

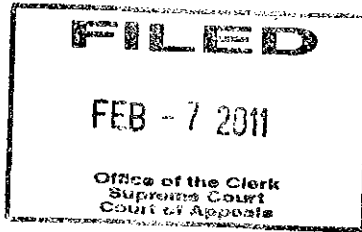
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In the Court of Appeals of The State of Mississippi

Corey Parker

Vs.

State of Mississippi



Appellant

No. 2010- CP- 1886- COA

Appellee

Appellant's reply to Appellee's Brief

In his Brief the Appellee, hereinafter referred to as respondent was careful not to indulge the Statutory Law regarding the plain language worded in Appellant's Statute and argument. For better or worst Miss. Code § 97- 3- 79, the Statute by which Appellant was charged and indicted is clear and unambiguous in that it specifically States " Shall be Guilty of Robbery", it does not state shall be guilty of Armed Robbery, or any other Robbery, just plain Robbery. Thus, unlike the respondent supposes, the Law is not mocked, where a Statute is clear and unambiguous, no further statutory construction is necessary and the Statute should be given it's plain meaning. City of Natchez v. Sullivan, 612 So. 2d 1087, 1089 (Miss. 1992).

The respondent stated in his Brief (Brief for the Appellee at 5) that the Appellant's argument regarding the language " Shall Be Guilty of Robbery " worded in § 97- 3- 79 Is new and unusual. However, the precedents in support thereof are not, they are clearly

Established law as determined by this very court. The language of a Statute is [Controlling], and that language should be attributed a usual and ordinary meaning. See, Necaise v. State, 771 So. 2d 353 (Miss. 2000); Mississippi casino Operators Ass'n v. Miss. Gaming Comm'n, 654 So. 2d 892, 894, (Miss. 1995), and Buelow V. Kemp Co. 641 So. 2d 1226, 1228-29 (Miss. 1994).

The core of Appellant's argument is that "All" are bounded and Governed By the words of the law. The respondent in his Brief could not cite or present any precedents to support his contention that the words "Shall be Guilty of Robbery" used from § 97-3- 79 by Appellant are a meaningless game of words (Brief for the Appellee at 5), because there exist no precedents that supercede or make void the plain language of a Statute, or exclude the basic tent thereof.

The respondent further contended in his response that Appellant was not misadvised or illegally sentenced to Twenty (20) years imprisonment (Brief for the Appellee at 4-5), and in support of such contention, the respondent claims that the Appellant overlooked the fact that both § 97- 3- 73 and § 97- 3- 79 use the word Robbery to describe the crime, and that there are Two forms of Robbery, one is Strong-Armed Robbery, the other is Armed Robbery. However, what the respondent himself overlooked is the fact that Armed Robbery and Strong Arm Robbery both are adjectives not expressed in the language used in the Statute by which Appellant was charged and indicted. The language in Appellant's Statute § 97- 3- 79 plainly states "Shall be Guilty of Robbery". The verb alone, not the

Adjectives as the respondent supposes.

Appellant would contend here as implied in his Brief (Brief for Appellant at 7-8) that maybe the Statute by which he is charged and indicted should or should have been worded to State "Shall Be Guilty of Armed Robbery". However, again such change or defect in the language, if any, can only be corrected by legislative authority and not by Judicial Pronouncement, or presumption. The role of the courts in determining the Legislative intent and constitutionality of acts passed by the Legislature are well settled. Stockstill v. State, 854 So. 2d 1017 (Miss. 2003); Anderson v. Lambert, 494 So. 2d 370, 372 (Miss. 1986) (Citing Baker v. State, 327 So. 2d 288 (Miss. 1976); Carter v. Harrison County Election Comm'n, 183 So. 2d. 630 (Miss. 1966), and Beard v. Stanley, 205 Miss. 723, 39 So. 2d 317 (1949).

Again the law is not mocked, no matter how new or unusual the Appellant's contentions are, if the law states that the language of a statute is controlling, and that language should be attributed a usual and ordinary meaning, such precedents creates for Appellant a fundamental right under the dominant requirements of Due Process.

Wherefore, premises considered, let it be noted that Appellant is not and never was arguing the constitutionality of his guilty plea, the crux of his argument is and initially has been that his sentence is illegal by virtue of the language "Shall be Guilty of Robbery" expressed in § 97- 3- 79 the Statue by which He was charged and indicted, in short,

because the language does not state "Shall Be Guilty of Armed Robbery", the Trial Court in sentencing Appellant was bound by the plain language of the Statue so enacted and worded by the Legislature, and not by presumptions as the respondent supposes. To construe otherwise is to challenge Legislative Authority.

As a matter of practical necessity and Judicial Logic, Appellant **RESPCTFULLY**, Submit that for the reasons and authority herein cited, his conviction in the Court below must be reversed and the sentence imposed by that Court vacated.

Executed, this the 7th day of February, 2011.

Cory Pach #38570

Pro Se, Appellant

Certificate of Service

I, Corey Parker, Pro Se, do hereby certify that I have this date mailed, postage prepaid,
a true and correct copy of the above Appellant's reply to the Brief of Appellee to the
following:

Hon. Jim Hood

Attorney General

P.O. Box 220

Jackson, MS. 39205-0220

Executed, this the 7th Day of February, 2011.

Corey Parker #38570
Pro Se- Appellant