason's claim of unreasonable search and seizure.

Mason has waived any stand-alone claim to unreasonable search and seizure. It is well-settled that a valid plea of guilty waives all non-jurisdictional defects incident to trial. *Dennis v. State*, 873 So.2d 1045, 1048 (Miss.Ct.App.2004) (citing *Anderson v. State*, 577 So.2d 390, 391 (Miss.1991)). The Mississippi Supreme Court has squarely held that a guilty plea waives a claim alleging an illegal search or seizure as well as the prosecution's requirement to prove each element of the offense beyond a reasonable doubt. *Ealey v. State*, 967 So.2d 685 (Miss.Ct.App. 2007) (citing *King v. State*, 738 So.2d 240, 240 (Miss.1999) and *Jefferson v. State*, 556 So.2d 1016, 1019 (Miss.1989)).

Mason asserts that his attorney's failure to challenge the search of Mason's car and the resulting seizure of the fifteen kilograms of marijuana constituted ineffective assistance of counsel. However, Mason's Motion for Post-Conviction Collateral Relief lacks any supporting affidavits or other proof to support his allegation. See Miss.Code Ann. § 99-39-9(1)(d)-(e) (Rev.2007). In cases involving post-conviction collateral relief, "where a party offers only his affidavit, then his ineffective assistance claim is without merit." *Vielee v. State*, 653 So.2d 920, 922 (Miss.1995). Mason offers only his own statements alleging deficiency on the part of his counsel, therefore his motion was correctly denied by the trial court and the ruling of the trial court should be affirmed.

Mason cannot overcome the strong presumption that counsel's conduct fell within the wide range of reasonable professional assistance. *Id.* (citing *Moody v. State*, 644 So.2d 451, 456 (Miss.1994)). Additionally, counsel's decisions are presumed to be strategic. *Leatherwood v. State*, 473 So.2d 964, 969 (Miss.1985) (citing *Murray v. Maggio*, 736 F.2d 279, 282 (5th

Cir.1984)). Accordingly, “[j]udicial scrutiny of counsel's performance must be highly deferential.... [A] fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time.” *Strickland*, 466 U.S. at 669.

Mason testified at the plea hearing that his attorney had been with him through all the stages of the proceedings, had answered all of his questions and explained the elements of the crime to him. Mason testified that he was satisfied with his counsel’s services. (Attachment 2, Plea Transcript, p. 4) The prosecution offered a proffer of the State’s proof in the case:

On or about the 2nd day of March, 2007, Deputy Springfield stopped a vehicle for reckless driving. Spoke to the defendant, Mr. Christopher Mason, and smelled the distinct odor of marijuana coming from the vehicle. Mr. Mason was placed under arrest for driving wiht a revoked driver’s license. Searched the vehicle. Found a large duffel bag with approximately 15 pounds of marijuana. It was tested, and tested positive for marijuana.

(Attachment 2, Plea Transcript, p. 5,6)

Mason testified that he was pleading guilty for no other reason than that he was guilty. He testified that he had reviewed the State’s discovery material with his attorney and that he was satisfied that the State could prove beyond a reasonable doubt the he was guilty of the crime to which he was pleading guilty. He further testified that if the State proved the facts of the proffer that a reasonable jury would find him guilty. (Attachment 2, Plea Transcript, p. 5,6)

The State recommended a sentence of 30 years, 24 suspended, for six to serve and five years Post Release Supervision, a fine at the Court’s discretion and restitution to the Mississippi Crime Lab and to the Lincoln County Sheriff’s Department. (Attachment 2, Plea Transcript, p.

6) Mason pled guilty to the offense of possession of more than five kilograms of marijuana, with intent to distribute. (Attachment 2, Plea Transcript, p. 5,6) The trial judge made a finding on the record that Mason's plea was entered knowingly, willingly, freely, voluntarily and intelligently. The trial judge accepted the plea and adjudicated Mason's guilt. The Court sentenced Mason to a term of twenty (20) years in the custody of the Mississippi Department of Corrections. The last twelve (12) years of the sentence was suspended for five (5) years of post-release. (Attachment 2, Plea Transcript, p. 10)

The State's proffer showed that Mason was stopped for reckless driving, it was further discovered after the stop that his license had been revoked. Further, the officer smelled the strong odor of marijuana. If an officer clearly smells contraband, such as marijuana, that smell can give rise to the probable cause necessary to search a vehicle and its passengers. *Boches v. State*, 506 So.2d 254, 264 (Miss.1987). Mason testified that he believed the State could prove these facts and that if they did, he would be convicted. Further, Mason received a very lenient plea offer from the State. Based on these facts, Mason's counsel was not deficient for failing to contest the search of Mason's car and the admission of the marijuana into evidence. The decision was clearly a strategic move designed to gain a favorable recommendation from the State in exchange for Mason's guilty plea.

This issue is without merit and the trial court's denial of Mason's Motion for Post-Conviction Collateral Relief should be affirmed.

II. The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to Mason's claim of a speedy trial violation.

Mason argues that he received ineffective assistance of counsel due to his counsel's

failure to assert his right to a speedy trial. He alleges that he was denied the right to a speedy trial because approximately three hundred and ninety-five (395) days passed between his arrest and the entry of his guilty plea.

Mason has waived any stand-alone assertion of denial of a speedy trial. It is well established that “a guilty plea waives the right to a speedy trial, whether that right is of constitutional or statutory origin.” *Hardin v. State*, 966 So.2d 844, 847 (Miss.Ct.App.2007) (citing *Rowe v. State*, 735 So.2d 399, 400(Miss.1999)). “[A] valid guilty plea operates as a waiver of all non-jurisdictional rights or defects which are incident to trial including the right to a speedy trial, whether of constitutional or statutory origin.” *Madden v. State*, 991 So.2d 1231, 1237 (Miss.Ct.App.2008) (quoting *Anderson v. State*, 577 So.2d 390, 391-92 (Miss.1991)). Regardless of the length of the delay between [a defendant's] indictment and sentencing ... a valid guilty plea waives the right to a speedy trial. *Brown v. State*, 926 So.2d 229, 232 (Miss.Ct.App.2005).

