

COPY

**TO: THE COURT OF APPEALS
OF THE STATE OF MISSISSIPPI
RE: CASE # 2009-CP-00950**

**FROM: MARVIN ARTHUR
4158 CASINO CENTER DR.
ROBINSONVILLE, MS 38664
PH. 859-221-0552**

FILED

OCTOBER 20, 2009

OCT 20 2009

**OFFICE OF THE CLERK
SUPREME COURT
COURT OF APPEALS**

**MARVIN ARTHUR
VS
TUNICA COUNTY, MISSISSIPPI**

CAUSE NO. 2008-0335

APPELLANT'S REPLY BRIEF AND EXCERPTS

(oral argument requested)

My appellant's brief (rebuttal brief) will consist mostly of how important it is to "tell the truth". It will explain the difference in my philosophy and the philosophy of the appellee's counsel of record on the subject of same. The mendacious statements and insinuations made by Mr. Griffith, counsel for the appellee, "in brief of appellees" as are listed below.

1. Appellee's claims- procedurally waived by the pro se appellant in lieu of remarks disrespectful of the lower court and counsel --"page-111-"of appellee's brief. False- I did not waive anything- no disrespectful remarks made.
2. Appellee's claim-Pro se plaintiff, Marvin Arthur, seeks damages for alleged injuries which arise from his claim that he had to jump out of the way of a Tunica County law enforcement vehicle in route to a felony call on June 13, 2008. Page (1) of appellee's brief
(2-a) I'm seeking damages for injuries I suffered at the hands of a "hit & run" deputy sheriff, not from jumping out of the way. The truth-I did not jump completely out of the way, as the deputy hit my metal cane turning into a weapon against me.
(2-b) The truth- I have never made a "claim" of jumping "out of the way." (Just the opposite) he hit my cane evident by my file-so marked by clerk as filed and my appellant reply brief.

(2-c) The truth-The law enforcement vehicle was not in route to a felony, as claimed by Mr. Griffith, the vehicle of same was responding to a burglar alarm-see offense/incident report, included in excerpt of appellant's reply brief. Besides a felony is never a felony until and upon conviction of same.

3. Appellee's claim- page(2) of the appelle's brief, Mr. Arthur argues further that he was not given an adequate opportunity to argue his theories of harmless errors and improper venue before dismissal. The truth- the only phrase I've made about subject of same is I wanted time to talk about Rule 41(b) –see appellant's brief no. (6) and the reporter's transcript of same.

4. Appellee's claim- the disrespect full tone and language of the pro se appellant to the lower court and counsel.(page (2) of appellees brief) -"the truth" – telling the truth, without using profanity, is never disrespectful- actually telling the truth is respectful, the right thing to do. "see dictionary" Telling the truth helps the justice system to meet their desired results. If the person of subject is on the wrong side of the truth it just might hurt, but as far as I'm concerned telling the truth is the only way. Sometimes the chips have to fall where they may to meet the ends of justice.

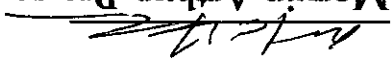
5. Appellee's claim-(page (4) of the appellee's brief) Miss.R.app. p38 allows an award of sanctions for frivolous appeals in civil cases. The truth-in this statement Mr. Griffith (counsel for appellees) is insinuating that I filed a Frivolous appeal. The total records of said case including all papers filed with the circuit clerk of Tunica County, Mississippi, my appellant's brief, my appellant's reply brief and all excerpts and exhibits of same will tell a different story, a story consisting of total truthfulness, contrary to Mr. Griffith, counsel for the appellee, stories. Due to my age and serious injuries, both physical and psychological, I am saddened that Mr. Griffith would use the word "frivolous" in said statement. Frivolous meaning unworthy of serious attention, insignificant, commonplace, insignificant of inessential matters, trifling, as trifling means of slight importance, characterized by idleness. I can not understand how anybody could use that word to describe my injuries at the hands of a

"hit and run" deputy sheriff plus the hurt my wife of 49 yrs. is going through, add that to how much my 90 yr. mother is suffering because of my situation. I'm afraid my mother won't survive much longer now, because of same. It appears to me that Mr. Griffith could care less if all my family lives are short-lived because of same, so long as he lives and can keep pushing hard for dismissal, instead trying cases on their merits, "The actual facts of the matter." It also seems, from my perspective, that Mr. Griffith has a hard time distinguishing between disrespectfulness and the truth. Mr. Griffith apparently has a copy of the video pulled from sheriff's cruiser #372 of the Tunica County, Mississippi sheriff's dept. on June 13, 2008, evident by Commander Payne, of same said dept., telling my wife that a copy of above mentioned video, was dubbed and sent to Andy Dulaney of Dulaney's Law office. Andy Dulaney is acting as counsel, in conjunction with Daniel Griffith for the appellees. This situation leaves some question in my mind about the legal status of the sheriff's dept releasing this video to Andy Dulaney, in conjunction with Andy Dulaney accepting custody of said copy, of same, before discovery starts. After all, the sheriff's dept obtained said video while acting in their official duties. From my perspective this above mentioned act could just possibly be a case of two (2) or more persons conspiring to commit a crime, as in tampering with evidence, Re: to section 97-1-1 conspiracy. The above mentioned video in this case is the case. I believe this case will be won or lost by the context of same. I believe this is why Mr. Griffith is fighting so hard to get this case dismissed before discovery. I believe he knows that said video shows Deputy Glen Kurtus leaving the scene of the accident without stopping. I believe the hearing to dismiss this case that came before Judge Smith in Tunica County, Mississippi on the 20th day of April, 2009 had a malicious purpose to accomplish as in malicious prepense. As Mr. Griffith was the only person in the back of the court room when I was brought in the back door and as I tried to make my way, in my wheel chair, to the front of the room before Judge Smith stopped me 30 ft. from the bench. Mr. Griffith made no such move, as he did not seem at all interested in moving to the front of room. I

think he knew that I was hearing impaired, as it is well known in this area, even the circuit clerk knows this. I believe Mr. Griffith knew that I was going to be stopped in the back part of the room. Having said what I've said I still believe that the vast majority of the courts in this country are honest, hard working and doing their best to see that the ends of justice is met. The ones that don't only taint the high caliber of stature and prestige that all the rest have achieved. This case should be allowed to be heard on its merits in a court of law due to the seriousness of above mention accident that destroyed the lives of my family and my self and also due to me acting pro se, not by choice but by necessity, as in caused by a prejudiced police report blocking me from obtaining an attorney. I request that the above mentioned video be viewed by the appeals court as it is the back bone of this case. I will end where I started by pointing out the importance of always telling the truth. The importance of telling the truth is beyond description. The truth is what it is, **"the truth."**

Respectfully Submitted
This 20th day of October, 2009

Thanks for listing:


Marvin Arthur, Pro se
Appellant

CERTIFICATE OF SERVICE

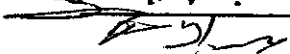
I, Marvin Arthur, Pro se Appellant, do hereby certify that I have mailed, postage prepaid, a true and correct copy of above and foregoing appellant's reply brief and excerpts to:

Judge Albert D. Smith
Circuit Court Judge, 11th Judicial District
P.O. Drawer 478
Cleveland, Ms 38732

Daniel J. Griffith
P.O. Drawer 1680
Cleveland, Ms 38732

Andrew Dulaney
P.O. Box 188
Tunica, Ms 38676

Certified this 20th day of October, 2009


Marvin Arthur, Pro se
Appellant

Appellate reply - HPCAL case # 2004-75-0045 v
Briete Excerpt
CAUSE NO. 2008-0335

IN THE CIRCUIT COURT OF TUNICA COUNTY, MISSISSIPPI

MARVIN ARTHUR,

Plaintiff,

versus

TUNICA COUNTY, MISSISSIPPI,
AND THE TUNICA COUNTY
SHERIFF'S DEPARTMENT,

Defendants.

