

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

DEMARCO WILKINS

APPELLANT

V.

NO. 2009-KA-0253-COA

STATE OF MISSISSIPPI

APPELLEE

BRIEF OF THE APPELLANT

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this court may evaluate possible disqualifications or recusal.

1. State of Mississippi
2. Demarco Wilkins, Appellant
3. Honorable Laurence Y. Mellen, District Attorney
4. Honorable Charles E. Webster, Circuit Court Judge

This the 15th day of July, 2009.

Respectfully Submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS

BY:


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STATEMENT OF THE ISSUES

- I. THE TRIAL COURT ERRED IN DENYING WILKINS' MOTION FOR A NEW TRIAL AS TO COUNTS I, III, IV, AND V, AS THE VERDICT WAS AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.**

STATEMENT OF THE CASE

DeMarco Wilkins a/k/a "Rambo" was indicted by a Circuit Court of Coahoma County, Mississippi, grand jury for the following crimes: Count I, aggravated assault on Michael Martin, Count II, aggravated assault on Thaddeus Houston, Count III, murder of Michael Martin, Count IV, felon in possession of a firearm, and Count V, shooting into an occupied dwelling. (C.P. 3-6). Wilkins was convicted of Counts I, III, IV, and V, following a jury trial held on January 20-22, 2009, the Honorable Charles E. Webster, Circuit Judge, presiding. (C.P. 31-32, 47-51, Tr. 379-80, R.E.

3-9).¹ Wilkins was adjudged a habitual offender under Mississippi Code Annotated Section 99-19-81 and was sentenced to serve a term of twenty (20) years on Count I, life on Count III, five (5) years on Count IV, and ten (10) years on Count V, with (C.P. 33-46, R.E. 10-23). The trial court ordered the sentences imposed in Counts I, III, and IV to run consecutively, with the sentence in Count V to run concurrently with the sentences in Counts I, III, and IV. (C.P. 33-46, R.E. 10-23). The trial court denied Wilkins' motion for judgment notwithstanding the verdict or, in the alternative, for a new trial. (C.P. 21-24, R.E. 24-27).

STATEMENT OF THE FACTS

The State indicted and tried Wilkins on five counts that arose out of two incidents, both occurring on November 27, 2007, in Clarksdale, Mississippi. (C.P. 3-6, Tr. 170). The first incident occurred at about 4:30 p.m.; Wilkins' alleged acts during this incident were the basis for Count I (aggravated assault on Michael Martin) and Count IV (felon in possession of a firearm). (C.P. 3-6, Tr. 170). The second incident occurred at about 7:00 p.m.; Wilkins' alleged acts during this incident were the basis for Count II (aggravated assault on Thaddeus Houston), Count III (murder of Michael Martin), and Count V (shooting into an occupied dwelling).² (C.P. 3-6, Tr. 170). In the interests of organization and clarity, the facts surrounding each incident are discussed separately below.

The First Incident

On the afternoon of November 27, 2007, Wilkins and his girlfriend, Linda Whitfield (Linda),

¹ Wilkins was acquitted on Count II. (C.P. 36-37, 48, R.E. 4, 13-14).

² Wilkins alleged acts during the 7:00 incident may also have been the basis for Count IV (felon in possession of a firearm). The indictment only charged that Wilkins committed the crimes on November 27, 2007; it does not distinguish between the two separate incidents. (See C.P. 3-6).

were in Linda's grandmother's backyard at 90 Sixth Street when they heard two shots fired.³ (Tr. 256-58). According to Linda, the shots were fired between 4:30 and 5:00 p.m.: "I would say it was closer to 5:00. In between [4:30 and 5:00] or something like that." (Tr. 261). Linda testified that Wilkins then went toward the shots, but she stayed. (Tr. 257). A couple minutes later, Linda saw police cars "circling the area," and she saw Jerry Johnson a/k/a "Head" and Michael Martin "easing around the side of [Johnson's] house" as a patrol car drove past. (Tr. 258-259).⁴ Linda stated that Johnson and Martin appeared to be avoiding the police. (Tr. 258-59). Shortly thereafter, Linda's aunt took her to work at Walmart. (Tr. 257-58, 262-63, 266). At trial, Linda indicated that she later felt threatened by things she heard that Johnson was saying. (Tr. 259, 260).