The trial court noted in its Order *Nunc Pro Tunc*, that if Mason brought his speedy trial claim under Miss. Code Ann. § 99-17-1 (Rev. 2007), which sets the time period for determining whether there has been a violation at 270 days after arraignment, the record reflects that Mason waived his arraignment and entered his guilty plea on April 1, 2008. Therefore, Mason’s right to a speedy trial was never triggered, and his attorney did not fail to inform him of his rights. (C.P. 115)

Finally, Mason has not shown prejudice. In his Motion for Post-Conviction Collateral Relief Mason alleged that the charge against him would have been dismissed with prejudice. This is highly unlikely and Mason is not able to offer any proof so support the allegation. (C.P.6)

Mason also argues that he was prejudiced because his fiancé left him, he couldn't get a job, he was forced to plead to a federal offense because the State did not try him, he suffered from anxiety and could not afford an attorney. Mason offers no affidavits or other proof to support these allegations. As noted above, Mason's Motion for Post-Conviction Collateral Relief lacks *any* supporting affidavits or other proof to support his allegation. See Miss. Code Ann. § 99-39-9(1)(d)-(e) (Rev.2007). In cases involving post-conviction collateral relief, "where a party offers only his affidavit, then his ineffective assistance claim is without merit." *Vielee v. State*, 653 So.2d 920, 922 (Miss.1995). Mason offers only his own bare allegations of deficiency on the part of his counsel, therefore his motion was correctly denied by the trial court and the ruling of the trial court should be affirmed.

Mason cannot overcome the presumption that his counsel's decision not to assert a speedy trial violation for a mere thirteen months between arrest and a guilty plea¹ was strategic based on the favorableness of the recommendation offered by the prosecution for a guilty plea or due to other considerations. Further, there is a strong but rebuttable presumption that counsel's conduct fell within the wide range of reasonable professional assistance." *Id.* (citing *Moody v. State*, 644 So.2d 451, 456 (Miss.1994)). Counsel's decisions are presumed to be strategic. *Leatherwood v. State*, 473 So.2d 964, 969 (Miss.1985) (citing *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir.1984)). Accordingly, "[j]udicial scrutiny of counsel's performance must be highly deferential.... [A] fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's

¹ In *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182 (1972), the United States Supreme Court upheld a delay of over five years between arrest and trial.

challenged conduct, and to evaluate the conduct from counsel's perspective at the time."

Strickland, 466 U.S. at 669.

Further, the record does not reflect, nor does Mason offer, any reason for the delay. There are many permissible reasons for delay including crowded dockets, continuing investigation, delay due to processing of evidence by the crime lab. Mason does not even offer any reasons for delay that would weigh in his favor. The prejudice Mason alleges, aside from being unsupported in the record, is not prejudice to his defense, but an assortment of logical consequences resulting from an arrest for the possession of a large amount of marijuana with the intent to sell.

This issue is without merit and the trial court's denial of Mason's Motion for Post-Conviction Collateral Relief should be affirmed.

III. The trial court correctly denied Mason's claim of ineffective assistance of counsel in reference to his claim of lack of probable cause and due process violation.

Mason has waived any stand-alone claim of lack of probable cause or a due process violation. "[A] valid guilty plea operates as a waiver of all non-jurisdictional rights or defects which are incident to trial including the right to a speedy trial, whether of constitutional or statutory origin." *Madden v. State*, 991 So.2d 1231, 1237 (Miss.Ct.App.2008) (quoting *Anderson v. State*, 577 So.2d 390, 391-92 (Miss.1991)).

Mason alleges that his counsel was deficient in failing to object because the county illegally bound his case over to the grand jury without a determination of probable cause in violation of his constitutional right to due process. The record does not reflect whether a preliminary hearing was held or not. However, the mere fact that a defendant was not afforded a preliminary hearing without more does not amount to a violation of his constitutional rights and

does not vitiate his conviction. *Glass v. State*, 278 So.2d 384 (Miss. 1973); *Pilcher v. State*, 296 So.2d 682 (Miss. 1984). Furthermore, “[i]f a defendant's motion for preliminary hearing is denied, the standard of review calls for a harmless error analysis; the defendant must prove that some prejudice to the defendant's case resulted from the denial.” *Esparaza v. State*, 595 So.2d 418 (Miss. 1992. (See *Avery v. State*, 555 So.2d at 1043; see also *Hansen v. State*, 592 So.2d 114, 115 (Miss.1991) (en banc); *Willie v. State*, 585 So.2d 660, 670-71 (Miss.1991) (en banc). On its own, an “illegal ... detention does not void a subsequent conviction.” *Gerstein v. Pugh*, 420 U.S. 103, 119, 95 S.Ct. 854, 865, 43 L.Ed.2d 54 (1975)).

It appears from the record that Mason posted bond and was released from custody.

Uniform Circuit and County Court Rule 604 provides that:

In all cases wherein the defendant shall post bond and is released from custody, or is allowed release on his/her own recognizance, or has been indicted by a grand jury, the defendant shall not be entitled to an initial appearance. A defendant who has been indicted by a grand jury shall not be entitled to a preliminary hearing.

Accordingly, it does appears that, by rule, he was not entitled to a preliminary hearing. Further, Mason could not have been prejudiced by the lack of a preliminary hearing, since the State’s proffer at the guilty plea hearing established that probable cause existed prior to the grand jury hearing, since Mason was stopped for reckless driving, arrested because his license had been revoked, his vehicle was searched due to the strong odor of marijuana and over 15 pounds of marijuana was found. Again, as noted earlier in the State’s brief, Mason testified at the plea hearing that his attorney had been with him through all the stages of the proceedings, had answered all of his questions and explained the elements of the crime to him. Mason testified

that he was satisfied with his counsel's services. (Attachment 2, Plea Transcript, p. 4) The prosecution offered a proffer of the State's proof in the case:

On or about the 2nd day of March, 2007, Deputy Springfield stopped a vehicle for reckless driving. Spoke to the defendant, Mr. Christopher Mason, and smelled the distinct odor of marijuana coming from the vehicle. Mr. Mason was placed under arrest for driving with a revoked driver's license. Searched the vehicle. Found a large duffel bag with approximately 15 pounds of marijuana. It was tested, and tested positive for marijuana.