AGAINST THE ELDERLY & HANDICAPPED
& RETALIATION AT EVERY TURN
(discrimination, harassment)
(feelings. He demonstrated
(shows Judge Smith's True
(this transcript truly
CAUSE NO. 2008-0335

HEARING - MOTION TO DISMISS

On the 20th day of April, 2009, the

Plaintiff, Marvin Arthur, appeared in open court

pro se, with Danny Griffith, counsel for defendants,

also present. The following proceedings transpired

before the Honorable Albert B. Smith, III, reported by

Rabin' Monroe, RMR, CRK, CCP, Official Court Reporter,

CSR #1811, commencing at approximately 12:55 p.m.:

THE COURT: Okay. This is 2008-335,

Arthur v. Tunica County.

MR. GRIFFITH: And Your Honor, I don't

necessarily know who the plaintiff is.

THE COURT: Mr. Marvin Arthur? I thought I
could hear my
last name-not
5021

MR. GRIFFITH: Your Honor, we may need

some assistance. I believe this is

I remember trying to reach my wheelchair so I could go in the narrow door that the bailiff was holding open for me to go through to get to the part where the court is held. When I turned around I could see the judge was his arm, that's when the bailiff slammed the door in my face.

1 Mr. Arthur.
2 THE COURT: Okay. All right.
3 That's all right. You don't have to go
4 back up in here. Just leave him right there.
5 Just stay right there. Turn around.
6 You can hear me, can't you?
7 THE BAILIFF: Can you hear him? Can you
8 hear the judge?
9 MR. ARTHUR: Not real good.
10 THE COURT: Well, you're not gonna hear
11 it all, then, because this is about as good
12 as we go. Pay attention, Arthur. Just stay
13 right there and listen as best as you can.
14 You got a motion to dismiss. You
15 represent Tunica County.
16 MR. GRIFFITH: Yes, sir.
17 THE COURT: Give me a understanding of
18 what your motion is about.
19 MR. GRIFFITH: Mr. Arthur was some type
20 of pedestrian. He had a near miss and jumped
21 out of the way, apparently, of a police car.
22 He's suing for personal injuries. He didn't
23 file a notice of claim pursuant to
24 Mississippi Tort Claims Act.
25 In response to our motion, Mr. Arthur
26 claims he would rather have a venue change.
27 Of course the notice-of-claim requirement is
28 jurisdictional, and the court would have to
29 have jurisdiction to change venue. So it's

File under "Not True - I did file a
venue change motion for dismissal".
But I don't know if I did or not.

This is very downgrading to a 70 yr old man especially after I had been criminally by a Deputy Sheriff & suffering as I do.

This is a mendacious statement by Judge Smith. It is simply untrue. As it is not a good as it gets.

The Handicapped door is in the front of the room.

This is untrue - I was not able to jump completely out of the way as I have open claim - He hit my method cane causing me severe injury.

This is the first time I pleaded for hearing replete

→ This appears to be harassment discipline in ATION
And Retaliation for not having ever though IL
of Ten Expd mixed why as in the sheriff's Dept. J. Investigat
Their own accident and making a blim and elegant report.

③ This is the third time I planned for Ann.

~~3~~ This is The Fourth Time I
pleaded For Hearing Relief.

IN THIS SENTENCE HE WAS
COMPARING 30 FT TO 3024 FEET!
③ THIS IS THE SECOND TIME
I PLEADED FOR HEARING RETENTION

Cochran Law Firm letter here.

But you still got to follow the law.

You never did file a notice of claim.

Counsel opposite's right. Before I could even address a change of venue -- and I don't even know if that's applicable in a civil setting, anyway -- you've got to file your notice of claim before you can proceed. That

own jeopardy. And I notice that you've got a

THE COURT: So you're doing that at your

MR. ARTHUR: I can't hear him.

don't have a lawyer. You're representing yourself. For the defense, I had.

You've got -- I say you've got -- you

up here, anyway.

THE COURT: Well, you'd have a hard time

time hearing you that far.

MR. ARTHUR: I have a little bit hard

did notice in your plea --

I don't know if you have a lawyer or not. I

THE COURT: Mr. Arthur, that is correct.

suin' the county.

to serve a notice of claim before you can go

But the law's solid as can be. He's got

1. Lessons to be learned

He's got
can go
correct.
not. I
hard
hard time
I wouldn't
THAT IS UNRELIABLE
- you
guilty
it had not been
at the police room
false & filed it
days after the arrest
at your

be closer than this. But I have -- I do have

a defense for it, and I want to be heard.

THE COURT: You got a what? → *this was a bias statement*

MR. ARTHUR: I don't hear you -- I can't

hear you that far away.

THE COURT: Well, there's really nothin'

you can say. There's no nothin' that you can

do to help yourself. *About 41(b), but no character*

You've got a 12(b)(6) motion; is that

correct?

MR. GRIFFITH: Yes, Your Honor. And

like I said, as an officer of the court, it

is my duty to tell the law right, and it's

dismissal without prejudice, 'cause it's

jurisdictional. He can do a notice and file

at a later date, but he still has to jump

through the right procedural requirement.

But all I'm here today for is a 12(b)(6)

dismissal without prejudice.

MR. ARTHUR: I'd like to be able to

explain my case.

THE COURT: Go ahead and explain it.

MR. ARTHUR: Okay. I'll try to talk to

you. I can't hear you.

My first defense is on the harmless

errors. I got -- I got a defense

there. Harmless errors. Should give me a --

a defense on that.

And my main defense is we're sittin' in

6 → This is the sixth time I pleaded for hearing re-exam.

5 → This is the fifth time I pleaded for hearing re-exam.

word the Judge said.

back I could understand every

the county. I want to change the venue first. We're sittin' in the County's house. County's employees. County owns the building. Got all people around us, they know most everybody. It's impossible for me to get a jury that don't know somebody in the County. I believe change of venue is a must before we can make any decisions.

THE COURT: Well, I'm gonna grant his

motion to dismiss. You need to go to a

lawyer. → *Retaliation*

Do me an order, Mr. Griffith.

You got to file the right papers. You

never gave a notice. That was in the

pleading. If you don't hear what I'm sayin'

or act like you don't... that way

Mr. Griffith's pleading.

This is 12(b)(6). I'm gonna give a

motion on the pleadings. If you'd send a

copy of that order.

Do you have an order with you?

MR. GRIFFITH: I do not. I'll put one

in the mail, copying the Court and Counsel.

And with that done, Your Honor, may I be

excused?

THE COURT: This court's in -- in

recess. → I was not finished at this point

(Proceedings were concluded at 1:00 p.m.) (Total of 5 minutes)

SEE NEXT PAGE

AT THIS POINT I WAS CUT OFF BY THE JUDGE FROM CONTINUING MY DEFENSE BEFORE I WAS FINISHED.

THIS STATEMENT IS PURE DISCRIMINATION AGAINST THE ELDERLY - HANDICAPPED AND HEARING IMPAIRED - WHILE I WAS SEAT FROM BENCH CODE OF JUDICIAL CONDUCT DISGRACE

THIS IS A BIAS AND MENDEACIOUS STATEMENT - SEE A COPY OF MY HEARING TEST - INSTALLED IN THE EXCEPTS OF BOTH THE APPELLANT'S BRIEF AND THE APPELLANT REPLY BRIEF.

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COURT REPORTER'S CERTIFICATE

STATE OF MISSISSIPPI
COUNTY OF TUNICA

I, RABIN' MONROE, RMR, CRR, CCP, CSR #1811,

Official Court Reporter for the Eleventh Circuit Court District of the State of Mississippi, do hereby certify that the foregoing Motion Hearing, Cause No. 2008-0335, was taken before me; that the proceedings were taken down by me in machine shorthand and thereafter transcribed by computer-aided transcription under my supervision and direction; that the foregoing pages, numbered from 1 to 5, inclusive, constitute a true and accurate transcript of all the proceedings had upon the taking of said Motion Hearing, all done to the best of my skill and ability.

