



IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

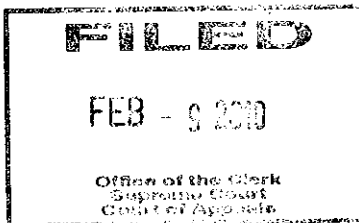
NO. 2009-CP-00339-COA

ANTHONY NICK

APPELLANT

V.

STATE OF MISSISSIPPI



APPELLEE

BRIEF FOR APPELLANT

BY:

Anthony Nick

Anthony Nick, #71647
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23234 Hwy 12-E
Lexington MS 39095

ORAL ARGUMENT NOT REQUESTED

PRO SE PRISONER BRIEF

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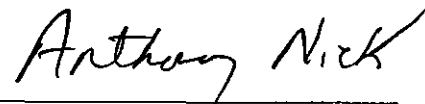
CERTIFICATE OF INTERESTED PERSONS

The undersigned Appellant, Anthony Nick, certifies that the following listed persons have an interest in the outcome of this case. The representations are made in order that the Justices of this Court may evaluate possible disqualification or recusal.

1. Anthony Nick, Appellant pro se.
2. Honorable Jim Hood, and staff, Attorney General.
3. Honorable W. Swan Yerger, Circuit Court Judge;
4. Honorable Robert S. Smith, District Attorney.

Respectfully Submitted,

BY:



Anthony Nick, #71647
HHRCE #71647
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Appellant, pro se

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APPELLEE

STATEMENT OF ISSUES

Appellant presents the following issues for appeal to this court.

ISSUE ONE

That Appellant avers he was illegally convicted upon a plea of guilty on the charge of Aggravated Assault, based on the criminal information given, and that his sentence on the said charge by information is also illegal due to the fact that the statute limitation for speedy trial or for such other proceedings consistent with the disposition of such proceedings had expired, making the conviction and sentence “null and void”¹.

ISSUE TWO

That Appellant Nick is entitled to post conviction collateral relief from his illegal conviction and sentence, and should be released from his illegal custody and confinement instantly based on the alleged error.

ISSUE THREE

Whether trial court judge erred in denying the post conviction motion without considering such motion and conducting judicial examination of records, transcripts and correspondence in

¹ Petitioner was actually indicted in this case, for the offense of rape, on December 13, 2001. The state, after having failed to bring this matter to trial within the time allowed by law, circumvented the statute by seeking a bill of information on an entirely different and distinct offense and one which petitioner had not been indicted for. The waiver of indictment filed in this case on September 14, 2005, filed some three years and nine months after the facts giving rise to the charge, is an illegal waiver and should be null and void.

accord with Miss. Code Ann. §99-39-11(1) and whether trial court erred in dismissing post conviction motion without conducting evidentiary hearing where Appellant placed facts in dispute.

ISSUE FOUR

Whether Appellant was subjected to ineffective assistance of counsel in violation of the 6th Amendment to the United States Constitution.

ISSUE FIVE

Whether trial court was without jurisdiction to hear information where statute of limitation on prosecution had expired and the state never alleged Appellant was not in custody before limitations period expired.

STATEMENT OF INCARCERATION

The Appellant is presently incarcerated and being housed in the Mississippi Department of Corrections at the HHRCF in Holmes County Mississippi in service of the term imposed by the court.

STATEMENT OF CASE

On September 12, 2005, a criminal information was filed against Appellant charging that on November 3, 2000, Anthony Nick purposely or knowingly caused bodily injury to Prenisa Richard. (R. 2).² On advice of counsel, Nick signed a waiver of indictment on September 13, 2005 (R. 4) On the same day, September 13, 2005 on the advice of counsel, Nick entered a plea to Aggravated Assault and was sentenced to a maximum term of 20 years in the custody of the Mississippi Department of Corrections. (R. 3).

² The District Attorney for the Seventh Circuit Court District, State of Mississippi, charges that on or about the 3rd day of November 2000 in the First Judicial District of Hinds County, Mississippi, Anthony Nick did purposely or knowingly cause bodily injury to Prenisa Richard, a human being, with a deadly weapon, to-wit: his hands, by then and there punching and choking Prenisa Richard, in violation of Section 97-3-7 (2)(b), contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Mississippi.

