

**FILED**

**JUL 10 2015**

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

**IN THE COURT OF APPEALS OF  
THE STATE OF MISSISSIPPI**

**NATHANIEL WALDEN**

**APPELLANT**

**VS.**

**2014-CP-00165-COA**

**STATE OF MISSISSIPPI**

**APPELLEE**

**REBUTTAL BRIEF**

**Assignment of Errors**

**I. and II.**

The appellee has pretty much conceded that the trial court errored on these two(2) issues.

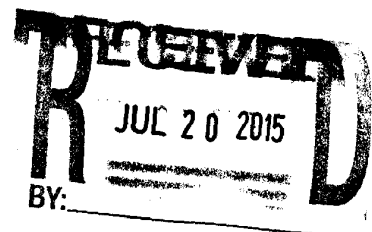
**III.**

The appellee was non-responsive to this issue.

**IV.**

The appellee response on this issue is:

- A. Factual incorrect
- B. Legally incorrect
- C. A great explanation on why the Mississippi Supreme Court granted the leave and why an evidentiary hearing is required.



#### **A. Factual Incorrect**

1. The appellee argues that the appellant claim is based solely on his own oath.
2. However they failed to realize that the trial record and the Mississippi Supreme Court ruling on direct appeal provided the preponderance of the evidence that trial attorney legal defense was not one legally recognized by the state of Mississippi.
3. So that is why the trial attorney told the appellant that the state could'nt prove murder. Because he himself was not aware of the laws of Mississippi, and that is clearly supported by the trial judge, the Court of Appeals, and the Mississippi Supreme Courts prior rulings on the trial attorneys accidental defense was legally incorrect.

#### **B. Legally Incorrect**

1. The appellee argues that the appellant case should be automatic dismissed because it is on his own oath.
2. That assertion is legally incorrect as the appellant amplify in his direct brief on error IV. (See the case laws cited in error IV of the direct brief).
3. The appellee also argued this on its response to the application to leave, in which the Mississippi Supreme Court rejected. Therefore their argument here is collateral estoppel. (See Mayor v. Homebuilders inc., et al 932 So.2d 44,59(¶61)(Miss.2006)).

### C, The Need For an Evidentiary Hearing.

1. The appellee argues in their brief that "Walden was so clearly guilty of murder..."
2. Anybody with any knowledge of Mississippi law could see that appellant was guilty of some crime (not necessarily murder, but at least manslaughter).
3. And the trial attorney was ineffective for not advising the appellant of that crucial legal fact.
4. The only logically explanation for why the trial attorney advised the appellant to go to trial is because he himself was under the erroneous legal impression that the appellant was'nt guilty of any crime because he thought the shooting was excusable under the accidental defense. (See direct attack appeal).
5. There are questions which obviously need to be answered by the trial attorney and the prosecuting attorney before the merits of this claim can be rendered.
6. This can only be achieved by having an evidentiary hearing.
7. Which is more likely than not is why the Mississippi Supreme Court granted the leave in the first place.

**Conclusion**

In the interest of justice, the appellant ask this High Court to reverse the decision of the trial court and to order an evidentiary hearing.

Respectfully Submitted

Nathaniel Walden #124890

pro se

July 10, 2015

Nathaniel Walden #124890

**CERTIFICATE OF SERVICE**

I, Nathaniel Walden, do hereby certify that I have mailed a true and correct copy(s) by ILAP mailing services to the following:

Honorable Jim Hood, Attorney General of Mississippi  
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