DATED in Cleveland, Mississippi, this 9th day of June, 2009.

This court reporter's transcript, the complete text included, explains in detail the reasoning large in number, that I referred in my appearance, this court in this said hearing as a Kangaroo court. One of the defendants of Arkansas court, the one I use, says and I quote from The American Heritage Dictionary, "Kangaroo court is a court characterized by dishonesty, Official Court Reporter RABIN' MONROE, RMR, CRR, CCP, CSR #1811 meets this standard contrary to Mr. Griffin's claim. I showed no disrespect to the lower court and no disrespect intended by making this statement.

After taking the truth with out using profanity is never was intended by making this statement.

Prosecutor files appeal of contempt citation

APPEAL CASE # 2009-CP-00950

OFFICE REPLY
EXCEPTS

Peter Thomas

Local defense attorney Stan Little and Tunica County prosecuting attorney Chuck Graves are adversaries in the courtroom, but both men found themselves on the wrong side of Judge Albert Smith in Tunica County Circuit Court on Thursday, March 12, 2009.

The two local attorneys were cited for contempt after problems arose involving several DUI convictions that had been appealed from Tunica Justice Court to the Circuit Court. When Judge Smith's gavel fell, Little and Graves were each fined \$100. Graves was also ordered to spend 48 hours in jail but was released later that same day, after Judge Smith modified his original order reducing the sentence to "time served."

According to documents provided by Smith's office, the charges against the two attorneys stemmed from what Smith saw as their lack of action in following his previous order, made last November.

Smith ordered the pair to comply with the Rules of Discovery in providing and securing videotape evidence on the first of three particular DUI cases presented in court last week. Claiming their continuing difficulty in securing the videotape evidence of the traffic stops in that case and two others, the two attorneys agreed to ask for dismissals in the cases. Smith saw otherwise.

In Smith's previous ruling, dated November 4, 2008, he had ordered the State to "comply immediately with the rules of discovery" and also ordered that the State and the defense attorney "be prepared and ready for trial upon the next court setting."

When both parties appeared in court last week and attempted to request a dismissal, Smith issued the contempt orders and jail time.

"This court cannot properly clear the docket when its orders are not followed nor when the practicing attorneys fail to follow the rules," Smith stated in the Order of Contempt filed March 12, 2009.

Graves chose not to comment on the incident and has filed an appeal. Little, who stated he plans to file an appeal as well, described the incident as "bizarre."

"I believe that Mr. Graves and I followed the law to the letter in defending our respective clients' positions and I have never in my years of practice seen anything like what occurred in Tunica County Circuit Court last Thursday," Little said.

According to representatives from Smith's office, two of the cases have been re-set to a later date. The third case's appeal was dismissed and was remanded back to Justice Court.

STAN LITTLE - Local defense att.
CHUCK GRAVES - Prosecutor

EXCERPT

THIS EXCERPT IS OFFERED IN REBUTTAL TO THE MEMORANDUM
REMARKS MADE BY THE APPELLEE'S COUNSEL OF RECORD, IN
THE "BRIEF OF APPELLEES", RE: TO I HAD TO JUMP OUT OF THE
WAY OF A LAW ENFORCEMENT VEHICLE (PAGE 15), AND INSINUATING FRIVOLOUS ALLEGATIONS
TO: Name CASE # 2009-CP-00950
Address
City, State & Zip
Robinsonville, Ms. 38664

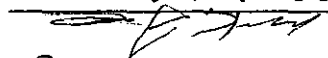
4158 casino center drive
From: Marvin Arthur
Same.

A serious and traumatic crime happened to me, Marvin Arthur, exceeding the reasonable limits of absurdity. This crime was committed by deputy sheriff "Glen Kurtus" of the Tunica County, Mississippi Sheriff's Department on Friday 13, 2008 at app. 9:00 pm, (see exhibit A.) As I was crossing the east bound lanes, on foot, of a well lit four (4) lane highway in front of where my wife and myself reside, Deputy Glen Kurtus caused me to suffer severe and permanent physical and psychological damage evident by carelessly operating a sheriff's cruiser while on duty. This cruiser, unit #372, was equipped with an operating video camera. Because of having been denied, by the Tunica County, Mississippi Sheriff K.C. Hamp, any chance to view the video of the accident, I don't know from where Deputy Glen Kurtus came. But he was obviously not in the east bound lanes when I started crossing them. I can only assume he cut across the grass medium, changed directions, and failed to turn his siren and flashing blue lights on until it was too late. There appears to be no other way he could have approached me so quick after I entered the east bound lanes. I remember the cruiser was obviously out of control and advancing directly at me. I must have made a large leap, but not large enough! Somehow he missed my body, but hit my metal cane and turned it into a weapon against me. I know that Deputy Glen Kurtus left the scene of the accident because when I regained consciousness he was gone, leaving me laying in the road with other vehicles coming at me. Somehow I managed to make my way out of the road without being hit by any of the other vehicles. The severe and permanent physical and psychological damage that I suffer, above mentioned, in association to accident of same, consist of being confined to a wheel chair and post-traumatic stress disorder, "in conjunction with," severe anxiety panic attacks. Post-traumatic stress disorder, "according to my psychiatrists," effects some people for a relatively short time, others for a longer period of time and a few for the remainder of their lives. Mine seems to be escalating with the passage of time. Post-traumatic stress disorder is caused by becoming involved in a traumatic situation where a violent and sudden death seems unavoidable, usually in conjunction with extremely excruciating loud noises, "as in the sounds of a police cruiser's siren activated right next to me." Post-traumatic stress disorder consist of

incomparable night mares, flash backs, sleepless nights and lonely days consumed in concentration of same. There is no medication for post-traumatic stress disorder. Although I do have a prescription for 10 mg Diazepam tablets to be taken as needed for anxiety panic attacks. My wife of forty-nine (49) years, "Sue Arthur," has survived a massive heart attack eleven (11) years ago. She has also survived colon cancer surgery about two (2) years ago. But I believe Deputy Glen Kurtus, Captain Jon Tyler and Sheriff K.C. Hamp of the Tunica County, Mississippi Sheriff's Department has done more to cause the rest of her life to be "short-lived" than anything else she has been through. This "saddens" me very much. The condition of our health, associated to the above mentioned crime, is installed in the context of this letter, only to demonstrate the magnitude of same. I realize that no amount of investigations will restore our health. In all my seventy (70) years on this earth I never dreamed that our lives would be destroyed by the criminal action of law enforcement, including an apparent "hit and run," (see exhibit C,) an obvious prejudiced police report with no legal basis, (see exhibit A & F,) also the apparent "concealment" and/or "cover up" month after month by Sheriff K.C. Hamp. Re: To the video of said accident, showing a crime being committed by Deputy Glen Kurtus, still obviously being concealed under "lock and key" after the passing of so much time, (see exhibits A & E.) I have tried a number of times to file felony charges against Deputy Glen Kurtus, Captain Jon Tyler and Sheriff K.C. Hamp. But each time I try, Denis Allen, of internal affairs, "the one in charge of filing criminal charges for the same above mentioned department," refuses to file mine. He claims that in my case he can't file my charges unless ordered by Andrew Dulancy, County Attorney. This won't happen because Andrew Dulancy won't receive or return my calls. I have also tried to contact Laurence Y. Mellen, Mississippi's 1st District Prosecuting Attorney, many times to no avail. From my perspective there seems to have been a conspiracy formed for the perversion and/or obstruction of justice, (see exhibit E.) If I stand tall and do the right thing by seeing that an investigation into this matter becomes a reality, "just maybe," I can convince Sheriff K.C. Hamp that what appears to be fighting "crime with crime" is never the solution. Should this be the case all people will benefit. Having said all of the above, I do believe we, "as a people in general," are compassionate people, willing to go the extra mile to reach out a helping hand. To further state my believes: I know of no occupation more "honorable" than to be engaged in law enforcement. I know that "police brutality" does exist, but only by a "few" extremist who seem to receive gratification from torturing others, but in reality they also taint the high

caliber of stature and prestige that so many hard working policemen have achieved by putting their lives on the line, "day after day," for us and ask nothing extra for their accomplishments.