The record of the plea colloquy demonstrates that Appellant never waived his speedy trial rights nor his statutory statute of limitations right to crimina prosecution. The trial court never questioned nor mentioned any reference to Appellant's speedy trial and statute of limitations rights during the plea of colloquy.

The trial court was without jurisdiction to proceed on September 13, 2005 upon a charge which the state alleged had occurred on November 3, 2000, when the state never asserted it did not know the identity of the defendant and where defendant had been in state custody long before September 13, 2005.

STANDARD OF REVIEW

In reviewing a trial court's decision to deny a motion for post-conviction relief the standard of review is clear. The trial court's denial will not be reversed absent a finding that the trial court's decision was clearly erroneous. Kirksey v. State, 728 So.2d 565, 567 (Miss. 1999).

In the instant case well-settled law demonstrates that the trial court's decision was clearly erroneous since the trial court failed to review the record before summarily denying Motion without evidentiary hearing and where court had no jurisdiction to hear plea where Statute of Limitation on prosecution of such crime had long expired before State sought to prosecute. Trial court committed plain error in prosecuting of such charges under the facts presented by the record.

SUMMARY OF ARGUMENT

Appellant Nick respectfully submits that the lower court judge erred in denying his motion for post-conviction collateral relief motion without a hearing where court never reviewed the record, as required by law, and did not have jurisdiction to hear charge since statute of limitation

had expired. Appellant was subjected to ineffective assistance of counsel in violation of the 6th Amendment to the United States Constitution.

Appellant has been sentenced to an illegal sentence and the trial court was, therefore, incorrect in dismissing such claim on the sole basis of Miss. Code Ann §99-39-11(2) when trial court never reviewed prior proceedings in case since transcript of plea colloquy was not transcribed until seven months after the trial court's order summarily denying post conviction motion and were then only transcribed at the direction of this court. ³

The trial court should have granted an evidentiary hearing and grant post conviction relief on the claims. Since the trial court never made the post conviction relief motion a point of the record on appeal after such motion was designated on appeal, (R. 14) and again sought by Motion to Supplement Record on appeal, which motion was filed with this court and where trial court continued to not include the Post Conviction for review by this court, this court should entertain all issues raised by Appellant or remand this case to trial court for hearing. Any objections have been waived where court failed on two occasions to include such document in record

ARGUMENT

³ This matter came before the Court on Motion to Supplement and Expand Record on Appeal and Motion to Place Briefing Schedule in Abeyance Pending Ruling on Appellant's Motion to Supplement Record on Appeal, filed by the appellant pro se, seeking to supplement the record with the transcript of the guilty plea hearing and seeking to have the Court issue a new briefing schedule after the supplementation of the record. The Court finds that the motions are will taken and should be granted.

THEREFORE IT IS ORDERED that the Motion to Supplement and Expand Record on Appeal be, and hereby is, granted. The record shall be supplemented with the transcript of the guilty plea hearing held on or about September 13, 2005.

IT IS FURTHER ORDERED that the Motion to Place Briefing Schedule in Abeyance Pending Ruling on Appellant's Motion to Supplement Record on Appeal be, and hereby is granted. A new briefing schedule shall be issued after the record is supplemented.

ISSUE ONE

That Appellant avers he was illegally convicted upon a plea of guilty on the charge of Aggravated Assault, based on the criminal information given, and that his sentence on the said charge by information is also illegal due to the fact that the statute limitation for speedy trial or for such other proceedings consistent with the disposition of such proceedings had expired, making the conviction and sentence “null and void”⁴.

Appellant would assert that the law is clear on this issue. Under Mississippi Code Annotated section 99-17-1 (Rev. 2000), “provides that a defendant shall be tried within 270 days unless good cause be shown, and continuance duly granted by the court. The analysis for the 270 day rule is very fact specific and relies heavily on whether the prosecution or defense cause the delays.” Jones v. State, 902 So.2d 593 (Miss. 2005)

Thus, the right to a speedy trial is not only guaranteed by the United States and Mississippi Constitutions, but also by statute. “Although rights guaranteed by the constitution may never be diminished by statute, they can be expanded.” Miss. Code Ann. Section 00-17-1 (Rev. 2000) also known as the “270 day rule,” provides as follows: “Unless good cause be shown, and continuance duly granted by the court, all offenses for which indictments are presented to the shall be tried no later than two hundred seventy (270) days after the accused has been arraigned.” (emphasis added). Stark v. State, 911 So.2d 447 (Miss. 2005).

