

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

BILLY RAY ROBINSON

APPELLANT

V.

NO. 2009-KA-0414-COA T

STATE OF MISSISSIPPI

APPELLEE

CERTIFICATE OF INTERESTED PERSONS

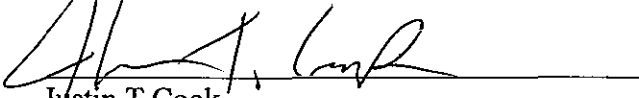
The undersigned counsel of record certifies that the following listed persons have an interest in the outcome of this case. These representations are made in order that the justices of this court may evaluate possible disqualifications or recusal.

1. State of Mississippi
2. BILLY RAY ROBINSON, Appellant
3. Honorable Eddie H. Bowen, District Attorney
4. Honorable Robert G. Evans, Circuit Court Judge

This the 31<sup>st</sup> day of August, 2009.

Respectfully Submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS

BY:   
Justin T Cook  
COUNSEL FOR APPELLANT

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BRIEF OF THE APPELLANT

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**STATEMENT OF THE ISSUES**

None

**STATEMENT OF THE CASE**

This appeal follows a conviction sale of cocaine against Billy Ray Robinson and a sentence of ten years in MDOC, by the Circuit Court of Simpson County, Mississippi, following a jury trial held on October 10, 2007, the Honorable Robert G. Evans, Circuit Judge, presiding. Billy Ray Robinson is presently incarcerated with the Mississippi Department of Corrections.

**FACTS**

On October 19, 2005 Mississippi Bureau of Narcotics Agents Shannon Gibson, Kyle

Reynolds and Ben Stevens as well as Simpson County Agent Mike Brown met with a confidential informant named Stacy James. At the meeting, the agents requested that James participate in an undercover operation to buy illicit drugs from drug dealers in Magee, Mississippi. James' car was outfitted with audio-video recording equipment; he also was given a body wire to wear and official state funds with which to purchase drugs. (T. 40-41). James left the meeting and drove into Magee where he made contact with Billy Ray Robinson.

James saw Robinson standing in a yard on North Raleigh Street in Magee. Robinson approached the passenger side of James' vehicle, they greeted each other and James asked Robinson if he was "doing it," which is a street term for selling drugs. Robinson said that he did not currently have any drugs but offered to take James to an area where he might find some. Robinson got into the vehicle with James and they drove to 13<sup>th</sup> Northeast Street where James stopped the car, gave Robinson \$20 and asked him to purchase a "dub," a street-term for \$20 of crack cocaine. Robinson left the car and returned with the alleged crack cocaine rock, which he exchanged with James. The exchange was recorded by the video surveillance that was in James' vehicle. (T. 72-73).

Following the alleged buy, James returned to the post buy meeting location where he turned over the alleged crack cocaine as well as the audio-video recording equipment to the agents who eventually took the alleged cocaine to the Mississippi crime lab for analysis. (T. 43, 47). When tested, the substance was found to contain 0.2 grams of cocaine.<sup>1</sup> (T. 60)

After deliberation, the jury returned and found Robinson guilty of the unlawful sale of cocaine. (C.P. 38, R.E. 4). Robinson was subsequently sentenced to a term of ten (10) years in the custody of the Mississippi Department of Corrections. (C.P. 45, R.E. 5).

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<sup>1</sup>1. There was little testimony regarding Robinson's arrest at trial. Robinson was arrested on November 1, 2006. (T. 56).

## **SUMMARY OF THE ARGUMENT**

None

## **ARGUMENT**

None

## **STATEMENT OF COUNSEL**

1. Counsel for the Appellant hereby represents to the Court pursuant to *Lindsey v. State*, 939 So. 2d 743 (Miss. 2005), that counsel has diligently searched the procedural and factual history of this criminal action and scoured the record searching for any arguable issues which could be presented to the court on Mr. Robinson's behalf in good faith for appellate review, and upon conclusion, has found none.

2. The matters considered, reviewed and included in counsel's search were:

(a) the reason for the arrest and the circumstances surrounding arrest of Mr. Robinson; (b) any possible violations of Robinson's right to counsel; (c) the entire trial transcript and content of the record; (d) all rulings of the trial court; (e) possible prosecutorial misconduct; (f) all jury instructions; (g) all exhibits, whether admitted into evidence or not; (h) possible misapplication of the law in sentencing; and (i) the indictment and all of the pleadings in the record; and (j) any possible ineffective assistance of counsel issues. (i) whether the verdict was supported by the overwhelming weight of the evidence.

3. Counsel further confirms that he has, as of the date of filing this brief, mailed by first class mail, postage prepaid, a copy of this brief and correspondence informing Robinson that counsel finds no arguable issues in the record and that Robinson has a right to file a *pro se* brief.

4. Counsel for appellant requests that the Court grant Robinson forty (40) days of additional time in which to file a *pro se* brief if he desires to do so.

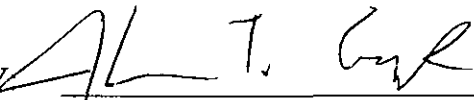
5. Counsel stands ready to prepare supplemental memoranda of law on any issues requested by the court.

**CONCLUSION**

There are no issues that counsel can in good faith present to the court in this appeal.

Respectfully Submitted,

MISSISSIPPI OFFICE OF INDIGENT APPEALS

BY   
Justin T Cook  
COUNSEL FOR APPELLANT

## CERTIFICATE OF SERVICE

I, Justin T Cook, Counsel for Billy Ray Robinson, 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 Robert G. Evans  
Circuit Court Judge  
216 1st Avenue NE  
Raleigh, MS 39153

Honorable Eddie H. Bowen  
District Attorney, District 13  
100 Court Avenue, Suite 4  
Mendenhall, MS 39114

Honorable Jim Hood  
Attorney General  
Post Office Box 220  
Jackson, MS 39205-0220

Billy Ray Robinson MDOC # 08526  
Central Mississippi Correctional Facility  
Post Office Box 88550  
Pearl, MS 39208

This the 31<sup>st</sup> day of August, 2009.

  
Justin T Cook

COUNSEL FOR APPELLANT

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