At 4:43 p.m. the Clarksdale Police Department received a call reporting the shooting. (Tr. 170). Officer Steve Poer responded to the 600 block of Paul Edwards at 4:44 p.m. (Tr. 281). There, he found Martin, who had been shot in the leg; Officer Poer testified that Martin told him that he did not know who shot him. (Tr. 278, 281). Sergeant Robbie Linley searched the area; however, no casings or projectiles were found. (Tr. 171). From witness statements, Linley confirmed that two shots were fired during this incident. (Tr. 170).

At trial, Martin's sister, Rosie James, testified that Martin called her to take him to the hospital. (Tr. 183). James claimed that, on the way to the hospital, she asked Martin twice who shot him; he hesitated; and then told her that "Rambo shot him. (Tr. 186, 188). However, Martin's niece, Lisa Marbley (Marbley), testified that Martin called her from the hospital, and Martin told her that he did not know who shot him. (Tr. 276).

³ Linda's grandmother is Ernestine Whitfield. (Tr. 258).

⁴ Linda testified that she could see the rear of Johnson's house from her grandmother's backyard. (Tr. 259).

At trial, the State called Michael Moore to testify that he was at the 600 block of Paul Edwards during the first incident. (Tr. 190). According to Moore, Martin and Johnson got into an argument with Wilkins,⁵ during which Martin said something about whooping Wilkins' ass, and Wilkins called Martin into the street to "box it out." (Tr. 190, 195). Johnson then said: "Forget all that. Let's go around and get the pistol and burn one on him [Wilkins]." (Tr. 190). Moore, claimed that Willie Perryman, a bystander, told Wilkins that he needed to leave if he did not have a gun because Johnson and Martin were "coming around the corner" with a gun. (Tr. 196). According to Moore, another bystander (whose name Moore did not know) handed Wilkins a gun, and Wilkins walked around the corner of a blue apartment. (Tr. 196). Moore testified that Martin and Johnson then went around the corner of the blue apartment; and he heard two shots fired. (Tr. 192, 196). Moore did not see who fired either of the two shots. (Tr. 190-91, 196).

The Second Incident

At approximately 7:22 p.m., Sergeant Linley was dispatched to Ella Sherrod's house at 606 Baird Street to investigate a reported shooting. (Tr. 146-47). When he arrived, he learned that two people had been shot. (Tr. 147). Inside Sherrod's house, he discovered Martin laying in the living room deceased. (Tr. 147).

Around the same time, Officer Steve Simpson responded to a nearby house at the corner of Paul Edwards and Sixth Street. (Tr. 140). There he found Thaddeus Houston on the front porch apparently suffering from a gunshot wound to the leg. (Tr. 140-41). As Simpson was tending to Houston, Curtis Cooley ran up and reported that Martin had been shot on Baird Street. (Tr. 141).

⁵ Moore claimed that Martin and Johnson were arguing with Wilkins because Martin and Johnson sold Wilkins' brother a bag of seeds and sticks. (Tr. 193).

Officer Lee Clayton also responded to the scene. (Tr. 251). Officer Clayton asked Cooley what happened, and Cooley said: "I don't know anything." (Tr. 251). Officer Clayton then ordered Cooley to sit in the back of his police car, and he took Cooley to the police station to "sit with him." (Tr. 251, 253). At the police station, in response to police questioning, Cooley then claimed that "Rambo" was the shooter. (Tr. 144, 253-54).

Sergeant Linley collected evidence at the scene. He stated that the glass in the front door appeared to have been shot out and there were several bullet holes in the door. (Tr. 148). In the yard area, he recovered five nine millimeter shell casings and one spent projectile; he also found one nine millimeter shell casing, one projectile, and another partial projectile from the living room. (Tr. 148-167, Ex. S-11-S-19 (pictures), S-20-S-22 (projectiles), S-23-S-28 (casings)). (Tr. 148, 173). Sergeant Linley spoke with Houston, Cooley, and approximately fifteen others; however, Cooley was the only person who claimed that Wilkins was the shooter. (Tr. 168-69).

