

IN THE MISSISSIPPI SUPREME COURT

DENNIS E. JEFFERSON

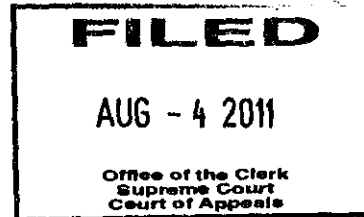
Appellant-Plaintiff

VS.

Appeal Cause No. 2011-CP-00265-SCT

STATE OF MISSISSIPPI, ET. AL.,

Appellees-Defendants



---

BRIEF FOR THE APPELLANT

---

BY

FOR

Respectfully Submitted

*Dennis E. Jefferson*  
Appellant-plaintiff pro se,  
878 Rusche Rd.  
Benton , Mississippi 39039

IN THE MISSISSIPPI SUPREME COURT

DENNIS E. JEFFERSON

Appellant

vs.

Appeal Cause No. 2011-CP-00265-SCT

STATE OF MISSISSIPPI, ET AL.,

Appellees

CERTIFICATE OF INTERESTED PERSON

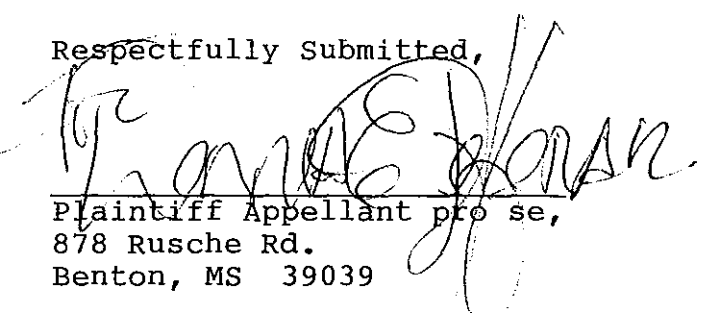
The undersigned Plaintiff-Appellant pro se, of record certifies that the following listed person have an interest in the outcome of this case. And that these representations are made in order that the Justices of this Court may evaluate for possible disqualifications or recusal.

That Dennis E. Jefferson is the plaintiff-appellant pro se,

State of Mississippi, Attorney General, Jim Hood, is the attorney for the defendants-appellees

Honorable Janie Lewis, Circuit Court judge, for Yazoo County, Mississippi and presiding trial judge.

Respectfully Submitted,

  
Plaintiff Appellant pro se,  
878 Rusche Rd.  
Benton, MS 39039

## TABLE OF CONTENTS

<u>TITLES</u>	<u>PAGE</u>
CERTIFICATE OF INTERESTED PERSONS	i.
TABLE OF CONTENTS	ii.
TABLE OF AUTHORITIES	iii.
STATEMENT OF ORAL ARGUMENTS	iv.
STATEMENT OF THE ISSUES	1-
STATEMENT OF THE CASE	1,2
STATEMENT OF THE FACTS AND/OR SUMMARY OF THE ARGUMENTS	2,3,4,5
ARGUMENTS	5,6,7
RELIEFS REQUESTED	3,5,6,7
CERTIFICATE OF SERVICE	7

# TABLE OF AUTHORITIES

<u>CASES</u>	<u>PAGE</u>
<u>Christopher v. Harbury</u> , 536 U.S. 403, 122 S.Ct. .... 2179, 153 L.Ed.2d 413 (2002).	3,4
<u>Conley v. Gibson</u> , Tex. 1957, 78 S.Ct. 99, 355 U. .... S. 41, 2 L.Ed.2d 80.	6
<u>Gentry v. Duckworth</u> , 65 F.3d 555 (7th Cir. 1995). ....	4
<u>Haines v. Kerner</u> , 404 U.S. 519, 92 S.Ct. 594, 30 L .... Ed.2d 652 (1972).	5
<u>Murrel v. Chandle</u> , 2008 U.S. App. 9475 (5th Cir. .... 2008).	5
<u>Myers v. State</u> , 583 So.2d 174 (Miss. 1995). ....	5,6
 <u>STATUTES, COURT RULES AND COMMENTARIES</u>	
UNITED STATES DEPARTMENTS OF COMMERCE AND JUSTICE .... NARRATIVE AND COMMENTARY	3
Mississippi House Senate Bill 3024. ....	1,5,6
Mississippi Constitution Article 3, § 14 & 26., of .... 1890, 1972, As Amended	3,4
Miss. Code Ann, § 11-44-3, 1972, As Amended. ....	4,5
Miss. Code Ann. § 97-17-23	1,2

## STATEMENT OF ORAL ARGUMENTS

Appellant requests oral arguments, and believes that oral arguments are needed to be represented in this Court as the trial Court has ruled in conflicts to House Senate Bill 3024 The State's Statutory Provisions, a criminal provision that is created for citizens wrongfully convicted, but has also suffered wrongful incarcerations, and detentions and the trial Court's decision conflicts with the Mississippi's Legislative Intent, the constitutions, laws and treaties of the United States

IN THE MISSISSIPPI SUPREME COURT

DENNIS E. JEFFERSON

Plaintiff-Appellant

Vs.