Thanks for listening:



Marvin Arthur

859-221-0552

EX161T-A

OFFENSE/INCIDENT REPORT

NO.

6-13-08
DATE OF REPORT

COMPLAINANT OR FIRM
Marvin Arthur
W/M
4 CITY
Robinsonville, MS 38664
ADDRESS
JOB TITLE (GRADE)
WILL COMPLAINANT PROSECUTE? ☐ YES ☒ NO

COMPLAINANT'S ADDRESS
662-363-3773
6 PHONE (RESIDENCE)
N/A

4158 Casino Center Dr
COMPLAINANT'S BUSINESS OR SCHOOL
ADDRESS
JOB TITLE (GRADE)
WILL COMPLAINANT PROSECUTE? ☐ YES ☒ NO

Offense/Incident (as Reported)
Casino Center Dr
8 LOCATION
Roadway
9 TYPE PREMISES

Injured Person
Casino Center Dr
11 REPORTED BY
12 REPORTED TO
13 HOW REPORTED
By Phone
17 CONDITION
Unknown
OTHER ACTS OR TRADEMARKS

0 DAY DATE & TIME OF OFFENSE
Friday 6-13-08 @ 2121hrs
11 REPORTED BY
12 REPORTED TO
13 HOW REPORTED
By Phone
17 CONDITION
Unknown
OTHER ACTS OR TRADEMARKS

18 M/V HOW DONE
NO ☐ YES ☒
19 VEHICLE INVOLVED? OWNER
20 YEAR COLOR MAKE MODEL BODY STYLE LIC. NO. YEAR STATE VIN NO.
2005 White Ford Crown Victoria
F-FOUND PROPERTY
L-LOST PROPERTY
S-STOLEN PROPERTY
D-DAMAGED PROPERTY

21 CODE
QTY.
DESCRIPTION
SIZE COLOR MODEL STYLE MATERIAL CONDITION
SERIAL NO.
WHERE PURCHASED
VALUE

22 DISPOSITION OF PROPERTY
23 TOTAL VALUE
24 WITNESSES NAME
25 NAME AND ADDRESS OF SUSPECT(S) (AGE, RACE, DESCRIPTION, RELATION TO COMPLAINANT OR WITNESS)

26 DETAILS NOT COVERED ABOVE
On Friday, June 13, 2008 at 2121hrs, I was dispatched to Casino Center Mini Storage
for a complaint. Upon arrival I spoke with Marvin Arthur and Deputy Glen Kurtus, who also
arrived on the scene. Mr. Arthur advised that he was walking on Casino Center Drive to get
some exercise. He was crossing the eastbound lanes when he was almost struck by a patrol unit,
and fell causing injuries to his head. Mr. Arthur advised that he did not see the car coming
nor heard a siren. Patford Ambulance Service was contacted to check Mr. Arthur. Mr. Arthur
was not transported. Major Harris was notified of this incident. The video was pulled from
unit #372, which was being operated by Deputy Kurtus. Deputy Kurtus was responding to a

27 INVESTIGATING OFFICER(S)
28 REPORT MADE BY Capt. Jon Tyler
DATE 6-13-08

29 CASE FILED
30 THIS CASE IS
31 APPROVED BY
BADGE NO. D-2

YES ☐ NO ☐
Cleared by arrest ☐ Unfounded ☐ Inactive ☐ Other ☐

NOT TRUE, I was transported to the "VA" Hospital in Memphis, TN same night.
I arranged my own transportation. I could detect signs of a conspiracy. This
arrived between Capt. Tyler and the medical records of the same night.

Exhibit-A (PAGE 2)

☐ ORIGINAL
REPORT

☐ SUPPLEMENTAL
REPORT

☐ ADDITIONAL
FIELD

☐ SPECIAL
SECTION REPORT

PAGE 2 OF 2 PAGES

☐ WORKSHEET
ORIGINAL

☐ CASE STATUS
CHANGE

☐ ADDITIONAL
OFFENSES

☐ ADDITIONAL
RETURNED PROPERTY

DEPUTY KURRUS LEFT NO BLACK ON THE HWY.

THIS IS NOT TRUE - SEE VIDEO

burglar alarm at the Casino Factory Shoppes on Highway 61 at the time of the incident.

Video footage was received and shows Mr. Artman crossing the roadway in front of Deputy Kurrus. Deputy Kurrus had little time to react. Deputy Kurrus was not driving at a high rate of speed. I RECEIVED A CALL FROM THE COLHRAN LAW FIRM ON 8/5/2008 - SEE EXHIBIT B - "53 DAYS AFTER THE ACCIDENT" TELLING ME THAT THEY HAD JUST TALKED TO THE RECORDS DEPT AT THE TUNICA COUNTY, MS SHERIFFS DEPT ONLY TO BE TOLD THAT THIS ACCIDENT DID NOT HAPPEN, THERE IS NO RECORD OF IT THEY SAID - SEE EXHIBIT B. I MADE A CALL TO THE SAME DEPT THE SAME DAY AND WAS TOLD THE SAME STORY. I REMINDED THEM THAT IT DID HAPPEN AND I CAN PROVE IT. I ASK THEM TO SEND CAPT TYLER BY TO SEE ME OR HE WILL FACE CRIMINAL CHARGES. CAPT TYLER CAME TO SEE ME THAT NIGHT. I ASK HIM WHAT MADE HIM COVER UP THIS PERMANENT DISABILITY ACCIDENT BY NOT FILING A REPORT. HE SAID THAT HE HAD NOTHING TO DO WITH NOT FILING A REPORT, THAT DECISION WAS MADE BY HIS SUPERIORS. THE NEXT MORNING (8/6/2008) I RECEIVED A CALL FROM THE RECORDS DEPT SAYING: "THE REPORT HAS NOW BEEN FILED" (54 DAYS AFTER THE ACCIDENT). MS LAW SECTION 63-3-411 SUB SECTION (3) SECOND PARAGRAPH SAYS "5 DAYS TO FILE REPORTS" - SEE EXHIBIT B - ALSO SECTION 63-3-417 SUB SECTION (8) SAYS ALL REQUIRED REPORTS SHALL BE WITHOUT PREJUDICE TO THE "INDIVIDUAL SO REPORTING". SEE EXHIBIT F. CAPT TYLER IN CONJUNCTION WITH DEPUTY KURRUS INVESTIGATED THIS ACCIDENT AND TOGETHER VIEWED THE VIDEO ON THE SCENE. WHEN THEY CAME BACK I ASK CAPT TYLER TO LET ME SEE THE VIDEO TOO - HE SAID NO - EVEN THOUGH I WAS THE VICTIM. CAPT TYLER DID NOT CALL IN THE MS HWY PATROL TO HANDLE THIS INVESTIGATION, WHICH PUT HIM IN VIOLATION OF MS LAW SECTION 63-3-417 SUBSECTION (1). CAPT TYLER MADE NO MENTION IN THIS REPORT ABOUT DEPUTY KURRUS HITTING MY METAL CAGE THEN LEAVING THE SCENE OF THE ACCIDENT. AND ALSO MADE NO MENTION OF DEPUTY KURRUS'S HEART. DEPUTY KURRUS ADMITTED HE HAD A "PACEMAKER" INSTALLED IN HIS CHEST BUT HE STILL RISK LIVES OPERATING A HIGH POWERED POLICE CAR. THIS OBVIOUSLY PREJUDICED REPORT BLOCKED ME FROM RETAINING COUNSEL - SEE EXHIBIT

NARRATIVE

ALPHABETIC

REPORTING OFFICER	DATE	TIME	REPORT TYPE	DATE	TIME
Capt. Joe Tyler	8-13-08		Other	8-6-08	0-2

DATE OF ACCIDENT 54 days between these two dates: DATE FILED

THE COCHRAN FIRM

MEMPHIS

ONE COMMERCE SQUARE • 26TH FLOOR • MEMPHIS, TENNESSEE 38103
(901) 523-1222 • FAX: (901) 523-1999
WWW.COCHRANFIRM.COM

NOTE: ALL HAND WRITTEN NOTES ON THIS EXHIBIT ARE BY THE HAND OF MARVIN K. ARTHUR.

