

THE SUPREME COURT OF MISSISSIPPI

ALBERT ABRAHAM, JR.

APPELLANT

VS.

NO. 2009-CP-01759

STATE OF MISSISSIPPI

APPELLEE

APPELLANT'S REPLY BRIEF

ORAL ARGUMENT REQUESTED

DATED: April 1, 2010

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APPEARING *PRO SE*

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**TABLE OF CASES, STATUTES AND
OTHER AUTHORITIES CITED**

CASES

None cited

Reply Argument

What is more important in the State's brief is not what it said; but rather what it failed to say. The State does not deny that the following is true:

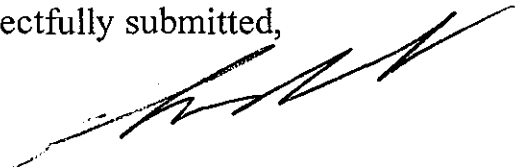
- (1) A traffic defendant may not be convicted *in absentia* without proof of guilt beyond a reasonable doubt. There must be testimony. Just putting the ticket in the record is insufficient. (See the authorities cited in Appellant's original brief)
- (2) That it was the custom and habit of the County Attorney who tries misdemeanor traffic cases in DeSoto County not to put on any evidence beyond the ticket, itself, when he tries a traffic defendant *in absentia*.

The State made two arguments. Its first argument was that the statement attributed to the County Attorney was hearsay. As noted in Abraham's original brief, he was not at the trial and therefore could never have first hand knowledge of what the prosecutor did or did not put on as proof. Second, Appellee argues that Appellant should have insured that the Justice Court Clerk did his job and sent the record up to the Circuit Court. For all practical purposes, there was no record to send up. The entire substantive record is the traffic ticket and *in absentia* conviction.

Conclusion

For the above reasons the State's position in this matter is without merit. This Court should reverse and render finding that the Circuit Court should have granted Abraham's Petition and ordering the Circuit Court to give Abraham a trial *de novo* on the merits as to his tickets.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, A. Lee Abraham, Jr., do hereby certify that I have this day caused to be served, by hand-delivery, a true and correct copy of the above and foregoing Appellant's Reply Brief along with a copy of the brief on disk in both Word Perfect and PDF formats to John R. Henry, Esq., Special Assistant Attorney General, Office of the Attorney General, 550 High Street, 13th Floor, Jackson, Mississippi 39205

I further certify that I have likewise served an additional copy along with a copy of the brief on disk in both Word Perfect and PDF formats today by U. S. Mail, first class, postage prepaid, addressed to Honorable Robert P. Chamberlin, Jr., the trial judge in this matter, at his mailing address which is P. O. Box 280, Hernando, Mississippi 38632.

DATED, this the 1st day of April, 2010.

A handwritten signature in black ink, appearing to read 'A. Lee Abraham, Jr.', is written above a horizontal line.

A. LEE ABRAHAM, JR.