Appeal Cause No. 2011-CP-00265-SCT

STATE OF MISSISSIPPI, ET AL.,

Appellees

STATEMENT OF THE ISSUES

1. WHETHER THE TRIAL COURT'S DISMISSAL OF THE APPELLANT'S WRONGFUL CONVICTION PETITION WITHOUT PERMITTING 90 DAYS TO REFILE WAS CLEARLY ERRONEOUS AND AN ABUSE OF ITS DISCRETION AS A MATTER OF LAW

STATEMENT OF THE CASE

That this Appeal results from the appellant's filing a complaint, and Petition for his wrong conviction pursuant to House Senate Bill 3024, [Miss. Code Ann. § 11-44-3], and his serving some twenty, (20) months, more or less in the Custody of The Mississippi Department of Corrections for the felony Charges of Burglary of A Dwelling pursuant to Miss. Code Ann § 97-17-23, but prior to his conviction and sentence, being reversed, remanded and rendered by The Mississippi Supreme Court, too, resulting the trial Court's, resentencing the the appellant for and to a misdemeanor charge Trespass , moreover resulting in a Noll Pross, and precluding the

appellant's from being reprosecuted by the Mississippi State prosecutors for the felony criminal offense of burglary of a dwelling, pursuant to Miss. Code Ann. § 97-17-23, thus , a noll pross within the meanings of House senate Bill, 3024 , Miss. Code Ann. § 11-44-3, of 1972 as Amended. See CR. p. 1 Thru 6. However, subsequently from the appellant's June 14, 2010, filings, the trial Court, Honorable judge Janie Lewis, DISMISSED the appellant's complaint, petition. See CR. p. 7 and 8. Albeit, the appellate court's records does not reveal so much, the appellant on or about November 24, 2010, timely filed his motion for reconsiderations, from the trial Court's November 18, 2010, but the trial Court on or about January 19, 2011, entered its order and denying appellant's motion for reconsiderations. See CR. p. 9 and 10. And, the appellant timely filed his notice of appeal, Designation of The Records, Affidavit of Poverty And/Or Motion to Proceed In Forma Pauperis, on or about January 26, 2011, appealing , both the trial Court's orders, thus this Honorable Court now has jurisdiction, pursuant to The Mississippi Rules of Appellate Procedures. See Mississippi Rules of Appellate Procedures, Rules 4, 10, 11 and 28, see also, CR. p. 10 Thru 12.

**STATEMENT OF THE FACTS AND/OR  
SUMMARY OF THE ARGUMENTS**

The first that the appellant-plaintiff [HEREINAFTER JEFFERSON], first essential fact that the plaintiff requests, that the

Honorable Court and JUSTICES of this Court would consider is Whether or not, is Jefferson, " a victim of the renowned and long reverberating statistical findings by the United States Departments of Commerce and Justice that; ' The State of Mississippi's Judges and Federal Judicial Courts Systems Ranks last of the States of The United States, In Administering Justice with Judicial Fairness, and specifically Unfair to The Afro-Americans, as Jefferson is a afro-american male and for justice to appear as justice, truly warrants the Court's Review and the reversal of the appellant-plaintiff's case back to The Circuit Court.<sup>1</sup> See Christopher v. Harbury, 536 U.S. 403, 122 S.Ct. 2179, 153 L.Ed.2d 413 ( 2002 ) . But, this is especially so in the case of the case Sub Judice, given the operative facts that the plaintiff is proceeding pro se, is indigent, is unrepresented by a legal counsel, is unlearned in the science of law, has had his, fundamentally civil liberties violated and has no other means of seeking the vindications of the loss, violations of his, constitutional civil rights, but through the appeals and the person, this case, represnts the Courts. See Christopher, Supra., see also , Plaintiff's Motion To Show Cause, Attached But Under Separate And Distinct Cover. Too, whereas, Courts have held and holds that;

---

<sup>1</sup>. Appellant asks the Courts, take judicial notices, that should it have some , apprehensions with the above publications for its veracity, with the Courts's inherent powers, the Courts can confirm this narrative at the Departments of Commerce and Justice 's offices, at Washington, DC, Unites States attorney general's official offices. See Id,