At trial, Charles Wilder testified that he spoke with a man named Parnell Harris a little after 1:00 p.m. on the day in question. (Tr. 283-84, 291-92). Parnell told Wilder that Martin had been "making pistol breaks" at us like he got [sic] a pistol" . . . "like he want [sic] to shoot." (Tr. 291). Wilder testified that he had to tell Parnell, "Man leave [Martin] alone." (Tr. 292). Roy Washington, III testified that Wilkins was at his house drinking at the time of the second shooting. (Tr. 294-96). The State attempted to impeach Washington's testimony by introducing a copy of a letter allegedly sent to him by Wilkins, in which Wilkins told him what to say at trial. (Tr. 297-300).

Cooley testified that he and Houston were walking down Sixth Street near the intersection of Baird Street on the way to the store, when Michael Martin emerged from Jerry Johnson's house and asked if Cooley would bring him back a grape soda. (Tr. 94, 102-03, 107). Cooley agreed; when he returned, he called Martin out of the house. (Tr. 94, 102-03, 107). According to Cooley,

he, Houston and Martin were talking in the street when a man appeared from the side of a house⁶ and hollered: "What's up now bitch?" (Tr. 94, 108). The man fired two shots, and Thaddeus Houston "took off running" towards "Ms. Winfield's house" on the corner of Paul Edwards and Sixth. (Tr. 95, 109). Martin then ran inside Ella Sherrod's house, and "the person that was shooting" chased Martin into the house, while firing four or five shots at him. (Tr. 96, 101, 111). Cooley claimed that the shooter came out of the house a few seconds later, looked at him, and ran off. (Tr. 96-97, 111). Cooley stated that the shooter had a gun in his hand that appeared to be a nine millimeter. (Tr. 97). He also claimed that he did not see a gun on Martin. (Tr. 96). At trial, Cooley identified Wilkins as the shooter. (Tr. 99).

Ella Sherrod testified she and her fourteen-year-old daughter, Shanika Sherrod, were in the back of their house a little after 7:00p.m., when they heard gunshots. (Tr. 200). Ella sent Shanika across the street to get some of her other children, and when Shanika made it to the door "someone just rushed in behind her and I hear[d] gunshots then." (Tr. 200). According to Ella, "everything got dim and dark" and she blacked out. (Tr. 200-01). She testified that Shanika thought she had been shot (although she had not been), and she took her to the hospital. (Tr. 201). Ella testified that she did not spend the night at her house that night, and when she returned she did not notice any bullet holes in her front door or any glass busted out of her front window. (Tr. 201-03). Ella also testified that she did not see the shooter, and she never even saw Martin's body in her living room. (Tr. 202-03). Shanika testified that she ran out of the back door after the shots were fired and did not see who came in the house or who fired the shots. (Tr. 205-09).

⁶ As to which house the shooter came from, Cooley testified confusingly: "The house - - the house where he was hit, the apartment next to the one he was killed in. It was between like a blue - - it's like a blue trailer out there, that sits out there to this day. Right there beside there." (Tr. 107).

After deliberation, the jury returned a verdict of not guilty on Count II (aggravated assault on Thaddeus Houston) and guilty on all remaining Counts. (Tr. 379-80, C.P. 31-32, 47-51, R.E. 3-9).

SUMMARY OF THE ARGUMENT

The trial court erred in denying Wilkins' motion for new trial as to Counts I, III, IV, and V, as the verdict was against the overwhelming weight of the evidence. The evidence of guilt as to each count was weak and contradicted. Moreover, no gun was recovered linking Wilkins to the crime, and Wilkins presented alibi testimony as to both incidences.

As to Count I (aggravated assault of Michael Martin), Linda testified that Wilkins was with her when the two shots were fired. Further, although James claimed that Martin told her that Wilkins shot him, he told both Officer Poer and Marbley that he did not know who shot him. Also, Moore did not see Wilkins fire a gun; he only heard two shots when Johnson and Martin walked around the side of the blue apartment. Finally, there was evidence that Harris was upset with Martin, who had been "making pistol breaks" at him. Therefore, someone other than Wilkins had a motive to shoot Martin. Accordingly, the weight of the evidence created a reasonable doubt as to whether Wilkins shot Martin during the first incident, and Wilkins is entitled to a new trial on Count I.