(Attachment 2, Plea Transcript, p. 5,6)

Mason testified that he was pleading guilty for no other reason than that he was guilty. He testified that he had reviewed the State's discovery material with his attorney and that he was satisfied that the State could prove beyond a reasonable doubt the he was guilty of the crime to which he was pleading guilty. He further testified that if the State proved the facts of the proffer that a reasonable jury would find him guilty. (Attachment 2, Plea Transcript, p. 5,6) Again, Mason cannot overcome the presumption that his counsel's decision not to challenge this alleged constitutional defect was strategic. Mason, given the amount of marijuana he possessed with intent to sell, and the potential maximum sentence of thirty years, received a plea recommendation of thirty years *with only six years to serve*. While the court sentenced him to serve slightly more (eight instead of six years), the recommendation of the prosecutor was exceptionally lenient and it is likely that defense counsel's strategy in minimizing motions with little merit was to ensure such a generous plea deal for his client.

Mason cannot overcome the strong but rebuttable presumption that counsel's conduct fell within the wide range of reasonable professional assistance. *Moody v. State*, 644 So.2d 451, 456 (Miss.1994)). Additionally, counsel's decisions are presumed to be strategic. *Leatherwood v.*

State, 473 So.2d 964, 969 (Miss.1985) (citing *Murray v. Maggio*, 736 F.2d 279, 282 (5th Cir.1984)). Accordingly, “[j]udicial scrutiny of counsel's performance must be highly deferential.... [A] fair assessment of attorney performance requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time.” *Strickland*, 466 U.S. at 669.

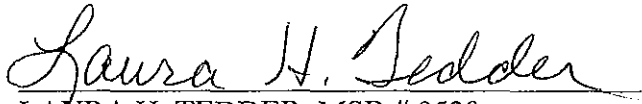
Further, Mason’s Motion for Post-Conviction Collateral Relief lacks any supporting affidavits or other proof to support his allegation. See Miss.Code Ann. § 99-39-9(1)(d)-(e) (Rev.2007). In cases involving post-conviction collateral relief, “where a party offers only his affidavit, then his ineffective assistance claim is without merit.” *Vielee v. State*, 653 So.2d 920, 922 (Miss.1995). Mason offers only his own statements alleging deficiency on the part of his counsel, therefore his motion was correctly denied by the trial court and the ruling of the trial court should be affirmed.

CONCLUSION

Mason's assignments of error are without merit and the trial court's denial of the Mason's Motion for Post-Conviction Collateral Relief should be affirmed.

Respectfully submitted,

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

By: 
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CERTIFICATE OF SERVICE

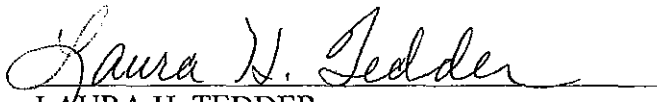
I, Laura H. Tedder, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing **BRIEF FOR THE APPELLEE** to the following:

Honorable David H. Strong, Jr.
Circuit Court Judge
P. O. Drawer 1387
McComb, MS 39649

Honorable Dewitt (Dee) Bates, Jr.
District Attorney
284 E. Bay Street
Magnolia, Mississippi 39652

Christopher Mason, #138095
Kemper County Correctional Facility (K.C.C.F.)
374 Stennis Industrial Park Road
Dekalb, Mississippi 39328

This the 12th day of November, 2009.


LAURA H. TEDDER
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FILED

DEC 04 2007

MRS. TERRY LYNN WATKINS
CIRCUIT CLERK

D.C.

CAUSE NUMBER 07-260 LS

STATE OF MISSISSIPPI

VERSUS

CHRISTOPHER R. MASON

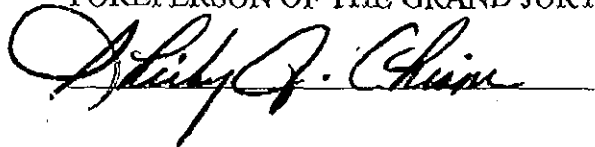
INDICTMENT FOR THE OFFENSE OF UNLAWFUL POSSESSION OF MORE THAN FIVE
(5) KILOGRAMS OF MARIHUANA, WITH INTENT TO DISTRIBUTETHE STATE OF MISSISSIPPI, FOURTEENTH JUDICIAL DISTRICT
COUNTY OF LINCOLN

IN THE CIRCUIT COURT OF SAID COUNTY, JUNE TERM, 2007

The Grand Jurors of the State of Mississippi, taken from the body of good and lawful citizens of said county, elected, summoned, empaneled, sworn and charged to inquire in and for the body of the county aforesaid, at the term aforesaid of the court aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present that CHRISTOPHER R. MASON, late of county aforesaid, in Lincoln County, Mississippi, and within the jurisdiction of this court, on or about the 2nd day of March, 2007, did wilfully, unlawfully, feloniously and knowingly have in his possession more than five (5) kilograms of marihuana, a controlled substance, with the unlawful and felonious intent of him, the said CHRISTOPHER R. MASON, then and there wilfully, unlawfully, feloniously and knowingly to distribute said marihuana to some other person or persons to the grand jurors unknown, contrary to and in violation of Section 41-29-139 of the Mississippi Code of 1972, and against the peace and dignity of the State of Mississippi.

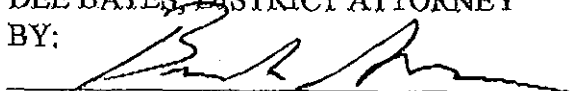
Endorsed: A True Bill.

