ORIGINAL

IN THE CIRCUIT COURT FOR OKTIBBEHA COUNTY
STATE OF MISSISSIPPI

No. 2001-0144-CV

WILLIE JEROME MANNING, Petitioner,

v.

STATE OF MISSISSIPPI, Respondent

PETITION FOR POST-CONVICTION RELIEF

DAVID P. VOISIN (MS Bar #100210)
MS Office of Capital Post-Conviction Counsel
P.O. Drawer 23786
Jackson, MS 39225
(601) 354-6066

ROBERT S. MINK (MS Bar #9002)
Holcomb Dunbar, PA
1217 Jackson Avenue
P.O. Drawer 707
Oxford, MS 38655
(662) 234-8775

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PETITION FOR POST-CONVICTION RELIEF

COMES NOW, WILLIE JEROME MANNING, Petitioner, and asks this Court, pursuant to the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution, Article 3, §§ 14, 26 and 28 of the Mississippi Constitution, as well as other law set forth below, to order that post-conviction relief be granted in his case.

Petitioner wishes to point out that this petition is incomplete due to the trial court's decision to stay proceedings until the Mississippi Supreme Court resolved issues concerning petitioner's legal representation. When the trial court stayed proceedings, numerous motions remained pending, including key discovery provisions. Petitioner reserves the right to supplement the petition after the motions are heard and after he has had the opportunity to conduct any additional investigation that will become necessary.

The relevant procedural background and grounds for the petition are as follows:

REQUIRED INFORMATION AND PROCEDURAL HISTORY

1. Petitioner was charged with the offense of capital murder for the December 11, 1992, deaths of Jon Steckler and Tiffany Miller.

2. Petitioner was initially indicted on July 30, 1993 . The underlying felony to establish the offense of capital murder was kidnapping. On August 2, 1994, the Oktibbeha County grand jury returned a superceding indictment that charged petitioner with armed robbery as the underlying felony to be used to establish the offense of capital murder.

3. Petitioner entered a plea of not guilty.

4. Petitioner was represented at trial by Mark G. Williamson and Richard Burdine.

5. The case was tried by a jury.

6. Petitioner did not testify on his own behalf at either phase of his capital trial.

7. Petitioner was found guilty on November 7, 1994. He was sentenced to death on November 8, 1994.

8. Petitioner appealed from his convictions and death sentences. He was represented by Mark G. Williamson and Clive A. Stafford Smith.

9. On June 25, 1998, the Mississippi Supreme Court affirmed his convictions and sentences. *Manning v. State*, 726 So.2d 1152 (Miss. 1998). A timely petition for rehearing was denied on October 8, 1998, and the United States Supreme Court denied a petition for a writ of certiorari on April 5, 1999. 526 U.S. 1056 (1999).

10. After the denial of the petition for a writ of certiorari, the Mississippi Supreme Court remanded the matter to the Circuit Court of Oktibbeha County for the appointment of post-conviction counsel. Initially, the court appointed Pearson Liddell. However, Mr. Liddell quickly

moved to withdraw. Eventually, the court granted his request and appointed J. Dudley Williams. Like Mr. Liddell, Mr. Williams also moved to withdraw due to his lack of qualifications. The trial court next appointed the Office of Capital Post-Conviction Counsel, but that office was not served with the order. After the Office of Capital Post-Conviction Counsel learned of its appointment, it notified the trial court, which then reset the post-conviction timetable to run from the date of its order.

11. The Office of Post-Conviction Counsel contracted with Robert S. Mink to assist it in connection with petitioner's post-conviction challenge to his convictions for the murders of the two Mississippi State University students in the instant case and his convictions for the murder of two elderly women in Brooksville Gardens. The state opposed Mr. Mink's involvement in the case. In petitioner's other case, the trial court ruled that issues concerning representation in capital post-conviction matters should be addressed by the Mississippi Supreme Court. The trial court presiding over the challenge to the convictions for the student murders agreed and indicated that it, too, would stay post-conviction proceedings pending resolution of issues concerning legal representation. At the time that the trial court stayed the proceedings, petitioner had a number of motions outstanding, including motions pertaining to discovery, testing of evidence, and authorization to expend funds for expert services.