CERTIFIED MAIL RETURN RECEIPT REQUESTED AND U.S. MAIL

MS16894

THIS IS AN EXAMPLE OF WHAT HAPPENED EACH TIME I TRIED TO OBTAIN LEGAL COUNSEL IN THIS CASE. CAPTAIN JON TYLER'S OBVIOUS PREJUDICED "OFFENSE/INCIDENT REPORT" RE: 63-3-47700 (SEE EXHIBITS A & F) BLOCKED MY CASE MERITS FROM BEING REVIEWED BY SAME. CAPTAIN JON TYLER APPARENTLY VIOLATED MY LEGAL RIGHTS TO RETAIN COUNSEL EVIDENT BY ABOVE SAID.

Dear Mr. Arthur:

This serves to express our appreciation for your permitting our firm to review your potential claim. After review of the information provided, our firm has reached the decision to respectfully decline representation. Our decision should not be inferred to indicate a lack of merit in your case. We suggest you secure a second legal opinion. A copy of the police report is enclosed.

Please be aware that state and federal laws place a strict time limit on the right to pursue an action such as yours. If you do not settle or file a lawsuit within the applicable statute of limitations, you will be forever barred from doing so. For this reason, it is important that you pursue another legal opinion as soon as possible.

Although we are not undertaking to represent you in this matter, we appreciate the opportunity to review your case, and we wish you the best possible outcome. Please feel free to contact us again should the need arise.

Sincerely,
THE COCHRAN FIRM - MEMPHIS

David A. McLaughlin, Esq.

DAM/vlh

I received a call the

next morning, 8/6/08, from

same said records department

saying - Report now filed.

(53)

ON JUNE 13, 2008, "SEE EXHIBITS A & D."

ATLANTA • CHICAGO • LAS VEGAS • LOS ANGELES • MIAMI • NEW ORLEANS • NEW YORK • ST. LOUIS • WASHINGTON D.C.

EX-1617-C

MISSISSIPPI CODE OF 1972

☐ **MISSISSIPPI Code of 1972**
☐ **TITLE 63 MOTOR VEHICLES AND TRAFFIC REGULATIONS**
☐ **CHAPTER 3 Traffic Regulations and Rules of the Road**
☐ **ARTICLE 9, ACCIDENTS AND REPORTS.**

§ 63-3-401. Duties of driver involved in accident resulting in personal injury or death; offenses and penalties.

(1) The driver of any vehicle involved in an accident resulting in injury to or death of any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible but shall then forthwith return to and in every event shall remain at the scene of the accident until he has fulfilled the requirements of Section 63-3-402.

(2) Every stop under the provisions of subsection (1) of this section shall be made without obstructing traffic or endangering the life of any person more than is necessary.

(3) Except as provided in subsection (4) of this section, if any driver of a vehicle involved in an accident that results in injury to any person willfully fails to stop or to comply with the requirements of subsection (1) of this section, then such person, upon conviction, shall be punished by imprisonment for not less than thirty (30) days nor more than one (1) year, or by fine of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

(4) If any driver of a vehicle involved in an accident that results in the death of another or the mutilation, disfigurement, permanent disability or the destruction of the tongue, eye, lip, nose or any other limb, organ or member of another willfully fails to stop or to comply with the requirements under the provisions of subsection (1) of this section, then such person, upon conviction, shall be guilty of a felony and shall be punished by imprisonment for not less than one (1) year nor more than five (5) years, or by fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment.

(5) The commissioner shall revoke the operator's or chauffeur's license of any person convicted under this section.

Laws 1938, ch. 200, § 36; Laws 1996, ch. 461, § 1, eff. from and after passage (approved April 2, 1996).

(5) In addition to the information required on the "statewide uniform traffic accident report" forms provided by Section 63-3-411, the department shall require the parties involved in an accident and the witnesses of such accident to furnish their phone numbers in order to assist the investigation by law enforcement officers.

(4) Whenever an engineer of a railroad locomotive, or other person in charge of a train, is required to show proof of his identity under the provisions of this article, in connection with operation of such locomotive, to any law enforcement officer, such person shall not be required to display his operator's or chauffeur's license but shall display his railroad employee number.

Every law enforcement officer who investigates an accident as required by this subsection, whether the investigation is made at the scene of the accident or by subsequent investigation and interviews, shall forward within six (6) days after completing the investigation a written report of the accident to the department if the accident occurred outside the corporate limits of a municipality, or to the police department of the municipality if the accident occurred within the corporate limits of such municipality. Police departments shall forward such reports to the department within six (6) days of the date of the accident.

(3) It shall be the duty of the highway patrol or the sheriff's office to investigate all accidents required to be reported by this section when the accident occurs outside the corporate limits of a municipality, and it shall be the duty of the police department of each municipality to investigate all accidents required to be reported by this section when the accidents occur within the corporate limits of the municipality.

(2) The department may require any driver of a vehicle involved in an accident, of which report must be made as provided in this section, to file supplemental reports whenever the original report is insufficient in the opinion of the department. Additionally, the department may require witnesses of accidents to render reports to the department.

(1) The driver of a vehicle involved in an accident resulting in injury to or death of any person or total property damage to an apparent extent of five hundred dollars (\$500.00) or more shall immediately, by the quickest means of communication, give notice of the collision to the local police department if the collision occurs within an incorporated municipality, or if the collision occurs outside of an incorporated municipality to the nearest sheriff's office or highway patrol station.

§ 63-3-411. Duties of drivers involved in accidents involving injury or death or property damage of \$500 or more to report accidents; supplemental reports; investigations and reports by law enforcement officers.

MISSISSIPPI CODE OF 1972
TITLE 63 MOTOR VEHICLES AND TRAFFIC REGULATIONS
CHAPTER 3 Traffic Regulations and Rules of the Road
ARTICLE 9. ACCIDENTS AND REPORTS.

EX-1617-D

EX-1617-E

MISSISSIPPI CODE OF 1972

TITLE 97 CRIMES

CHAPTER 1 Conspiracy, Accessories and Attempts

§ 97-1-1. Conspiracy.

(1) If two (2) or more persons conspire either:

(a) To commit a crime; or (b) Falsely and maliciously to indict another for a crime, or to procure to be complained of or arrested for a crime;

(c) Falsely to institute or maintain an action or suit of any kind; or

(d) To cheat and defraud another out of property by any means which are in themselves criminal, or which, if executed, would amount to a cheat, or to obtain money or any other property or thing by false pretenses; or

(e) To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use of employment thereof; or

(f) To commit any act injurious to the public health, to public morals, trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws; or

(g) To overthrow or violate the laws of this state through force, violence, threats, intimidation, or otherwise; or

(h) To accomplish any unlawful purpose, or a lawful purpose by any unlawful means; such persons, and each of them, shall be guilty of a felony and upon conviction may be punished by a fine of not more than five thousand dollars (\$5,000.00) or by imprisonment for not more than five (5) years, or by both.

(2) Where one (1) or more of the conspirators is a law enforcement officer engaged in the performance of official duty or a person acting at the direction of a law enforcement officer in the performance of official duty, any remaining conspirator may be charged under this section if the alleged conspirator acted voluntarily and willfully and was not entrapped by the law enforcement officer or person acting at the direction of a law enforcement officer.