FOREPERSON OF THE GRAND JURY



DEE BATES, DISTRICT ATTORNEY

BY:

CHRISTOPHER R. MASON, B/M
412-41-0847, 3/25/1972*"Attachment 1"*

CAPIAS

CAUSE NO. 2007-260-LS

THE STATE OF MISSISSIPPI

TO THE SHERIFF OF LINCOLN COUNTY, GREETING:

We command you to take the body of CHRISTOPHER R MASON

If to be found in your County, and HIM/HER safely keep, so that you have HIM/HER before our
Circuit Court, at the Court Room thereof in the Court House located at the LINCOLN COUNTY/
BROOKHAVEN GOVERNMENTAL COMPLEX INSTANTER then and there to answer the State
of Mississippi on a charge UNLAWFUL POSSESSION OF MORE THAN FIVE KILOGRAMS OF
MARIHUANA, WITH INTENT TO DISTRIBUTE

Witness my hand, with the seal of office affixed, this the 5th day of December, 2007.

MRS TERRY LYNN WATKINS, Clerk

S Collins, Deputy Clerk

FILED

DEC 26 2007 07

MRS. TERRY LYNN WATKINS
CIRCUIT CLERK

D.C. _____

IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSISSIPPI

STATE OF MISSISSIPPIVS.CAUSE NO: 07-260-LSCHRISTOPHER R. MASONAFFIDAVIT OF INDIGENCY

Before me, the undersigned officer of said court, this came personally and

Appeared _____, defendant, who by me first duly sworn, states

On oath the following:

1. That he/she is employed/unemployed
2. That he/she earns \$ 450 per week/per month
3. That he/she owns a 2003 Mazda automobile with/without
Encumbrance _____
4. That he/she owns other property listed with/without
Encumbrance _____
5. That he/she is married/unmarried and has 2 children
6. That he/she has \$ _____ in checking account. \$ _____
in savings account.

Further, by reason of poverty he/she is unable to employ counsel.

Affiant understands that any false statement made in the affidavit could subject
Him/her to prosecution for perjury and/ or contempt of court.

Christopher Mason AFFIANT

Sworn to and subscribed before me this the 3
day of JANUARY, 2008

Quay L. Wooten CIRCUIT CLERK

FILED

JAN 03 2008

MRS. LORRAINE LYNN WATKINS
CIRCUIT CLERK

D.C. _____

NOV. 12, 2009 9:38AM
Pg-80753

Lincoln County Circuit Clerk

NO. 0011

IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE #07-260-LS

CHRISTOPHER R. MASON

APPLICATION FOR APPOINTMENT OF COUNSEL

I have been advised that I have been charged with a crime in the County and State aforesaid and I desire to be represented by an attorney. I am unable to afford counsel and request that an attorney be appointed to represent me.

Christopher R. Mason
DEFENDANT

ORDER APPOINTING COUNSEL

I hereby approve request for appointed counsel and appoint the

Honorable JASON TATE

SO ORDERED AND ADJUDGED THIS the 3 day of JANUARY
2008



CIRCUIT COURT JUDGE

FILED
JAN 03 2008
LINCOLN COUNTY CLERK
D.C.

Pg. 754

IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

CAUSE NO: 07-260-LSCHRISTOPHER MASONWAIVER OF ARRAIGNMENT

I, the undersigned defendant, having been served with a copy of an indictment and being
Represented by and attorney, do hereby waive formal arraignment, enter a plea of not
Guilty to the charge(s) in the indictment and acknowledge that I have notice that my
Case is set for omnibus hearing at 9 o'clock A. M. the 18 day of
March, 2008, and that all pre-trial motions must be filed by 9:00 AM
on said date.

This, the 3 DAY OF JANUARY, 2008

Christopher Mason
DEFENDANT

JASON TATE by [Signature]
ATTORNEY FOR DEFENDANT

☐ BY EMPLOYMENT☒ BY APPOINTMENT

JAN 03 2008
MISS. CIRCUIT CLERK
D.C. [Signature]

OFFICE OF THE DISTRICT ATTORNEY

Fourteenth Circuit Court District

State of Mississippi v. Christopher Mason Cause Number 07-260-LS**RECOMMENDED SENTENCE**Count 1: 30 years in the MS Penitentiary, 24 years suspended, for 10 years to serve and 5 years probation/PR. PR

Count 2: _____ years in the MS Penitentiary, _____ years suspended, for _____ years to serve and _____ years probation/PR.

Count 3: _____ years in the MS Penitentiary, _____ years suspended, for _____ years to serve and _____ years probation/PR.

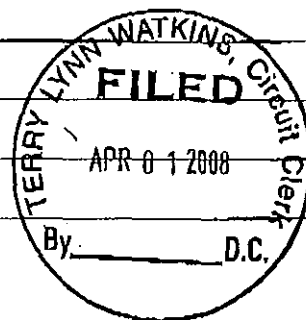
Count 4: _____ years in the MS Penitentiary, _____ years suspended, for _____ years to serve and _____ years probation/PR.

\$ 40 fine. \$ _____ restitution to 300.00 MCL 300.00 LCSD

Court costs and, if applicable, court appointed attorney's fees.

Revocation of previously granted probation in Cause Number _____ County.

Other: A&D RID PTI ISP GED Non-Adjudication Drug Court Restitution Center



The State of Mississippi

By: [Signature] Date _____

IN THE CIRCUIT COURT OF Lincoln COUNTY, MISSISSIPPINAME Christopher R. MasonCAUSE NO. 07-26045OFFENSE(S) Possession of more than Five (5) Kilograms of
marijuana, with intent to Distribute

KNOW YOUR RIGHTS BEFORE PLEADING

I understand that I have been placed under oath by the court, my answers to the questions are under oath and the penalty for perjury is up to 10 years in the custody of the Mississippi Department of Corrections.