12. Because resolution of these issues is indispensable to the adequate development of all meritorious claims for post-conviction relief, the current petition is incomplete. Petitioner reserves the right to supplement this petition after the lower court has the opportunity to consider the motions and petitioner is afforded the opportunity to conduct additional necessary investigation.

PRESERVATION OF ISSUES

13. Miss. Code § 99-39-21(6) requires petitioner to allege in his motion such facts as are necessary to demonstrate that his claims are not procedurally barred under that section. These claims are not barred for the following reasons:

14. "Post-conviction proceedings are for the purpose of bringing to the trial court's attention facts not known at the time of judgement." *Williams v. State*, 669 So.2d 44, 52 (Miss. 1996) (quoting *Smith v. State*, 477 So. 2d 191, 195 (Miss. 1985)); *see also* Miss. Code. § 99-39-5. Furthermore, post-conviction proceedings afford the Court an opportunity "to review those matters which, in practical reality, could not or should not have been raised at trial or on direct appeal." Miss. Code § 99-39-3(2); *see also Brown v. State*, ___ So.2d ___, 2001 WL 894292 (Miss. S. Ct. Aug. 9, 2001). The majority of petitioner's claims are based upon facts not known to the trial court and not present in the Record, or which should not have been raised on direct appeal due to the impossibility at the time of supplementing the record to include additional facts not known at the time of trial. Post-conviction proceedings also afford a petitioner an opportunity to ask a reviewing court to reconsider issues raised on direct appeal in light of an intervening decision of the Mississippi Supreme Court or United States Supreme Court. Miss. Code § 99-39-23(6); Miss. Code § 99-39-27(9).

15. In Ground A, petitioner alleges, as he did on direct appeal, that his conviction should be vacated because the prosecution asked Earl Jordan, a jailhouse informant, if he had been willing to take a polygraph examination. The Supreme Court rejected this claim. *Manning v. State*, 726 So.2d 1152, 1179 (Miss. 1998). Ordinarily, petitioner would be barred from relitigating the claim under principles of *res judicata*. Miss. Code § 99-39-21(2). Despite this provision, however, the

Supreme Court will reconsider an issue in light of an intervening decision that overrules law existing at the time of the direct appeal. Miss. Code § 99-39-23(6) and Miss. Code § 99-39-27(9). In this case, the Supreme Court reversed its holdings on the identical issue of asking a witness if he had been willing to take a polygraph examination. *Weatherspoon v. State*, 732 So.2d 158 (Miss. 1999). The Court explicitly noted that it was overruling *Manning v. State*. *Weatherspoon*, 732 So.2d at 162.[1] Procedurally speaking, petitioner has satisfied all requirements to have the Court re-examine the issue. Petitioner raised a contemporaneous objection at trial, raised the issue on direct appeal, received an unfavorable ruling on the merits of the claim, and after petitioner's direct appeal, the Mississippi Supreme Court reversed itself on the identical issue. Under similar circumstances, the Mississippi Supreme Court has addressed the merits of intervening decisions. For example, in *Ballenger v. State*, 761 So.2d 214 (Miss. 2000), the petitioner pointed out that she had raised on direct appeal a challenge to the trial court's refusal to instruct the jury on the elements of the offense of robbery. The Supreme Court rejected the claim. After Ballenger's direct appeal, however, the Supreme Court had issued intervening decisions reaching a result contrary to the result reached in Ballenger's direct appeal. In light of these intervening decisions, the Supreme Court held that Ballenger established cause for circumventing the bar against relitigating claims that had been addressed on direct appeal. 761 So.2d at 219-220; *see also Stringer v. State*, 638 So.2d 1285 (Miss. 1994) (finding that *Maynard v. Cartwright*, 486 U.S. 356 (1988) and *Clemons v. Mississippi*, 494 U.S. 738 (Miss. 1990), were intervening decisions requiring the grant of post-conviction relief);

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[1]Any doubt about whether *Weatherspoon* is an intervening decision is dispelled by the dissent, which complained that "[t]he trial bench and bar should be able to rely upon this Court for consistency in our opinions and not make radical departures from precedent within a relatively short time." 732 So.2d at 167 (Smith, J., dissenting).