This final factor is prejudice against the defendant. The supreme court has held:

“[W]hen the length of delay is preemptively prejudicial, the burden of persuasion is on the state to show that the delay did not prejudice the defendant. Nevertheless, if the defendant fails to show actual prejudice to his defense, this prong of the Barker balancing test cannot weigh heavily in his favor. Ginn v. State, 860 so.2d 675, 684, P. 684 (2003).

⁴ Petitioner was actually indicted in this case, for the offense of rape, on December 13, 2001. The state, after having failed to bring this matter to trial within the time allowed by law, circumvented the statute by seeking a bill of information on an entirely different and distinct offense and one which petitioner had not been indicted for. The waiver of indictment filed in this case on September 14, 2005, which was filed some three years and nine months after the facts giving rise to the charge, is an illegal waiver and should be null and void.

Jones v. State, 902 So.2d 593 (Miss. 2005).

Moreover, a defendant cannot, by virtue of a plea bargain, confer upon court authority to impose illegal sentence or confer upon state the authority to ignore the language of a plainly worded statute. Brown v. State, 209 So.2d 730 (Fla 1992); Lee v. State, 731 So.2d 71, 73 (Fla 1999); Brister v. State, 622 So.2d 552, 553 (Fa. 1993); Taylor v. State, 778 So.2d 464, 465 (Fla. 2001).

The trial court decision is clearly erroneous and incorrect since an illegal sentence claim is not three-year barred under the law decided by the Supreme Court in the decision of Ivy v. State, 731 So.2d 601 (Miss. 1999).

Although the record may show that the Appellant was already confined on prior conviction(s), his guilty plea and sentence in this cause should be vacated and dismissed because of the illegality of his conviction.

ISSUE TWO

That Appellant Nick is entitled to post conviction collateral relief from his illegal conviction and sentence, and should be released from his illegal custody and confinement instantly based on the alleged error

Appellant's sentence is illegal where it was imposed upon information which was instituted by the prosecution long after the statutory time limitations for prosecution had elapsed and was used as a deliberate design to circumvent the statute of limitation on prosecution.

The prosecution commenced against Appellant, under the meaning of Miss. Code Ann. §99-1-7 on September 12, 2005 when the information charging Appellant with aggravated assault was filed.⁵

⁵ The information did not make out an aggravated assault charge since the information alleged that Appellant used his hands as a deadly weapon. the State never alleged Appellant had any special training or skills so as to qualify his hands as being a deadly weapon.

While the provisions of Miss. Code Ann. §99-1-5 exempts aggravated from prosecution, Appellant would assert that the facts set out in the information filed against him on September 12, 2005 did not constitute aggravated assault since there was no deadly weapon. Additionally, Appellant did not absent himself from this state or out of the court's jurisdiction and the state was therefore obligated to charge Appellant long before the passage of the 4 years and 10 months which elapsed between the date of the alleged offense and the date in which the information was filed.

Appellant would also submit to this court that Miss. Code Ann. §99-1-5 is not applicable in this case since such statute did not become the law until July 1, 2008, long after the date of the alleged offense and after the information had been filed.

ISSUE THREE

Whether trial court judge erred in denying the post conviction motion without considering such motion and conducting judicial examination of records, transcripts and correspondence in accord with Miss. Code Ann. §99-39-11(1). and whether trial court erred in summarily dismissing post conviction motion without conducting evidentiary hearing where Appellant placed facts in dispute

Mississippi Code Ann. § 99-39-11 (1) provides that when the post conviction collateral relief motion is filed:

(1) The original motion, together with all the files, records, transcripts and correspondence relating to the judgment under attack, shall be examined promptly by the judge to whom it is assigned.

In the instant case the trial court never complied with the statute before summarily denying the post conviction relief motion in a half page order. (C.P. 85).

The facts and information presented in this brief demonstrates that the trial court was manifestly wrong in summarily denying the motion. The sentence, as a matter of law, was not imposed under the habitual statute and the sentencing order, in it's present state, is illegal. This

fact along, without any of the other claims, demonstrates that Appellant is entitled to relief and the post conviction relief motion should not have been summarily dismissed. Hunt v. State, 874 So.2d 448 (Miss. 2004).