Christopher Mason
DEFENDANT'S SIGNATURE

1. You have the right to have an attorney to represent you at all stages of the proceedings. An attorney will be appointed for you if you can not afford an attorney and will be paid for by the county.
2. You have the right to a trial by jury, the right to challenge the composition of the grand jury that indicted you and the trial jury that will try your case.
3. You have the right to compulsory process for your witnesses and the right to confront and cross-examine any witness who testifies against you.
4. You have the right to not give any information that would incriminate you or furnish any evidence at all. You have the right to not testify as well as the right to testify and the choice as to whether or not you do testify in your case.
5. The defendant does not have to prove anything. The burden of proof is entirely upon the State to prove your guilt by credible evidence and beyond any reasonable doubt; and if the State fails to prove your guilt beyond a reasonable doubt, the jury would be under a duty to find you not guilty.
6. All twelve jurors would have to agree as to any verdict of guilty or not guilty.
7. Even if you were found guilty by the verdict of the jury, you would still have the right to appeal to the Supreme Court of Mississippi.

DO YOU UNDERSTAND EACH OF THE ABOVE RIGHTS? ☒ YES ☐ NODO YOU UNDERSTAND THAT A GUILTY PLEA WAIVES THE ABOVE RIGHTS AND PLACES YOU IN A POSITION WHERE YOU CAN BE SENTENCED BY THE COURT UP TO THE MAXIMUM PENALTY PROVIDED BY LAW? ☒ YES ☐ NO

If you have any questions about any of the proceedings, please ask your attorney or the judge. If your attorney has not answered your questions to your satisfaction, ask the judge.

Has anyone threatened, abused or promised you anything to cause you to want to plead guilty?

☒ YES ☒ NO

Are you pleading guilty because you are guilty of the offense and for no other reason?

☒ YES ☐ NO

Have you reviewed the State's discovery material with your attorney?

☒ YES ☐ NO

Are you satisfied that the State can prove beyond a reasonable doubt that you are guilty of the crime or crime(s) to which you are pleading guilty?

☒ YES ☐ NO

NAME Christopher R. Mason DOB 3-25-72 HOME NO. (901) 948-4054

ADDRESS 2500 E. M. Lane, Memphis, TN 38106

SOCIAL SECURITY # 412-41-0147 EXTENT OF EDUCATION College

PLACE OF BIRTH Memphis

RACE B SEX M HEIGHT 6'3" WEIGHT 225 AGE 36

CAUSE NO.	COUNT	MINIMUM SENTENCE & FINE	MAXIMUM SENTENCE & FINE
		<u>N.S. / \$5,000</u>	<u>30 yrs. / \$1,000,000</u>
	TOTAL	<u>N.S. / \$5,000</u>	<u>30 yrs. / \$1,000,000</u>

I UNDERSTAND THAT I AM/AM NOT ELIGIBLE FOR PROBATION.

Christopher Mason
DEFENDANT'S SIGNATURE

ATTORNEY CERTIFICATE

I have explained to the defendant each of his constitutional and other rights set out above and I believe that the defendant is competent and understands his/her rights. I have not advised the defendant to withhold any information. The defendant understands that the penalty will be determined by the judge within the penalty limits set by law and the judge is not bound by any

promise or recommendation by anyone else. I believe the defendant's guilty plea(s) to be voluntarily and intelligently made.



JASON E. TATE

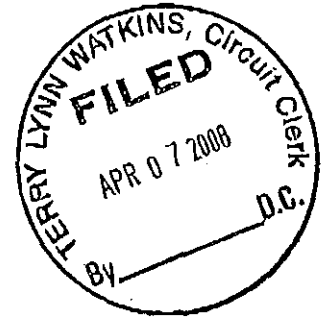
11-1-08
DATE

Nov. 12. 2009 9:38AM Lincoln County Circuit Clerk NO. 0011 P. 11
193
IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VS. NO #07-260-LS

CHRISTOPHER R. MASON



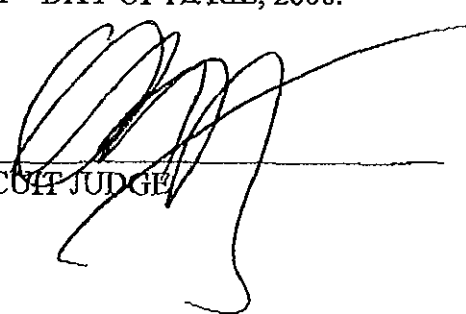
SENTENCING ORDER

CAME THE DISTRICT ATTORNEY WHO PROSECUTES FOR THE STATE AND, THE DEFENDANT, IN HIS OWN AND PROPER PERSON AND REPRESENTED BY COUNSEL, WHO ENTERED A PLEA OF GUILTY ON A FORMER DAY OF THIS A REGULAR TERM TO A CHARGE OF POSSESSION OF MORE THAN FIVE (5) KILOGRAMS OF MARIHUANA WITH INTENT TO DISTRIBUTE AND BEING PLACED BEFORE THE BAR OF THE COURT FOR SENTENCING.

IT IS, THEREFORE, CONSIDERED BY THE COURT AND SO ORDERED AND ADJUDGED THAT THE SAID DEFENDANT FOR SUCH HIS CRIME OF POSSESSION OF MORE THAN FIVE (5) KILOGRAMS OF MARIHUANA WITH INTENT TO DISTRIBUTE BE SENTENCED INTO THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS FOR AND DURING A SPACE OF TWENTY (20) YEARS TO SERVE THE FIRST EIGHT (8) YEARS WITH THE LAST TWELVE (12) YEARS SUSPENDED FOR FIVE (5) YEARS POST RELEASE SUPERVISION.

IT IS FURTHER ORDERED THAT THE DEFENDANT PAY COURT COST, \$10,000.00 FINE, \$300.00 RESTITUTION TO THE LINCOLN COUNTY SHERIFF'S OFFICE, \$300.00 TO THE CRIME LAB, AND \$750.00 ATTORNEY FEES.