(3) Where the crime conspired to be committed is capital

AS IN K.C. HAMPS REPORT CONCLUDE MEANT OR ADVISED THAT SHOWS A CRIME BEING COMMITTED AGAINST MAJOR ARTHUR. AS IN CAPT. DON TYLER'S PREVIOUS PREJUDICE REPORT APPARENTLY FOR THE PURPOSE OF REJECTING.

NOTE: ALL HAND WRITTEN NOTES ON THIS EXHIBIT ARE BY THE HAND OF MURDER PERPETRATOR.

(b) The department shall retain and deposit into a special fund that is hereby created in the State Treasury so much of

(2) (a) Notwithstanding the provisions of subsection (1) of this section or the provisions of any other law to the contrary, the department may supply vehicle-specific accident data to any person or entity, in bulk electronic form, for the purpose of compiling vehicle history reports for use by law enforcement, consumers and businesses. The department may charge and collect fees at a negotiated price established by the department for providing such data; however, the department may not agree to grant to any person or entity an exclusive right to receive information or data under this subsection. A person or entity that requests access to such data must agree, in writing, to use information obtained from such data only for the purpose of identifying vehicles that have been involved in accidents and any damage to those vehicles. A person or entity obtaining such data may not use such information to identify or contact persons or individuals.

(1) All required accident reports and supplemental reports shall be without prejudice to the individual so reporting and, except as otherwise provided in this section, shall be for the confidential use of the department; however, the department may, upon written request of any person involved in an accident, the spouse or next of kin of any such person, or any person against whom a claim is made as a result of the accident or upon written request of the representative of his estate, disclose to such requester or his legal counsel or a representative of his insurer any information contained in such report except the parties' version of the accident as set out in the written report filed by such parties, or may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident. The admissibility of an accident report into evidence in any court shall be governed by the Mississippi Rules of Evidence. However, the department shall furnish, upon demand of any person who has, or claims to have, made such a report or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the department solely to prove a compliance or a failure to comply with the requirement that such a report be made to the department.

§ 63-3-417. Disclosure of information in accident reports; fraudulently obtaining information contained in report; penalties.

Mississippi Code of 1972
TITLE 63 MOTOR VEHICLES AND TRAFFIC REGULATIONS
CHAPTER 3 Traffic Regulations and Rules of the Road
ARTICLE 9. ACCIDENTS AND REPORTS.

EXHIBIT - F

NOTE: All hand written notes on this exhibit are by the hand of MARVIN ARTHUR.

APR 11/11, 12:44
BRIEF EXEMPT

Appals Case # 2009-CP-00912

6-13-08
DATE OF REPORT

NOTE: ALL HAND WRITTEN NOTES WITHIN EXISTENCE BY ALABAMA

COMPLAINANT OR FIRM

COMPLAINANT'S ADDRESS

4158 Casino Center Dr
ROBINSONVILLE, MS 38664

COMPLAINANT'S BUSINESS OR SCHOOL

Owner/Operator

OFFENSE/INCIDENT (AS REPORTED)

Injured Person

0 DAY DATE & TIME OF OFFENSE

Friday 6-13-08 @ 2121hrs

4 BODY INJURIES

18 M/D HOW DONE

19 VEHICLE INVOLVED? OWNER

2005 White Ford Crown Victoria

21 CODE

22 DISPOSITION OF PROPERTY

NOTICES

23 TOTAL VALUE

24 WITNESSES NAME

25 NAME AND ADDRESS OF SUSPECT(S) (AGE, RACE, DESCRIPTION, RELATION TO COMPLAINANT OR WITNESS)

26 DETAILS NOT COVERED ABOVE

27 INVESTIGATING OFFICER(S)

28 REPORT MADE BY Capt. Jon Tyler

29 CASE FILED

30 THIS CASES

31 APPROVED BY

BADGE NO

D-2

NOT TRUE, I WAS TRANSPORTED TO THE "VA" HOSPITAL IN MEMPHIS, TN SAME NIGHT.

I ARRANGED MY OWN TRANSPORTATION. I COULD DETECT SIGNS OF A CONSIDERABLE

THE MAKING BETWEEN CAPT. TYLER AND THE MEDICAL ASSISTANT OF A CONSIDERABLE

unit #372, which was being operated by Deputy Kurus. Deputy Kurus was responding to a

was not transported. Major Harris was notified of this incident. The video was pulled from

not heard a siren. Patton Ambulance Service was contacted to check Mr. Arthur. Mr. Arthur

and fell causing injuries to his head. Mr. Arthur advised that he did not see the car coming

some exercise. He was crossing the eastbound lanes when he was almost struck by a patrol unit.

arrived on the scene. Mr. Arthur advised that he was walking on Casino Center Drive to get

for a complaint. Upon arrival I spoke with Marvin Arthur and Deputy Glen Kurus, who also

On Friday, June 13, 2008 at 2121hrs, I was dispatched to Casino Center Mini Storage

2 N/A

1 N/A

2 N/A

1 N/A

2 N/A

1 N/A

NO.	DATE

NO.	DATE

ORIGINAL REPORT

SUPPLEMENTARY REPORT

ADDITIONAL NOTES

ADDITIONAL STATEMENT

PAGE 2 OF 2

ADDITIONAL ORIGINAL

CASE STATUS CHANGE

ADDITIONAL OFFENSES

ADDITIONAL RELATED PROPERTY

DEPUTY KURRUS LEFT NO BLACK ON THE HWY.

THIS IS NOT TRUE - SEE VIDEO

Injunct alarm at the Casino Factory Shoppes on Highway 61 at the time of the incident.

Video footage was received and shows Mr. Artino crossing the roadway in front of Deputy Kurkus. Deputy Kurkus had little time to react. Deputy Kurkus was not driving at a high rate of speed. I RECEIVED A CALL FROM THE COCHRAN LAW FIRM ON 8/5/2008 - SEE EXHIBIT B - 33 days AFTER THE ACCIDENT TELLING ME THAT THEY HAD JUST TALKED TO THE RECORDS DEPT AT THE TUNICA COUNTY MS SHERIFFS DEPT ONLY TO BE TOLD THAT THIS ACCIDENT DID NOT HAPPEN, THERE IS NO RECORD OF IT THEY SAID - SEE EXHIBIT B - I MADE A CALL TO THE SAME DEPT THE SAME DAY AND WAS TOLD THE SAME STORY - I REMINDED THEM THAT IT DID HAPPEN AND I CAN PROVE IT. I ASK THEM TO SEND CAPT TYLER BY TO SEE ME OR HE WILL FACE CRIMINAL CHARGES. CAPT TYLER CAME TO SEE ME THAT NIGHT. I ASK HIM WHAT MADE HIM COVER UP THIS PERMANENT DISABILITY ACCIDENT BY NOT FILING A REPORT. HE SAID THAT HE HAD NOTHING TO DO WITH NOT FILING A REPORT, THAT DECISION WAS MADE BY HIS SUPERIORS. THE NEXT MORNING (8/6/2008) I RECEIVED A CALL FROM THE RECORDS DEPT SAYING THE "REPORT HAS NOW BEEN FILED" (54 days AFTER THE ACCIDENT). MS LAW SECTION 63-3-411 SUB SECTION (3) SECOND PARAGRAPH SAYS "6 days TO FILE REPORTS - SEE EXHIBIT D - ALSO SECTION 63-3-417 SUB SECTION (4) SAYS ALL REQUIRED REPORTS SHALL BE WITHOUT PREJUDICE TO THE "INDIVIDUAL SA REPORTING". SEE EXHIBIT F - CAPT TYLER IN CONJUNCTION WITH DEPUTY KURRUS INVESTIGATED THIS ACCIDENT AND TOGETHER VIEWED THE VIDEO ON THE SCENE. WHEN THEY CAME BACK I ASK CAPT TYLER TO LET ME SEE THE VIDEO TOO - HE SAID NO - EVEN THOUGH I WAS THE VICTIM. CAPT TYLER DID NOT CALL IN THE MS HWY PATROL TO HANDLE THIS INVESTIGATION, WHICH PUT HIM IN VIOLATION OF MS LAW SECTION 63-3-417 SUBSECTION (1). CAPT TYLER MADE NO MENTION IN THIS REPORT ABOUT DEPUTY KURRUS HITTING MY METAL CASE THEN LEAVING THE SCENE OF THE ACCIDENT. AND ALSO MADE NO MENTION OF DEPUTY KURRUS'S "HEART". DEPUTY KURRUS ADMITTED HE HAD A "PACEMAKER" INSTALLED IN HIS CHEST BUT HE STILL RISK LIVES OPERATING A HIGH POWERED POLICE CAR. THIS OBVIOUSLY PREJUDICED REPORT BLOCKED ME FROM RETAINING COUNSEL - SEE EXHIBIT