' the right of access to the courts means the right rise to the level of being a failure. The right of access is at its base a right to be heard. Therefore, a total loss of the opportunity to raise one's voice in the courts is itself the the requisite detriment. See Gentry v. Duckworth, 65 F. 3d 555, 559-60 (7th Cir. 1995). However, it follows plaintiff declares, urges the Courts, plaintiff knows no more , about the judicial, due process, than from what the legal para ---- professionals apprises him of. See Id., see also, Article 3, § 14 & 26, Mississippi Constitutions of 1890, 1972, As Amended. The second and quintessential facts, factors that are outcome determinative and points in favor of the plaintiff's case , and must warrants a reversal, plaintiff filed his petition on or about June 14, 2010, and asked the trial court, grant him leave to seek reasonable discovery, interrogatories , admissions, deposition from the defendants as practicable but under the applicable rules of the Court's procedures , and because he was proceeding pro se, not learned in the law that SB 3024 as appoied might represnet and impermissibly implicate the constitution, grant an order appointing the legal counsels, but grant and preserve plaintiff's rights to amend his complaint. See CR. p. 2 Through 6. However the trial Court without any and/or requiring the defendants, to file a response on November 18, 2010, dismissed plaintiff's complaint and by orders dated January 19, 2011, the trial Court and ruling upon the appellant's motion for

reconsideration, denied same by orders dated January 19, 2011 See CR. p. 5, 6, 7, 8 and 9. Moreover, the trial Court's, relevant orders were not without prejudice, to allow the the appellant's adequate refiling within ninety (90) days , and it clearly, unreasonably erred and abused its discretion as a matter of law, See CR. p. 7, 8, and 9., see also , Murrell v. Chandler, 2008 U.S. App. LEXIS 9475 ( 5th Cir . 2008).

#### ARGUMENTS

Appellant would respectfully submit the Honorable Courts that for the Justices conveniency and to negate, repetitoin, that the statement of the issues, case and facts, summary of the arguments as set forth above will assume the arguments, but that The Standard of Review in the case of the case sub judice, and resolution of the issues represented this Appeal appellant begs that the Courts should be faithfully cognizant of the liberality to be afforded pro se litigants. See Myers v. State, 583 So.2d 174 (Miss. 1991), Haines v. Kerner, 404 U S. 519-20, 92 S.Ct. 594-95, 30 L.Ed.2d 652 (1972), too, 'a de novo review. See Id. In the instant case, the plaintiff' June 14, 2010, Petition for his wrongful conviction, sentence and imprisonment in which he served some 20 months in the custody of The Mississippi Department of Corrections, while it requested a judgment be entered compensating him for his wrongful conviction, sentence and imprisonment he served appellant, his petition requested reasonable discovery to be

granted, in which the trial court, when entering its order November 18, 2010 did not address, did not grant rather the trial Court found that Jefferson's petition was improper and should be dismissed, and subsequently denied Jefferson 's , motion for reconsideration, by order dated January 19, 2011, therefore plaintiff maintains, complains that the trial Court's, orders of November 18, 2010, DISMISSAL, and January 19, 2011 denial, of his petition for his wrongful conviction, without allowing the appellant pro se, the adequate opportunity to Refile his complaint, petition within ninety (90) days, then the Honorable trial Court, completely, clearly erred, and abused its discretion, 'as a matter of law. See Myers Supra, see also, House Senate Bill 3024 (Supp. 2011) which provides for in the relevant parts;

**SECTION 2.** (3) If the Court finds after reading the claim that the claimant has not demonstrated the foregoing, it shall dismiss the claim, either on its own motion or on the State's motion. This dismissal shall be without prejudice to allow adequate refileing within ninety (90) days. See Senate Bill 3024 (Supp. 2011).

In Myers, Supra., the Justices there in the unmistakable , language, stated that;

By repeated cases the Federal courts have held that a motion to dismiss a civil complaint under Rule 12 (b) (6) comes under the following criteria: A complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. Conley v. Gibson, Tex. 1957, 78 S. Ct. 99, 355 U.S. 41, 2 L.Ed.2d 80 [Other Supportive Authority Omitted]. See Myers, Supra.

**WHEREFORE, THESE PREMISES CONSIDERED,** And upon the foregoing facts, arguments, authorities, the Court's , inherent power

and The Federal Law as determined by the Supreme Court of the United States, grant the appellant the reliefs and reversal of this case back to the trial Court, and any such other good and equitable reliefs the Justices of this Court deems the appellant-plaintiff is entitled.