ORDERED AND ADJUDGED, THIS THE 1ST DAY OF APRIL, 2008.


CIRCUIT JUDGE

STATE OF MISSISSIPPI
 in the Circuit Court of LINCOLN County Cause/Case No. 07-260LS

TO THE MISSISSIPPI DEPARTMENT OF CORRECTIONS:

NOTICE OF CRIMINAL DISPOSITION

You are hereby notified that at the APRIL 2008 term of the Circuit Court, Judge DAVID STRONG residing, the following disposition was imposed for the crime(s) hereinafter described:

A. Disposition(s) Reported: ☒ Prisoner Commitment ☐ Suspended Sentence/Probation ☐ Revocation ☐ Acquittal ☐ Other
 (check those which apply to all counts reported) Enter in § iv

A-1. Provisional Sentence ☐ Non-Adjudication ☐ Sentenced under RID ☐ Sentenced under Shock Probation
☐ Bad Check Diversionary Program ☐ Restitution in _____ County

B. Conviction as Result of: ☒ Guilty Plea ☐ Guilty Plea after _____ days of Commencement of Trial
☐ Jury Verdict after _____ days in Trial ☐ Revocation Hearing

I. Name CHRISTOPHER R. MASON Alias _____
 SSN 412-41-0147 Race BLACK Sex MALE Date of Birth 3-25-72
 Last Known Residence 500 E. MCLEMORE MEMPHIS, TN.
 Place of Birth MEMPHIS, TN. Country of Citizenship USA
 Alien Registration/Immigration # _____ FBI # _____

II. Count I Charge POSSESSION OF MORE THAN FIVE KILOGRAMS OF MARIHUANA WITH INTENT TO DISTRIBUTE
 Indicted Under MS Code § 41-29-139 Sentenced Under MS Code § _____
 Count II Charge _____ Sentenced Under MS Code § _____
 Indicted Under MS Code § _____ Sentenced Under MS Code § _____
 Count III Charge _____ Sentenced Under MS Code § _____
 Indicted Under MS Code § _____ Sentenced Under MS Code § _____

V. Date of Sentence 4-1-08 Credit for Time Served (ONLY for this/these charge(s)) _____ days

Sentence(s) Imposed by Order: Count I 20 YEARS Count II _____ Count III _____
 (Prior to any suspended portion)

☐ Check if reporting additional counts on reverse side

	Portion of Sentence to be Served (Yrs/Mos)	Portion of Sentence Suspended (Yrs/Mos)	To be Served on Probation (Yrs/Mos)	Other/Method of Disposition (Refer to legend on back of form)
Count I	<u>8 YEARS</u>	<u>12 YEARS</u>	<u>5 YEARS POST RELEASE SUPERVISION</u>	
Count II				
*Count III				

To run concurrent with _____

To run consecutive to _____

Conditions/Designation of Sentence: ☐ Habitual ☐ Psychological/Psychiatric ☐ Alcohol/Drug Treatment/Testing ☐ Other _____

Dates Confined _____ to _____

In Jail _____ to _____

[On this/these _____ to _____

charge(s) only] _____ to _____

Released on Bond Pending Appeal _____ to _____

Defendant Currently Housed in LINCOLN COUNTY JAIL

Fine \$ 10,000.00 Indigent Fee \$ _____ Restitution \$ 300.00

Court Costs \$ 277.50 Attorney Fees \$ 750.00 Other Fees \$ 300.00

Conditions of Payment: _____

ad Prisoner Commitments, Provisional Sentence

Orders and Revocation Orders to:

Director of Records

INS Liaison

DOC

MS Supreme Court

P.O. Box 54208

P.O. Box 117

at, MS 39208-8550

Jackson, MS 39205-0711

ad Suspended Sentence/Probation Notices, Provisional

Sentence Orders and Revocation Orders to:

Operations

INS Liaison

DOC

MS Supreme Court

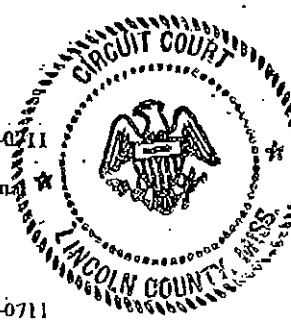
1 North President St

P.O. Box 117

Jackson, MS 39202-3097

Jackson, MS 39205-0711

ad Acquittal/Other Notices to: INS Liaison at above address



Henry L. Walters
 Circuit Clerk

By: _____

Date: 4-07-08

SCINS Form CR1-3/196
 MS Code Ann. § _____

RECEIVED TIME NOV. 12. 9:31AM

1 IN THE CIRCUIT COURT OF LINCOLN COUNTY, MISSISSIPPI

2
3 STATE OF MISSISSIPPI

4 VERSUS

CAUSE NO. 2007-260-LS

5 CHRISTOPHER MASON

6
7 *****

8 TRANSCRIPT OF THE CHANGE OF PLEA AND SENTENCING HEARING HAD AND

9 DONE IN THE ABOVE STYLED AND NUMBERED CAUSE, BEFORE THE

10 HONORABLE DAVID H. STRONG, JR., CIRCUIT JUDGE, ON THE 1ST DAY OF

11 APRIL, 2008.

12 *****

13
14 APPEARANCES:

15 Present and Representing the State:

16 HONORABLE BRENDON ADAMS, Assistant District Attorney

17 Present and Representing the Defendant:

18 HONORABLE JASON TATE, Attorney at Law

19
20
21
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24
25 REPORTED BY: SUSAN BARR SMITH, CSR 1007
26 Official Court Reporter
27
28
29

"Attachment 2"

TABLE OF CONTENTS

Page No.

Style, Number, and Appearances	1
Index	2
Change of Plea Hearing	3
Sentencing Hearing	10
Certificate of Court Reporter	12

CHANGE OF PLEA HEARING

1 THE COURT: Cause Number 2007-260, State versus
2 Christopher Mason.

3 All right, Mr. Mason, would you raise your right hand
4 and be sworn, please.

5 (DEFENDANT SWORN.)