The plea transcript was not transcribed and filed until long after the court had denied the post conviction relief motion. As a matter of fact, the plea transcript was not made a part of the record until this court ordered it to be filed. This plea transcript was not initially filed even after it had been designated in the Designation of Record on Appeal. The trial court could not have possibly reviewed the transcript before mailing this summary dismissal because the transcript had not been written at that time.

The post conviction relief filed in this case was clearly sufficient to warrant an evidentiary hearing.

The Trial Court's finding that the motion should be summarily dismissed constitutes an abuse of discretion and should be reversed by this Honorable Court for an evidentiary hearing on the merits. Under the law where there is a question of fact presented by the post conviction motion the trial court should conduct an evidentiary hearing. This Court should therefore FIND THAT THE TRIAL COURT'S RULING TO BE VOID and remand this case to the trial court for evidentiary hearing on the merits. The trial court should have actually conducted an evidentiary hearing without any entry of a ruling regarding the motion. The claims contained in the motion are well pleaded and concise. Appellant was DEFINITELY entitled to develop additional facts, during a hearing, to support his motion. This Court is, once again, confronted with factual problems in this case which could have been fully and finally resolved in the trial court by an evidentiary hearing or, possibly, by development of facts and expansion of the record in conformance with Miss. Code Ann. §99-39-17 (Supp. 1992).

In the present case the Appellant supported his complaint with specific factual allegations and the record. The trial court did not bother to examine the record. These factual presentations constitute factual disputes which should have been resolved by a hearing. *"While a transcript of the proceeding is essential, which again the trial court never bothered to examine, other offers of clear and convincing evidence which prove that the defendant entered a guilty plea involuntarily are sufficient. For example, where an evidentiary hearing has established that a defendant's guilty plea was entered involuntarily, the fact that a record was not made at the time the plea was entered will not be fatal."* Wilson v. State, 577 So.2d 394 (Miss. 1991).

In this case, the trial court never conducted an evidentiary hearing or examined the attachments to the Motion to verify that the claim of involuntary plea and ineffective assistance of counsel was supported by factual information. The trial court failed to the mandatory requirements of the post conviction procedure Act when it failed to conduct a hearing or to require an answer from the State or examine the evidence. This act sets out the following requirements

§ 99-39-11. Judicial examination of original motion; dismissal; filing answer.

(1) The original motion, together with all the files, records, transcripts and correspondence relating to the judgment under attack, shall be examined promptly by the judge to who it is assigned.

(2) If it plainly appears from the face of the motion, any annexed exhibits and the prior proceedings in the case that the movant is not entitled to any relief, the judge may make an order for its dismissal and cause the prisoner to be notified.

(3) If the motion is not dismissed under subsection (2) of this section, the judge shall order the state to file an answer or other pleading within the period of time fixed by the court or to take such other action as the judge deems appropriate.

(4) This section shall not be applicable where an application for leave to proceed is granted by the Supreme Court under Section 99-39-27.

(5) Proceedings under this section shall be subject to the provisions of Section

In the instant case now before the bar of this Court, the trial court never indicated that it had examined the record of the plea. The law therefore require that an evidentiary hearing be conducted in such an instance where the trial court is unable to make this finding. During the plea hearing, and according to law, Nick should have been advised that he had the right to have his witnesses to testify. Moreover, the Court should have advised Nick that he could appeal the sentence to the Supreme Court directly since the sentence amounted to the maximum term of imprisonment applicable to the offense. Nick was entitled to an evidentiary hearing because if these things were not told to him and because he had witnesses who could have been called at trial, and ready to testify, the plea would not have been made. The Supreme of Mississippi has previously held that it is committed to the principle that a post-conviction collateral relief petition, which meets basic requirements, is sufficient to mandate an evidentiary hearing unless it appears beyond doubt that the Appellant can prove no set of facts in support of his claim which would entitle him to relief Alexander v. State, 605 So.2d 1170, 1173 (Miss. 1992); Horton v. State, 584 So.2d 764, 768 (Miss. 1991); Wilson v. State, 577 So.2d 394, 397 (Miss. 1991); Myers v. State, 583 So.2d 174, 178 (Miss. 1991); Miller v. State, 578 So.2d 617 (Miss. 1991); Wright v. State, 577 So.2d 387 (Miss. 1991); Billiot v. State, 515 So.2d 1284 (Miss. 1987) .