FURTHERMORE, ON THE PREMISE, Insomuch as, the appellant is proceeding pro se, and the Clerk of Court, failed to notice appellant's request for an extension of time within which to file the briefs for the appellant, but by the filing of his Brief for the Appellant this instant, appellant request that the Court and Justices of this Court would permit him to dispense with the filing of The Motion to Show Cause, as so directed by The Clerk of The Court, notice of July 27, 2011 . See Appellant's Exhibits "A".

#### CERTIFICATE OF SERVICE

That this is to certify that I, Dennis E. Jefferson, the plaintiff-appellant pro se, have on the date below, by way of United States Postal Services, postage prepaid, mailed a true and correct copy of, BRIEF FOR THE APPELLANT, to the following persons below;

HONORABLE JIM HOOD  
Attorney General  
P. O. Box 220  
Jackson, Mississippi 39205

**EXECUTED** this the 4th day of AUGUST, 2011.

Respectfully Submitted,

Appellant-plaintiff pro se,  
878 Ruche Rd.  
Benton, MS 39039

*[Handwritten signature]*

**Supreme Court of Mississippi**  
**Court of Appeals of the State of Mississippi**  
*Office of the Clerk*

Kathy Gillis  
Post Office Box 249  
Jackson, Mississippi 39205-0249  
Telephone: (601) 359-3694  
Facsimile: (601) 359-2407

*(Street Address)*  
450 High Street  
Jackson, Mississippi 39201-1082  
  
e-mail: [sctclerk@mssc.state.ms.us](mailto:sctclerk@mssc.state.ms.us)

July 27, 2011

Dennis Jefferson  
878 Rusche Rd  
Benton, MS 39039

Re: Dennis Jefferson v. State of Mississippi  
2011-CP-00265  
Yazoo County, Case# 2010-CI43

**Show Cause Notice**

Pursuant to the Rule 2(a) (2), M.R.A.P., "The clerk of the Supreme Court shall give written notice to the party in default, apprising the party of the nature of the deficiency. If the party in default fails to correct the deficiency within 14 days after notification, the appeal shall be dismissed...."

The docket in this cause shows that the Appellant has substantially failed to prosecute this appeal as indicated below:

The Brief of Appellant has not been filed.

Accordingly, the Brief of the Appellant must be **received** fourteen (14) days from the date of this letter or the appeal shall be dismissed.

In addition if the Brief of the Appellant is not **received** within fourteen (14) days, you are hereby directed to show cause in accordance with Rule 2(b) of the Mississippi Rules of Appellate Procedure within this time frame why sanctions should not be imposed on you by the Supreme Court for failing to file the brief in the above styled cause.

**APPELLANT'S EXHIBITS "A".**

  
CLERK

wdj

IN THE MISSISSIPPI SUPREME COURT

APPEAL CAUSE NO. 2011-CP-00265

DENNIS JEFFERSON V. STATE OF MISSISSIPPI, ET AL.,

REQUEST FOR AN EXTENSION OF TIME WITHIN WHICH TO  
FILE THE BRIEFS FOR THE APPELLANT

Comes Now, the appellant pro se, and respectfully Request the honorable Court would entertain and hear the above styled named and numbered cause appeal, and would request the Courts to grant him an extension of time up to and including July 21, 2011 within which to file the brief for the appellant, in the above styled named and numbered appeal cause. WHEREFORE, it so prayed. Also, by the copy of this letter, the attorney general, Jim Hood is being forward a copy of same. See Exhibits "A".

EXECUTED, This the 28th day of JUNE, 2011.

1 Incl., Hon. Kathy Gillis, Post Office Box 249, Jackson, MS 39205-0249,  
Jackson, Mississippi 39205-0249

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Dennis Jefferson", is written over a horizontal line.

Appellant pro se,  
878 Rusche Rd.  
Benton, Mississippi 39039

**Supreme Court of Mississippi**  
**Court of Appeals of the State of Mississippi**  
*Office of the Clerk*

Kathy Gillis  
Post Office Box 249  
Jackson, Mississippi 39205-0249  
Telephone: (601) 359-3694  
Facsimile: (601) 359-2407

*(Street Address)*  
450 High Street  
Jackson, Mississippi 39201-1082  
  
e-mail: [sctclerk@mssc.state.ms.us](mailto:sctclerk@mssc.state.ms.us)

May 24, 2011

Dennis Jefferson  
878 Rusche Rd  
Benton, MS 39039

**NOTICE**

Re: Dennis Jefferson v. State of Mississippi  
Supreme Court # 2011-CP-00265

In response to your request, please be advised that the Court has **granted** the motion for extension of time to file the Appellant's Brief. This brief is presently due on 07/01/2011.

**APPELLANT'S EXHIBIT "A".**

  
CLERK

tab

c: all counsel