As to Count III (murder of Michael Martin), and Count V (shooting into an occupied dwelling, Washington testified that Wilkins was with him at the time of the second incident. Although Cooley claimed at trial that he saw Wilkins shoot Martin and fire into Ella's house, he initially told police he did not know anything. Only after he was placed in back of a police car, taken to the station, and questioned, did Cooley claim that Wilkins was the shooter. Houston, who was allegedly shot in the leg by Wilkins, did not testify, and he did not identify a shooter in his statement to police. Further, no person questioned, besides Cooley, named Wilkins as the shooter. Again,

there was evidence indicating that another person, Harris, had a motive to shoot Martin. Accordingly, the weight of the evidence raises a reasonable doubt as to whether Wilkins shot and killed Martin and/or fired into Ella's house during the second incident, and Wilkins is entitled to a new trial on Count III.

As to Count IV (felon in possession of a firearm), the overwhelming weight of the evidence, as argued in relation to Counts I, III, and V, indicated that Wilkins was not present at either incident and/or that he was not the shooter during either incident. Accordingly, the verdict of guilty of felon in possession of a firearm in contrary to the weight of the evidence, and he is entitled to a new trial on Count IV.

ARGUMENT

I. THE TRIAL COURT ERRED IN DENYING WILKINS' MOTION FOR A NEW TRIAL AS TO COUNTS I, III, IV, AND V, AS THE VERDICT WAS AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.

A. Standard of Review

In reviewing a challenge to the weight of the evidence, the verdict will be only be disturbed "when it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice." *Bush v. State*, 895 So. 2d 836, 844 (Miss. 2005). The evidence is viewed in the light most favorable to the verdict. *Id.* (citing *Herring v. State*, 691 So. 2d 948, 957 (Miss.1997)). This Court "sits as a hypothetical thirteenth juror." *Lamar v. State*, 983 So. 2d 364, 367 (¶5) (Miss. Ct. App. 2008) (citing *Bush*, 895 So. 2d at 844 (¶18)). "If, in this position, the Court disagrees with the verdict of the jury, 'the proper remedy is to grant a new trial.'" *Id.*

B. The Verdict as to Count I was Against the Overwhelming Weight of the Evidence.

Count I charged Wilkins with aggravated assault⁷ on Michael Martin. (C.P. 3). As explained below, the overwhelming weight of the evidence adduced at trial created a reasonable doubt as to whether Wilkins shot Martin in the leg during the first incident.

Linda testified that Wilkins was with her when the two shots were fired. (Tr. 261). Sergeant Linley confirmed that only two shots were reported fired during this incident. (Tr. 170). Thus, although Linda stated that Wilkins left her grandmother's backyard and went toward the shots, Wilkins could not have shot Martin because the only shots reported had already been fired.

Also, Officer Poer spoke with Martin minutes after the shooting, and Martin told him that he did not know who shot him. (Tr. 278, 281). Although James claimed that Martin told her that Wilkins shot him, Martin told a second person, Marbley, that he did not know who shot him.

There was also testimony that Harris was upset with Martin because he (Martin) was "making pistol breaks" at him earlier in the afternoon on the day in question. (Tr. 283-84, 291-92). Apparently, Harris seemed so upset that Wilder felt the need to talk him out of harming Martin: "Man, leave [Martin] alone. You know what I'm saying? He don't do nothing. He all right." (Tr. 291-92). Therefore, another person had a motive to shoot Martin, and he was upset with Martin just hours before the incident.

Also, the State failed to produce a pistol, and did not even find any shell casings at the scene of the first shooting. (Tr. 171-72). Thus, there was no physical evidence produced linking Wilkins to the shooting.

⁷ Under Mississippi Code Annotated Section 97-3-7 (2), one is guilty of aggravated assault if he "(b) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon. . ." Miss. Code Ann. § 97-3-7 (2)(b).

Further, no one could testify that they saw Wilkins fire a shot. Moore was the only witness present during the first incident who testified at trial. Moore only testified that Johnson told Martin: "Let's go around and get the pistol and burn one on him [Wilkins]." (Tr. 190). An unidentified man then gave Wilkins a gun, Wilkins walked behind a blue apartment, and he (Moore) heard two shots fired after Johnson and Martin walked behind the blue apartment. (Tr. 196). Moore could not testify who fired either of the two shots. (Tr. 196). Thus, there is a reasonable doubt as to whether Wilkins shot Martin. Martin could have shot himself in the leg. Or, Johnson could have shot Martin. Or, another person, Harris (or someone else), could have shot Martin.