Nixon v. State, 641 So.2d 751 (Miss. 1994) (finding that *Powers v. Ohio*, 499 U.S. 400 (1991), was an intervening decision but declining to grant relief due to the petitioner's failure to demonstrate prejudice); *Gilliard v. State*, 614 So.2d 370 (Miss. 1992).

16. Petitioner raises several instances of state misconduct, including allegations concerning the presentation of false evidence and suppression of material, exculpatory information. These claims rely on facts that were unavailable at the time of trial and which have been discovered only through post-conviction investigation and discovery. *Kyles v. Whitley*, 514 U.S. 419 (1995); *Guerra v. Johnson*, 90 F.3d 1075 (5th Cir. 1996); *Malone v. State*, 486 So.2d 367, 369 (Miss. 1986).

17. Similarly, petitioner raises in his petition several allegations that counsel were ineffective for conducting inadequate investigation or for not properly preserving issues for appellate review. Such claims rely on facts that were unavailable at the time of direct appeal, and post-conviction proceedings are the proper vehicle for the consideration of claims that require the development of facts outside of the trial record. *See Strickland v. Washington*, 466 U.S. 688 (1984); *Brown v. State*, 749 So.2d 82 (Miss. 1999); *Davis v. State*, 743 So.2d 326 (Miss. 1999).

18. Petitioner is also raising two claims that had been raised on direct appeal: that trial counsel operated under a conflict of interest and that counsel were ineffective for not adequately investigating and presenting mitigating evidence. With respect to the conflict of interest claim, the Court found that trial counsel did not have an actual conflict of interest. *Manning v. State*, 726 So.2d 1152, 1169 (Miss. 1998). As discussed more fully in Ground H below, the conflict itself prevented the most salient facts from being presented at trial and on direct review. The testimony by trial counsel's former client attacking his competency was actually false, but due to his conflict of interest, he was precluded from presenting that to the Court. Not until the former client authorized

a release of information could petitioner explore the issue with trial counsel. Not only have post-conviction proceedings long been considered the appropriate vehicle for addressing "issues or errors which in practical reality could not be or should not have been raised at trial or on direct appeal," Miss. Code § 99-39-3(2), the post-conviction relief statute also authorizes the courts to consider evidence that was not reasonably available at the time of trial. Miss. Code § 99-39-5. Likewise, the conflict itself constitutes "cause" and "prejudice" for any failure to have fully developed the claim previously. Miss. Code § 99-39-21(4). In the alternative, petitioner has a meritorious claim that trial counsel was ineffective for not adequately developing the trial record.

19. With respect to the challenge to counsel's preparation and performance at the penalty phase, the Court noted a number of ways in which petitioner's showing was insufficient: he did not note which additional witnesses should have been called or what the substance of their testimony would have been; and he did not establish that counsel Burdine failed to contact witnesses suggested to him by co-counsel Williamson. As a result, "[t]he reason for not calling these witnesses simply cannot be gleaned from the record." *Manning*, 726 So.2d at 1170. After noting the insufficiency of the trial record to establish that counsel performed deficiently, the Court found a similar shortcoming with respect to prejudice: "[w]ithout knowing what witnesses he thinks should have been called, and what they might have said, we cannot presume that had they been called, the jury would have voted for life instead of death." *Id.*

20. At times, the Mississippi Supreme Court has held that a petitioner who is represented by separate counsel at trial and on appeal should raise allegations of counsel's ineffectiveness on direct appeal. *See Lockett v. State*, 614 So.2d 888 (Miss. 1992). For Manning, however, one of his trial attorneys continued to represent him. Furthermore, in *Lockett*, the Court found that the

petitioner had "a meaningful opportunity" to challenge counsel's effectiveness on direct appeal but chose not to do so. *Id.* at 894. In contrast, however, Willie Manning did not have a "meaningful opportunity" to develop his claims fully. First, there are not sufficient provisions for the expansion of the trial record. The appellate court rules limit the record on appeal to "designated papers and exhibits filed in the trial court, the transcript of proceedings, if any, and in all cases a certified copy of the docket entries." M.R.A.P. 10(a). In addition, the rules place stringent limits on what may be added to the trial record:

> Nothing in this rule shall be construed as empowering the parties or any court to add to or subtract from the record except insofar as may be necessary to convey a fair, accurate, and complete account of what transpired in the trial court with respect to those issues that are the bases of appeal.