6 THE COURT: Are you Christopher Mason?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Mr. Mason, you can put your hand down.

9 Mr. Mason, I've been handed a document by your
10 attorney which indicates that you wish to enter a guilty
11 plea to the offense of possession of more than five kilos
12 of marijuana, with intent to distribute.

13 Is that what you wish to do?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: Are you under the influence of any drug,
16 alcohol, narcotic, or any other substance here today which
17 would in any way affect or impair your ability to freely
18 and voluntarily plead guilty?

19 THE DEFENDANT: No, sir.

20 THE COURT: You've taken an oath, Mr. Mason, and
21 you've sworn to tell the truth. And if you fail to tell
22 the truth, you might be subjected to an additional charge
23 of perjury, which carries up to ten years in the state
24 penitentiary.

25 Do you understand that?

26 THE DEFENDANT: Yes, sir.

27 THE COURT: Before I can consider your guilty plea, I
28 must know that you understand your statutory and
29 constitutional rights. Listen carefully.

CHANGE OF PLEA HEARING

1 You have the right to have an attorney represent you
2 at all stages of the proceedings. If you cannot afford an
3 attorney, one will be appointed and paid for by the county.

4 Mr. Tate's been your attorney, has he not?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Has he been with you at all stages of the
7 proceedings?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Has he answered all of your questions?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Has he explained the elements of the crime
12 to you?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Are you satisfied with his services?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: You have the right to a jury trial; the
17 right to challenge the composition of the grand jury that
18 indicted you and the trial jury that would try your case.
19 You have the right to compel attendance of your witnesses
20 and to confront and cross-examine any witness who testifies
21 against you.

22 You have the right not to give any information that
23 would incriminate you or furnish any evidence at all. You
24 have the right to testify or not testify, and whether you
25 did so would be up to you.

26 You don't have to prove anything. The burden of proof
27 is entirely upon the State to prove your guilt by credible
28 evidence and beyond a reasonable doubt. If the State fails
29 to so prove your guilt beyond a reasonable doubt, the jury

CHANGE OF PLEA HEARING

1 would be under a duty to find you not guilty.

2 All twelve jurors would have to agree as to any
3 verdict of guilty or not guilty. And if you were found
4 guilty by the jury verdict, you would have the right of
5 appeal to the Supreme Court.

6 Do you understand those rights?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you understand that by pleading guilty,
9 you give up or waive these rights and it places you in a
10 position where you can be sentenced by the Court up to the
11 maximum penalty provided by law.

12 The sentencing range for this offense is 0 to 30 years
13 in prison and \$5,000 to \$1 million in fines.

14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: If you have any questions, you need to ask
17 Mr. Tate. If he fails to answer something to your
18 satisfaction, you can ask the Court.

19 Has anyone threatened, abused, or promised you
20 anything to cause you to want to plead guilty?

21 THE DEFENDANT: No, sir.

22 THE COURT: Are you pleading guilty because you are
23 guilty of this offense, and for no other reason?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Have you reviewed the State's discovery
26 material with your attorney?

27 THE DEFENDANT: Yes, sir.

28 THE COURT: Are you satisfied the State can prove
29 beyond a reasonable doubt that you're guilty of the crime

CHANGE OF PLEA HEARING

1 to which you're pleading guilty?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Does the State have a proffer?

4 MR. ADAMS: We do, Your Honor. On or about the 2nd
5 day of March, 2007, Deputy Springfield stopped a vehicle
6 for careless driving. Spoke to the defendant,
7 Mr. Christopher Mason, and smelled the distinct odor of
8 marijuana coming from the vehicle. Mr. Mason was placed
9 under arrest for driving with a revoked driver's license.
10 Searched the vehicle. Found a large duffel bag with
11 approximately 15 pounds of marijuana. It was tested, and
12 tested positive for marijuana.

13 THE COURT: All right, Mr. Mason, have you heard what
14 the State would seek to prove if your case went to trial?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: If the State were able to prove those
17 facts, do you believe a reasonable jury could find you
18 guilty of this offense?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: Does the State have a recommendation?

21 MR. ADAMS: We do, Your Honor. The State would
22 recommend 30 years, 24 suspended, for six to serve and five
23 years PRS. A fine at the Court's discretion; \$300
24 restitution to the Mississippi Crime Lab; \$300 restitution
25 to the Lincoln County Sheriff's Department.

26 THE COURT: Any questions about the recommendation?

27 MR. TATE: No, sir.

28 THE DEFENDANT: No, sir.

29 THE COURT: All right, Mr. Mason, keeping all the

CHANGE OF PLEA HEARING

1 things you've heard in mind, how do you now wish to plead
2 to the offense of possession of more than five kilograms of
3 marijuana, with intent to distribute?

4 THE DEFENDANT: Guilty.

5 THE COURT: The Court finds that Christopher Mason has
6 knowingly, willingly, freely, voluntarily, and
7 intelligently entered his guilty plea; that there exists a
8 factual basis for the plea. The Court accepts his plea and
9 adjudicates his guilt as to this offense.

10 Mr. Mason, how many prior felony convictions do you
11 have?

12 THE DEFENDANT: One.

13 THE COURT: One?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: And what's that for?

16 THE DEFENDANT: In '93 I went to federal prison for
17 the distribution of cocaine. I did twelve years, two
18 months.

19 THE COURT: What's it going to take to get you out of
20 the drug business, Mr. Mason?

21 THE DEFENDANT: Since this incident I've been turning
22 my life around, to do right, now --

23 THE COURT: Why didn't it turn around before?

24 THE DEFENDANT: Messing around with the wrong people,
25 and I did something I shouldn't have did. And let someone
26 influence me to do something that I shouldn't have did.