It is acknowledged that "it is the responsibility of the jury to weigh the credibility and determine the impeachment value of all the testimony given." *Wash v. State*, 880 So. 2d 1054, 1057 (¶10) (Miss. Ct. App. 2004) (citing *Jones v. State*, 381 So.2d 983, 989 (Miss.1980)). It is also acknowledged that, for this reason, this Court ordinarily will not "pass upon the credibility of witnesses and where evidence justifies the verdict it must be accepted as having been found worthy of belief." *Smith v. State*, 821 So. 2d 908, 910 (¶4) (Miss. Ct. App. 2002) (quoting *Ford v. State*, 737 So. 2d 424 (¶8) (Miss. Ct. App. 1999)).

However, prior case law holds that a conviction may be reversed where "the evidence of defendant's guilt is of such nature as to create a serious doubt in our minds, we think that another jury should be permitted to pass upon this question." *Quarles v. State*, 199 So. 2d 58, 61 (Miss. 1967); *Hux v. State*, 234 So. 2d 50, 51 (Miss. 1970); *Clayton v. State*, 652 So. 2d 720, 725-26 (Miss. 1995). Wilkins contends that the facts of this case warrant the application of the above cited principal.

In sum, the verdict as to Count I was against the overwhelming weight of the evidence. To affirm Wilkins' conviction on Count I based on such weak, dubious, and contradictory evidence would sanction an unconscionable injustice. Under the rationale of Quarles, Hux, and Clayton,

justice requires that another jury be able to pass on Wilkin's guilt as to Count I. Accordingly, Wilkins requests that this Court reverse his conviction and sentence on Count I and remand for a new trial.

C. The Verdicts as to Count III and Count V were Against the Overwhelming Weight of the Evidence.

Count III charged Wilkins with Martin's murder.⁸ (C.P. 4). Count V charged Wilkins with shooting into an occupied dwelling;⁹ namely, Ella Sherrod's house at 606 Baird Street in Clarksdale, Mississippi. (C.P. 5). As explained below, the overwhelming weight of the evidence adduced as trial created a reasonable doubt as to whether Wilkins shot and killed Martin and/or fired a gun into Ella's house during the second incident.

Washington testified that Wilkins was at his house (Washington's house) drinking at the time of the second incident. (Tr. 294-96). The State attempted to impeach Washington's testimony by introducing a copy of a letter allegedly sent to him by Wilkins, in which Wilkins told him what to say at trial. (Tr. 297-300). However, this was relatively insignificant as Washington's statement to police, while more detailed, was consistent with his testimony that Wilkins was at his house at the time of the shooting.

⁸Mississippi Code Annotated Section 97-3-19 (1) defines murder as:

(1) The killing of a human being without authority of law by any means or in any manner shall be murder in the following cases:

(a) When done with deliberate design. . .

(b) When done in the commission of an act eminently dangerous to others and evincing a depraved heart, regardless of human life, (without any premeditation). . . .

⁹ Mississippi Code Annotated Section 99-37-29 provides in pertinent part:

If any person shall willfully and unlawfully shoot or discharge any pistol, shotgun, rifle or firearm of any nature or description into any dwelling house . . . whether actually occupied or not, he shall be guilty of a felony. . . .

Cooley's trial testimony that he saw Wilkins shoot Martin and fire into Ella's house was contradicted by his own prior statement and the surrounding circumstances. Cooley was at the scene when police arrived, and when police questioned him as to what happened, he said that he did not know anything. (Tr. 251). Only after Officer Clayton ordered Cooley to sit in the back of his police car, took him to the police station, and questioned him, did Cooley claim that he saw someone shoot Martin. (Tr. 251-54).

In fact, no person questioned (besides Cooley) named Wilkins as the shooter, even Houston, who was allegedly shot in the leg by Wilkins. (Tr. 169-70). Houston did not testify at trial, and Sergeant Linley testified that Houston did not identify Wilkins as the shooter in his statement to police. (Tr. 169-70).

Beyond all this, there was evidence indicating that another person, Harris, had a motive to shoot Martin. Namely, Wilder's testimony that Harris was mad at Martin because he (Martin) was "making pistol breaks" at him earlier in the afternoon on the day in question. (Tr. 283-84, 291-92).