In tandem, with the allegations in the post-conviction relief motion being supported by the record, Appellant was entitled to an "in court opportunity to prove his claims." Neal v. State, 525 So.2d 1279, 1281 (Miss. 1987). The trial court's decision not to grant an evidentiary hearing here forced another needless appeal upon an already overloaded and overtaxed appellate court. The trial court should have, at a minimum, granted an evidentiary hearing on the claims contained in the post-conviction relief motion. Relief beyond that point would have depended upon the

developments at the evidentiary hearing. Neal v. State, 525 So.2d 1279, 1280-81 (Miss. 1987); Sanders v. State, 440 So.2d 278, 286 (Miss. 1983); Baker v. State, 358 So.2d 401 (Miss. 1978).

This point is especially clear where there was no record transcript of the plea made or consulted in considering the post conviction motion. Appellant made a substantial showing of the denial of his constitutional rights under states law., as demonstrated by the record, that the trial court accepted pleas and sentenced him without the least concern as to whether any of his witnesses desired to testify in mitigation of the sentence to be imposed. Appellant Nick would ask this Court to vacate the ruling of the trial court and remand this case to the trial court for an evidentiary hearing.

ISSUE FOUR

Whether Appellant was subjected to ineffective assistance of counsel in violation of the 6th Amendment to the United States Constitution

That the Petitioner's right to effective assistance of counsel under the 6th Amendment and the 14th Amendment of the United States Constitution, as well as Article 3, §26 guarantees persons accused of a crime, the right to counsel is the right to effective assistance of counsel.

McMann v. Richardson, 397 U.S. 759, 771, n. 14 (1970), also see, Strickland v. Washington, 466 U.S. 668; 104 S. Ct. 2052; 80 L.Ed2d 674; 1984 U.S. Lexis 79. Failure to have effective assistance of counsel, and then rendering a conviction, violates due process. Cuyler v. Sullivan, 446 U.S. 335 (1980), at 344. In Strickland, the court stated then" when a defendant challenges a conviction, the question is whether there is a reasonable probability that, absent the errors, the fact finder would have had a reasonable doubt respecting guilt." The Appellant here claims that if his court appointed counsel would have done his job, and would have been properly prepared, there is a reasonable probability that he would have been given a different and lesser sentence. If the Appellant can establish a significant chance that the outcome would have been different, then

surely he should be entitled to a redetermination of his fate. The Courts have defined “reasonable probability” as a “probability sufficient to undermine confidence in the outcome.” In view of the nature of the (sanction at issue), and the difficulty of determining how a sentence would have responded if presented with a different set of facts, it could be argued that a lower estimate of the likelihood that the outcome of the sentencing proceeding was influenced by Attorney error, which is sufficient to “undermine the confidence of the outcome.” The core example of Court Appointed Attorneys, such as, William Jordan and Samuel H. Wilkins who represented the Appellant, is their failure to investigate available “Mitigating Evidence,” so as to humanize the client, as did Mr. Jordan and Mr. Wilkins in this case. In Strickland v. Washington, 693 F.2d 1243, Id. at 1256-1257, n. 23, the court stated that “Among the factors relevant to deciding whether particular strategic choices are reasonable are “(the experience of the Attorney, the inconsistency of unpursued and pursued lines of defense, and the potential for prejudice from taking an unpursued line of defense.” The fact of the matter is, the Appellant’s Court Appointed Attorney, William Jordan and Samuel H. Wilkins is just lawyers for Formality purposes, and not a Legal Advocate on the Appellant’s behalf. If Mr. William Jordan and Mr. Samuel H. Wilkins had investigated the available Mitigating Evidence, then they would have, or should have presented the material at the plea hearing to Mitigate the sentence, instead of doing nothing, therefore the Appellant was subjected to unreasonable representation, a violation of his Constitutional Right to Effective Assistance of Counsel.

Defense counsel never investigated the timeliness of the prosecution in regards to **THE FACT THAT THE STATE WAITED FOR YEARS TO PROSECUTE, DID NOT HAVE JURISDICTION TO PROSECUTE, AND MISLEAD APPELLANT TO SIGN A WAIVER OF INDICTMENT AS AN ATTEMPT TO CIRCUMVENT APPELLANT’S RIGHTS TO**

NOT BE TRIED FOR THE CHARGE AFTER THE STATUTE OF LIMITATION HAD ELAPSED.