NARRATIVE

ALTIMETER NARRATIVE

PERSONNEL FROM OFFICE	1. OFFENSES	2. TIME OF INCIDENT	3. DATE OF INCIDENT	4. OFFENSES	5. DATE OF INCIDENT	6. DATE OF INCIDENT
REPORTS OFFICER	DATE	TIME	DATE	OFFENSES	DATE	TIME
Capt. Jon Tyler	6-13-08		6-13-08	OFFENSES	6-6-08	0-2

DATE OF ACCIDENT 54 days between these two dates: DATE FILED

DEPARTMENT OF VETERANS AFFAIRS
Denver Acquisition & Logistics Center
P O BOX 25166
Denver CO 80225-0166
www.va.gov/ocom/pmo/dalc
(303) 914-5130

May 5, 2009

Reply: 905D
SSN: A6261
LAB032D

MARVIN K ARTHUR
4158 CASINO CENTER DR
ROBINSONVILLE MS 38664

Dear MARVIN K ARTHUR:

Enclosed we are returning your earmold(s). The tubing has been replaced as needed.

Your hearing aid(s) PHONAK WIRELESS BICROS OPT 1 Serial No:0417ANCR has been sent to the factory for repair. You may anticipate receiving your repaired hearing aid(s) within 20 to 30 days. If you sent more than one aid for repair, each may be returned separately.

Sincerely,

Justin R. Romero

Inspector
Justin R. Romero

JRR:dec

Enclosures

(See court reporter's transcript)
RE: To Judge Smith saying at
"said itemizing to dismiss in
question, I quote: if you don't
hear what I'm saying or
act like you don't understand
it hurt bad, after all I'm
70 yrs old and recovering I can't
hear you all the time."
RE: To Judge Smith stopping
me 30ft. from bench.
To the extent reasonably
possible, all parties shall
be included in communications
with a Judge. See canon
3 (commentary) of the Code
of Judicial Conduct.

This is the tubing for

my hearing transmitter being sent
back to me. I have a transmitter

for my right ear transmitting to
my hearing aid for the left ear.

My hearing aid in early April.
I mailed them to Denver to

for repair. If the repair is excessive
for repair. Then onto the factory

for repair. For the hearing aid
April 20, 2009 I had no hearing aid

I needed in front of the bench,
not in the back part of the room

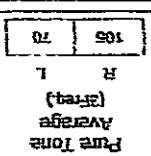
(which was possible) plenty of room
with hard day door closed. I told the

Judge that I couldn't understand him that far

Report

Client #: 0002090

Date of Evaluation:



Speech Audiology					
SRT	MASK	MCL	UCL		
105				R	
65				L	
				Binaural	
				SF	
				SFA	
				SFA2	

Word Recognition					
%	Stimulus Mask	%	Stimulus Noise		
16				R	
100				L	
100				Binaural	
55				SF	
100				SFA	
80				SFA2	

Stimulus	Ear	Ipsilateral		Contralateral	
		R	L	R	L
Acoustic Reflex	Decay				
	L				
	Decay				
	R				
	L				
	Decay				
HBN	Decay				
	R				
	L				
	Decay				
	R				
	L				

Report Comments

S: See CPRS note for case history information. A: AS-Severe SNHL. AD-Profound SNHL. Poor speech scores in both ears. Type B tymp with large volume on right side, consistent with TM perforation. P: Took ear mold impressions in both ears for bicors aids. B7C/HAE

M. L. Gussak

Date: 6/14/09

THIS TEST WAS TAKEN AT THE "VA" MEDICAL CENTER -

1030 E. Frazar Avenue, Memphis TN 38104-2192

04. 9-523 * 8998 - 01/12/2015 4375/1607 40 40

Appellant's Reply except
Case No. 2009-CP-00950

IN THE SUPREME COURT OF MISSISSIPPI

CASE NO. 2009-CP-00950

APPELLANT

MARVIN ARTHUR

VS.


APPELLEES

TUNICA COUNTY, MISSISSIPPI
AND, TUNICA COUNTY SHERIFF'S DEPT.

ORAL ARGUMENT IS NOT REQUESTED

The instant appeal presents a question of established law, procedurally waived by the *Pro Se* Appellant in lieu of remarks disrespectful of the lower court and counsel. Oral argument is not requested.

All hand written notes on the
Appellant's Reply excepts are by
The hand of Marvin Arthur



City of Jackson v. Estate of Stewart, 939 So. 2d 758 (Miss. 2005)(Disrespectful language stricken from the record); See Also: Miss. Bar v. Lumbumba, 912 So. 2d 871 (Miss. 2005); and, Welsh v. Mounger, 912 So. 2d 823 (Miss. 2005)(Attorney sanctioned and reprimanded for repeating false allegations).

The defendant County is a political subdivision of the State of Mississippi. The Defendant Sheriff's Department is not a separate entity from the Defendant County. Mr. Arthur seeks damages for an alleged governmental tort. Mr. Arthur did not serve a Notice of Claim. The issues upon which this case was dismissed (without prejudice) by the lower court are matters of clearly established law which have not even been

IV. Summary of the Argument

The defendant County is a political subdivision of the State of Mississippi. The Defendant Sheriff's Department is not a separate entity from the Defendant County. Mr. Arthur seeks damages for an alleged governmental tort. Mr. Arthur did not serve a Notice of Claim.

III. Statement of the Facts

Buister, 838 So. 2d 274, 277-78 (Miss. 2003).
Broome v. City of Columbia, 952 So. 2d 1050 (Miss. Ct. App. 2007)(Citing City of Jackson v.
This appeal is resolved upon issues of law and should be reviewed under a *de novo* standard.

C. Standard of Review

submit this brief in opposition to Mr. Arthur's appeal.
dismissal. Tunica County, Mississippi, and the Tunica County Sheriff's Department respectfully
not given an adequate opportunity to argue his theories of harmless errors and improper venue before

should be excused because he was misled by the court clerk. Mr. Arthur argues further that he was
MTCA. The lower court dismissed Mr. Arthur's case. Mr. Arthur argues that his untimely appeal
Tunica County Sheriff's Department without serving a prior Notice of Claim as required by the
Mr. Marvin Arthur filed a suit for damages against Tunica County, Mississippi, and the

Appellate reply
EXCEPT
last no. 209-CP-0950
This is another false statement
to talk about in rule 41(b). Also no place for them
in the motion to dismiss that I did not give
B. Course of Proceedings and Disposition in Lower Court
Adequate opportunity

1-1-2008 20 14 11:00 AM 1 000000021 10/10/07 295

Another legal statement

Appellants reply & except
Case no. 2009-cv-00950

that the disrespectful language of Mr. Arthur's brief be disregarded or stricken and that sanctions be awarded for this frivolous appeal. This is a clear case of a trial court efficiently and correctly applying the law. *Miss. R. App. P. 28(k)* allows sanctions for disrespectful language in a party's brief. *Miss. R. App. P. 38* allows an award of sanctions for frivolous appeals in civil cases.

RESPECTFULLY SUBMITTED this 5th day of October, 2009.

