

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

RICKY RYALS

APPELLANT

VS.

NO. 2009-CP-0839-COA

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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STATEMENT OF THE ISSUE

- I. RYALS' MOTION FOR POST-CONVICTION RELIEF WAS PROPERLY DISMISSED AS TIME-BARRED AND SUCCESSIVE WRIT-BARRED.

STATEMENT OF THE FACTS

In 1997, Ricky Ryals (hereinafter Ryals), Jana Schrimphshire, and Michael Joe Ryals (hereinafter Michael), Ricky's brother, carried out a plan to murder Ryals' pregnant wife, Judy Ryals. C.P. 58, 65-66. On June 30, 1998, Ryals pleaded guilty to capital murder. C.P. 58. In 2001, Ryals filed his first motion for post-conviction relief which was denied. This honorable Court affirmed the trial court's denial of post-conviction relief. *Ryals v. State*, 881 So. 2d 933 (Miss. Ct. App. 2004). Nevertheless, Ryals filed a second motion for post conviction relief in the trial court, which was again denied.

SUMMARY OF THE ARGUMENT

Ryals' motion for post-conviction relief is both time-barred and successive writ-barred. Although he claims to have newly discovered evidence, such an exception is inapplicable where a

defendant pleads guilty. Furthermore, the so-called newly discovered evidence is contrary to Ryals' sworn testimony at the guilty plea hearing.

ARGUMENT

I. RYALS' MOTION FOR POST-CONVICTION RELIEF WAS PROPERLY DISMISSED AS TIME-BARRED AND SUCCESSIVE WRIT-BARRED.

Because's Ryals' first motion for post-conviction relief was affirmed by this Court and is a final judgment, and because Ryals' second motion for post-conviction relief was filed ten years after his guilty plea, the current motion was properly denied as both time-barred and successive writ-barred. Miss. Code Ann. §99-39-5(2); 99-39-27(9). Ryals claims that he meets the newly discovered evidence exception to the procedural bars. However, this Court has stated that the newly discovered evidence exception is inapplicable where a defendant pleads guilty. *Jones v. State*, 915 So.2d 511, 514 (Miss. Ct. App. 2005).

Newly discovered evidence is relevant only in situations where a defendant went to trial and was convicted. If, following the trial, a defendant discovers relevant and material evidence which could not have reasonably been discovered prior to trial, the defendant may seek to have his conviction set aside based on the newly discovered evidence. When a defendant pleads guilty, he is admitting that he committed the offense. Therefore, by definition, a plea of guilty negates any notion that there is some undiscovered evidence which could prove his innocence.

Id. In the present case, Ryals not only admitted his guilty by virtue of entering a guilty plea, but also, he testified at the guilty plea hearing and outlined his involvement in the murder of his wife and unborn child. C.P. 65-66. Ryals' claim that he has newly discovered evidence in the form of an affidavit from his brother in which Michael claims that only he killed Judy is contrary to Ryals' sworn testimony at the plea hearing. As noted by the trial court, such a blatant contradiction of Ryals' previous sworn testimony is no more than a sham as there is a strong presumption of validity of sworn testimony. See *Taylor v. State*, 682 So. 2d 359 (Miss. 1996); *Smith v. State*, 636 So. 2d

1220, 1224 (Miss. 1994). Accordingly, Ryals has failed to overcome the three year time bar and the successive writ bar.


CONCLUSION

For the foregoing reasons, the State asks this honorable Court to affirm the trial court's denial of post-conviction relief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, La Donna C. Holland, 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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This the 17th day of September, 2009.



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