Prior case law holds that a conviction is properly reversed where the prosecution's case rested on the testimony of one witness, "who was not an accomplice but was in a related situation [to that of the defendant]" and, whose testimony "contained material inconsistencies, was unreasonable in major respects, and . . . was impeached to some extent." *Mister v. State*, 190 So. 2d 869, 871 (Miss. 1966). In *Mister*, the defendant was convicted for arson based on the testimony of one witness, who was with the defendant on the night in question and provided testimony indicating that the defendant set fire to the building at issue while the witness waited in a car. *Mister*, 190 So. 2d at 869. On appeal, the Mississippi Supreme Court found that the witness's testimony was inconsistent with statements he made to others and was contradicted in other respects, and the witness "was manifestly interested in absolving himself from guilt and putting the blame on defendant." *Mister*, at 870. In

reversing the conviction and remanding the case for a new trial, the court in *Mister*, noting that the witness was not an accomplice, nevertheless found relevant and applicable “the rule as to the uncorroborated testimony of an accomplice.” *Id.*

Under Mississippi law, the uncorroborated testimony of an accomplice may be sufficient to support a conviction; however, “where [accomplice testimony] is uncorroborated, it must also be reasonable, not improbable, self-contradictory or substantially impeached.” *Jones v. State*, 368 So. 2d 1265, 1267 (Miss. 1979) (citations omitted).

The facts of this case pertaining to Count III and Count IV implicate the same considerations at issue in *Mister*, and the “uncorroborated accomplice testimony” rule should be applied. The State’s case on Count I rested primarily on Cooley’s testimony. There was no physical evidence and no other witness’ provided testimony implicating Wilkins in the second incident. As the witness in *Mister*, Cooley was similarly situated to the defendant. He and Wilkins were one of the only people present at the incident who saw anything. As the witness in *Mister*, Cooley was “interested in absolving himself” and blaming Wilkins, as evidenced by his denial of knowledge to police on the scene, and his identification of Wilkins after he (Cooley) was taken to the police station and questioned like a suspect. Only then did Cooley claim that Wilkins was there and shot Martin. As the witness in *Mister*, Cooley’s testimony was contradicted by his own statements made to others—to Officer Poer. Cooley’s testimony was impeached, and it was inconsistent with other testimony, such as Washington’s testimony that Wilkins was with him at the time.

Accordingly, the “uncorroborated accomplice testimony” rule should apply to Cooley’s testimony. The verdicts as to Count III and Count V were contrary to the overwhelming weight of the evidence, this Court would sanction an unconscionable injustice were it to affirm Wilkins’s conviction and sentence on Counts III and V, and Wilkins is, therefore, entitled to a new trial on

Count III and Count V.

D. The Verdict as to Count IV was Against the Overwhelming Weight of the Evidence.

Count IV charged Williams as a felon in possession of a firearm in violation of Mississippi Code Annotated Section 97-37-5, which provides that “it [is] unlawful for any person who has been convicted of a felony . . . to possess a firearm. . . .” Miss. Code Ann. § 97-37-5(1). (C.P. 4-5).

For the reasons outlined and argued above concerning Counts I, III, and V, the verdict as to Count IV was, likewise, against the overwhelming weight of the evidence, and Wilkins is entitled to a new trial.


CONCLUSION

Based on the propositions briefed and the authorities cited above, together with any plain error noticed by the Court which has not been specifically raised, Wilkins respectfully requests that this honorable Court reverse his conviction, sentence and fines entered against him in the trial court on Counts I, III, IV, and V and remand this case for a new trial on those counts.

Respectfully Submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS

BY:



Hunter N Aikens
COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I, Hunter N Aikens, Counsel for Demarco Wilkins, do hereby certify that I have this day caused to be mailed via United States Postal Service, First Class postage prepaid, a true and correct copy of the above and foregoing **BRIEF OF THE APPELLANT** to the following:

Honorable Charles E. Webster
Circuit Court Judge
1556 Edwards Avenue, Suite #2
Clarksdale, MS 38614

Honorable Laurence Y. Mellen
District Attorney, District 11
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Honorable Jim Hood
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This the 15th day of July, 2009.



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