TUNICA COUNTY, MISSISSIPPI, AND
TUNICA COUNTY SHERIFF'S DEPT.

By: Daniel J. Griffith
Daniel J. Griffith, MS Bar No. 8366

Of Counsel:
GRIFFITH & GRIFFITH
123 South Court Street
P. O. Drawer 1680
Cleveland, MS 38732
Telephone: 662-843-6100
Facsimile: 662-843-8153

CERTIFICATE OF SERVICE

I, Daniel J. Griffith, attorney for Appellants, Tunica County, Mississippi and the Tunica County Sheriff's Department, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing *Brief of Appellees* to:

Honorable Albert B. Smith, III
Circuit Court Judge, 11th Judicial District
P. O. Box
Cleveland, MS 38732

Mr. Marvin Arthur
4158 Casino Center Drive
Robinsonville, MS 38664
Pro Se Plaintiff

SO CERTIFIED this 5th day of October, 2009.

Daniel J. Griffith
Daniel J. Griffith

This is another counsel of record, Mr. Griffith, state court by the Appellees.

This phrase is
insinuating that
my appeal is this
case is frivolous -
Appellant's complaint

brief - Griffith &
Daniel - counsel of record

compulsory, the court has jurisdiction to decide it even though the plaintiff claim is dismissed; if the counter-claim is permissive, it will ordinarily require independent grounds for jurisdiction and these independent grounds permit it to remain pending. Thus, the rule applies only when there is a permissive counter-claim that can be maintained without an independent ground of jurisdiction, as when it is a setoff, or in other unusual circumstances in which the counter-claim would fail if the plaintiff's claim were dismissed.

Rule 41(b) allows the court to dismiss an action involuntarily for three different causes: dismissal at the close of the plaintiff's evidence for failure to show a right to relief, which operates as a decision on the merits, dismissal for want of prosecution, which is a penalty for dilatoriness, See Miss. Code Ann. § 11-53-25 (1972) (dismissal for want of prosecution); and dismissal for failure to comply with "these rules" or any order of the court, see *Sherwin Williams Co. v. Feld Bros. & Co.*, 139 Miss. 21, 28, 103 So. 795, 796 (1925) (plaintiff may be nonsuited by the court for failure to comply with order to make declaration more specific). Unless otherwise specifically ordered by the court, an involuntary dismissal under Rule 41(b) ordinarily operates as an adjudication upon the merits and is with prejudice. See 9 Wright & Miller, Federal Practice and Procedure, Civil § 2369-2373 (1971). However, past Mississippi practice has tempered this harsh result by allowing dismissed cases to be reinitiated, except in extreme situations. See, e.g., *Ross v. Milner*, 194 Miss. 497, 505-06, 12 So.2d 917, 918 (1943) (where order did not recite that cause was dismissed without prejudice, it was considered as being dismissed with prejudice); *Peoples Bank v. D'Lo Royalties, Inc.*, 206 So.2d 836, 837 (Miss. 1968) (dismissal is a drastic punishment which should not be invoked except where conduct of parties has been so deliberately careless as to call for such action).

Rule 41(c) provides that the other subdivisions of Rule 41, stating the procedures for and consequences of dismissals, apply to the dismissal of a counter-claim, cross-claim, or third-party claim.

One exception is allowed for Rule 41(c) matters because the right of voluntary dismissal with notice, MRCP 41(a)(1), is terminated by an answer. This will not work for counter-claims, cross-claims, or third-party claims, since defendant will ordinarily assert these with or subsequent to his answer. Accordingly, Rule 41(c) provides that a voluntary dismissal by a defendant, or other claimant, of a counter-claim, cross-claim, or third-party claim must be made before a responsive pleading is served or, if none, before the introduction of evidence at the trial. MRCP 41(a)(1) also provides that the service of a motion for summary judgment also terminates the right to dismiss by notice. As a matter of logic and judicial consistency, if a motion for summary judgment defeats plaintiff's right to dismiss, then it should also defeat the right of a defendant to

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Albert B. Smith - Judge
Robin' Monroe - Court Reporter
Sharon G. Reynolds - Circuit Clerk
Cynthia Bullock - Deputy Circuit Clerk
Leonard Dotson - Baliff
Louis Harris - Baliff
Daniel Griffith - Attorney
Danny Bridges - Deputy Sheriff

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↑
→ This list is the names of
the people that were in the court
room on April 20th, 2009 at 12:55 for
hearing on motion to dismiss.

WKA

to do so. A judge shall refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and shall require the same standard of conduct of others subject to the judge's direction and control.

Commentary

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

(6) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation or conduct, bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.

(7) A judge shall accord to all who are legally interested in a proceeding, or their lawyers, the right to be heard according to law. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to participate in the proceeding and to respond.

(b) judges may obtain the advice of a disinterested expert on the law applicable to a proceeding before them if the judges give notice to the parties of the person consulted and the substance of the advice, and afford the parties reasonable opportunity to respond.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(d) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

the basis of race, gender, religion or national origin in its membership or other policies, or for the judge to regularly use such a club. Moreover, public manifestation by a judge on any basis giving the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Section 2A.

When a person who is a judge on the date the Code becomes effective learns that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Section 2C or under Canon 2 and Section 2A, the judge is permitted, in lieu of resigning, to make immediate efforts to have the organization discontinue its invidiously discriminatory practices, but is required to suspend participation in any other activities of the organization. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within a year of the judge's first learning of the practices), the judge is required to resign immediately from the organization.

CANON 3

A Judge Should Perform the Duties of His Office Impartially and Diligently

A. Judicial Duties in General. The judicial duties of judges take precedence over all their other activities. Judges shall include all the duties of their office prescribed by law. In the performance of these duties, the following standards apply:

B. Adjudicative Responsibilities.

(1) A judge shall hear and decide all assigned matters within the judge's jurisdiction except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

(3) A judge shall require order and decorum in proceedings before the judge.

(4) Judges shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom they deal in their official capacities, and shall require similar conduct of lawyers, and of their staffs, court officials, and others subject to their direction and control.

Commentary

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and business like while being patient and deliberate.

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, gender, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control

come or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This Section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

Commentary

The requirement that judges abstain from public comment regarding a pending or impending proceeding continues during any appellate process and until final disposition. This Section does not prohibit a judge from commenting on proceedings in which the judge is a litigant in a personal capacity, but in cases such as a writ of mandamus where the judge is a litigant in an official capacity, the judge must not comment publicly. The conduct of lawyers relating to trial publicity is governed by Rule 3.6 of the Rules of Professional Conduct.

(10) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

Commentary

Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case. (11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity.

(12) Except as may be authorized by rule or order of the Supreme Court, a judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judge may authorize:

- (a) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;
- (b) the broadcasting, televising, recording, or photographing of investiture, ceremonial, or naturalization proceedings;
- (c) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:
 - (i) the means of recording will not distract participants or impair the dignity of the proceedings;
 - (ii) the parties have consented, and the consent from each witness appearing in the recording and reproduction;

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

Commentary

The prohibition against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted. To the extent reasonably possible, all parties or their lawyers (shall) be included in communications with a judge. Whenever presence of a party or notice to a party is required by Section 3B(7), it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

An appropriate and often desirable procedure for a court to obtain the advice of a disinterested expert on legal issues is to invite the expert to file a brief amicus curiae.

Certain ex parte communication is approved by Section 3B(7) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in Section 3B(7) are clearly met. A judge must disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before the judge. A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions. A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 3B(7) is not violated through law clerks or other personnel on the judge's staff.

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

Commentary

In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. (Continuing costs while preserving fundamental rights of parties protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts. Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end.

(9) A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome.

Communication - The exchange of thought messages on the like

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A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that Section 2B(7) is not violated through law clerks or other personnel on the judge's staff.

If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.

(8) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

Commentary

In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Combining cases while preserving fundamental rights of parties also protects the interests of witnesses and the general public. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.

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