The guarantee of Counsel cannot be satisfied by mere formal or the formality appointment of counsel, just having a person who happens to be a lawyer present in court, and standing along side the accused, is not enough to satisfy the Constitutional Command. The State would not provide funding for Investigators, or Expert Witnesses to analyze the evidence, which the Attorney should have argued this issue, but did not. Mississippi Court Rules, Rules of Professional Conduct- Preamble; A Lawyer's Responsibilities states" A lawyer should demonstrate respect for the legal system and for those who serve it, including Judges, other lawyers and Public Officials. While it is a lawyer's duty, when necessary, (to challenge the rectitude of official action), it is also a lawyer's duty to uphold legal process." Therefore, defense counsel's failure to challenge that State's actions, as well as those of the court, concerning the jurisdiction of the court to impose a habitual sentence and the fact that the trial court never imposed such a sentence in open court, violated the rules of the Court, causing a Due Process violation. In the Supreme Court's own words quoted in Strickland v. Washington, "the court recognized that the Sixth Amendment Right to Counsel exists, and is needed in order to protect the fundamental right to a fair trial. However, even though the Right to Counsel exists, it does not always mean that the client's fundamental rights are protected. See Powell v. Alabama, 287 U.S. 45 (1932), Johnson v. Zerbst, 304 U.S. 458 (1938), Gideon v. Wainwright, 372 U. S. 335 (1963). Furthermore, in Winters v. State, 797 So.2d 307 (Miss. 2001), who cited ; Gray v. State, 549 So.2d 1316 (Miss. 1989) quoting, "it has been established that where fundamental rights are violated, procedural rules give way to present a miscarriage of justice." Therefore, in the light of all the circumstances, the ultimate focus of inquiry must be on the fundamental fairness of the said

proceedings in this case, as those possibilities, conjoined with the unreasonableness of counsel's failure to investigate, are more than sufficient to establish a violation of the Sixth Amendment, and the appellant is entitled to an Order from this Court dismissing the conviction and sentence with prejudice.

ISSUE FIVE

Whether trial court was without jurisdiction to hear information where statute of limitation on prosecution had expired and the state never alleged Appellant was not in custody before limitations period expired.

As previously pointed out and stated in note 1 of this brief, Appellant was actually indicted in this case, for the offense of rape, on December 13, 2001. The state, after having failed to bring this matter to trial within the time allowed by law, circumvented the statute by seeking a bill of information on an entirely different and distinct offense and one which petitioner had not been indicted for. The waiver of indictment filed in this case on September 14, 2005, which was filed some three years and nine months after the facts giving rise to the charge, is an illegal waiver and should be null and void.

Mississippi Code Annotated section 99-1-7 (Rev. 2000) is clear. This section provides:

A prosecution may be commenced, within the meaning of Section 99-1-5 by the issuance of a warrant, or by binding over or recognizing the offender to compel his appearance to answer the offense, as well as by indictment or affidavit.

The State actually commenced the prosecution on this case, for purposes of 99-1-5, on the date Nick was initially arrested or at least on the date he was indicted on December 31, 2001, for the offense of rape. Merely because the State changed the name of the charge and entitled defense counsel to convince Appellant to agree to an information did not change the procedural status of

the case. If the rape charge was untimely then the aggravated assault, which came from the same incident and facts, was also untimely and barred.

This court should find that under the provisions of 99-1-5, the case was barred. This court should reverse and remand this case to the trial court with directions that the conviction be dismissed with prejudice. In the alternative, this case should be reversed and rendered.


CONCLUSION

WHEREFORE PREMISES CONSIDERED, this court must find for the Appellant that his plea and sentence violates the due process laws of the United States of the Constitution of Mississippi and is therefore illegal.

Appellant further prays for any other relief which this Honorable Court deem to be just and proper under the facts of this case and the constitution of the United States and State of Mississippi.

Respectfully submitted on this 9th day of February, 2010.

BY:


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CERTIFICATE OF SERVICE

This is to certify that I, Anthony Nick, have this date served a true and correct copy of the above and foregoing Brief for Appellant by United States Postal Service, first class postage prepaid, to

Honorable Jim Hood
Attorney General
P. O. Box 220
Jackson, Ms 39205

Honorable W. Swan Yerger
Circuit Court Judge
P. O. Box 22711
Jackson, MS 39205

Honorable Robert Smith
District Attorney
P. O. Box 22747
Jackson, MS 39205

This, the 9th day of February, 2010.

BY: Anthony Nick
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