27 THE COURT: All right. Is there any reason not to go
28 forward with sentencing?

29 MR. ADAMS: Your Honor, the only thing that the State

CHANGE OF PLEA HEARING

1 would offer is that I do have this -- the letters that were
2 forwarded to the District Attorney's office. I don't know
3 if we wanted to make a copy of that.

4 THE COURT: I've read them. Mr. Tate, have you read
5 them?

6 MR. TATE: I have read them, Your Honor. We'd ask
7 that they be made a part of --

8 THE COURT: Mr. Adams, have you read them?

9 MR. ADAMS: Yes, sir.

10 THE COURT: All right, I'll ask that that be
11 introduced to the file.

12 MR. TATE: Your Honor, if I may, I would make one
13 statement.

14 We'd ask the Court -- as you can see, he has done and
15 taken steps to turn his life around. He is not just up
16 here saying, I want to do this and I want to do that. He's
17 actually taken steps, got into college, got a good job. In
18 fact, I believe he's got a job to send him to Iraq, if this
19 all was handled. Is that correct?

20 THE DEFENDANT: Yes, sir.

21 MR. TATE: And we would ask the Court -- I understand
22 the recommendation is to -- for six years. And I
23 understand it's a request that's not usually granted, of
24 merely probation.

25 He does have to deal with the Feds. There's what, a
26 ninety-day in-patient that you will have to go through?

27 THE DEFENDANT: They was going to send me to the
28 half-way house.

29 MR. TATE: To the half-way house.

CHANGE OF PLEA HEARING

1 THE COURT: Can you speak up? I can't hear you.

2 THE DEFENDANT: They was going to send me to the
3 half-way house where --

4 THE COURT: Are you still on federal probation?

5 THE DEFENDANT: No, I'm through with them. They
6 sending me to a half-way house, 90 days, to squash the
7 probation. They know about me applying for the job in Iraq
8 and all that. They went through this -- through the
9 proceedings and they seen where I was trying -- where I
10 made steps to try to --

11 THE COURT: All right. So the job is with the federal
12 government?

13 THE DEFENDANT: No -- yeah, it's a military. My
14 supervisor at KM -- I'm a operator -- like a assistant
15 manager. And he told me to apply for it. And I applied
16 for it and sent them my resume. And he sent it over there,
17 to a recruiter over there.

18 THE COURT: All right. Anything else, Mr. Tate?

19 THE DEFENDANT: I just apologize for committing a
20 crime, wherever I did it at, I committed a crime. Coming
21 through Mississippi, the county, or Tennessee, wherever I
22 did, I committed the crime. And I'd just like to apologize
23 to this Court and the State.

24 THE COURT: What direction were you headed?

25 THE DEFENDANT: Sir?

26 THE COURT: What direction were you headed when you
27 got pulled over?

28 THE DEFENDANT: 55-North.

29 THE COURT: Coming back from where?

CHANGE OF PLEA HEARING

1 THE DEFENDANT: Texas.

2 THE COURT: Taking marijuana back to Memphis?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: All right, Mr. Mason, for the offense
5 committed I hereby sentence you to a term of 20 years in
6 the custody of the Mississippi Department of Corrections.
7 The last eight years of that sentence -- the last 12 years
8 of that sentence will be suspended, for five years of
9 post-release supervision. A fine in the amount of \$10,000;
10 \$300 restitution to the state crime lab; \$300 to the
11 Lincoln County Sheriff's Department; court costs; and \$750
12 toward the cost of your court-appointed attorney.

13 You know, Mr. Mason, I'm sorry you got caught doing
14 this. And, you know, you've already been to prison once,
15 and you knew better. And you just -- society demands a
16 price be paid when a crime is committed. And it could have
17 been better, but it could have been a lot worse.

18 And you just -- it's obvious you're too intelligent to
19 be doing things like this. You're an intelligent man. And
20 I suspect that you didn't just get that way. You have been
21 intelligent. And you ought to be having a good influence
22 upon the people you're around, instead of letting them be a
23 bad influence on you.

24 Do you understand that?

25 THE DEFENDANT: Yes, sir.

26 THE COURT: I don't know how much time you'll serve.
27 I never try to tell anybody that because that's not up to
28 me. All I do is pass a sentence. How much time you serve
29 will be up to the Department of Corrections. I seriously

SENTENCING HEARING

1 doubt it will be eight years. But, then again, I can't
2 tell you how long it's going to be.

3 But I hope and pray when you get out that you will be
4 the positive influence on people that you ought to be.

5 That will be your sentence.

6 MR. TATE: Your Honor, just for clarification, is it
7 the Court's intent to not follow the recommendation?

8 THE COURT: Yes, sir.

9 MR. TATE: Thank you.

10 THE COURT: All right.

11 (CONCLUSION OF THE PROCEEDINGS.)
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CERTIFICATE OF COURT REPORTER

COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI

COUNTY OF LINCOLN

I, Susan Barr Smith, Official Court Reporter for the Fourteenth Circuit Court District of the State of Mississippi, do hereby certify that, to the best of my skill and ability, I have reported the proceedings had and done in the change of plea and sentencing hearing of STATE OF MS. VS. CHRISTOPHER MASON, being No. 2007-260-LS on the docket of the Circuit Court of Lincoln County, Mississippi, and that the above and foregoing twelve (12) pages contain a true, full, and correct transcript of my stenographic notes and tape taken in said proceedings.

This is to further certify that I have this date filed the original and one copy of said transcript, along with one (1) CD-ROM of said transcript in PDF language, for inclusion in the record of appeal, with the Clerk of the Circuit Court of Lincoln County, Mississippi, and have notified the attorneys of record, the Circuit Clerk, and the Supreme Court clerk of my actions herein.

I do further certify that my certificate annexed hereto applies only to the original and certified transcript and CD-ROM. The undersigned assumes no responsibility for the accuracy of any reproduced copies not made under my control or direction.

This the 12th day of November, 2009.

SUSAN BARR SMITH, CSR 1007
Official Court Reporter

COURT REPORTER'S FEE: \$28.80