M.R.A.P. 10(f). Thus, as the Supreme Court implicitly recognized, a challenge to Richard Burdine's performance would need some accounting of what he did and why he did it. Without a mechanism for supplementing the record with this additional evidence, petitioner did not have a full and fair opportunity to litigate this claim on direct review.

21. Besides the limitations in the appellate court rules, there are other practical limits on including additional evidence. On direct appeal, for example, there is no provision for investigators or other necessary experts who may be necessary to develop the facts needed to establish prejudice. For these reasons, the Supreme Court recognized in *Jackson v. State*, 732 So.2d 187, 190 (Miss. 1999), that "[c]ertain issues must often be deferred until the post-conviction stage, such as the claim of ineffective assistance of counsel."

22. In other cases, the Mississippi Supreme Court has addressed the merits of ineffective assistance of counsel claims in post-conviction proceedings even when the petitioner's direct appeal

counsel was not the same as the attorney who had represented the inmate at trial. For example, in *Faraga v. State*, 557 So.2d 771 (Miss. 1990), the Supreme Court granted post-conviction relief on an ineffective assistance claim even though it had reviewed an ineffective assistance claim brought by new counsel on direct appeal. *Faraga v. State*, 514 So.2d 295 (Miss. 1987); *see also Hymes v. State*, 703 So.2d 258 (Miss. 1997) ("even where different counsel appears on direct appeal, a post-conviction relief proceeding is the usual avenue for ineffective assistance claims"); *Vielee v. State*, 653 So.2d 920 (Miss.1995).

23. Under these circumstances, the arbitrary, inconsistent, and unjustifiable imposition of a procedural bar will deny petitioner his right to due process and a full and fair opportunity to litigate this issue in state court. *See, e.g., Kimmelman v. Morrison*, 477 U.S. 365 (1986) (state court must provide procedural mechanism for adequate factual development of claims of counsel's ineffectiveness); *Lambright v. Stewart*, 241 F.3d 1201 (9th Cir. 2001) (considering merits of ineffective assistance claim despite procedural bar because petitioner was precluded from raising issues outside of the trial record).[2]

24. With respect to death sentences, the Mississippi Supreme Court's statutory responsibility requires it to go beyond the specific points raised on direct appeal and determine whether the death sentence is imposed under influence of "passion, prejudice or any other arbitrary factor," Miss. Code Ann. Section 99-19-105(3)(a). The claims in this petition relate to arbitrary factors, including prosecutorial misconduct and the consideration of unlawful and improper evidence in aggravation and improper statutory aggravating circumstances, which have unlawfully played a

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[2]These issues regarding the adequacy of the mechanisms for developing the ineffective assistance of counsel claims apply equally to the conflict of interest claim discussed previously.

part in petitioner's sentence of death. Because the Court must go beyond the specific points raised on direct appeal to fulfill this responsibility, it may not refuse to review a claim simply because of any procedural defect associated with direct appeal.

25. Likewise, the Mississippi Supreme Court has a venerable tradition, continuing to the present, of relaxing procedural rules in death penalty cases such as this, to insure the interests of justice and in an "awareness of the uniqueness and finality of the death penalty." *Williams v. State*, 445 So. 2d 798, 810 (Miss. 1984); *see also Randall v. State*, No. 1999-DP-01426-SCT (Miss. Sept. 27, 2001); *Conerly v. State*, 760 So.2d 737, 740 (Miss. 2000) ("This Court has recognized an exception to procedural bars where a fundamental constitutional right is involved."); *Gilliard v. State*, 614 So.2d 370, 375 (Miss. 1992) ("This Court has looked beyond a procedural bar in instances where the error was of constitutional dimensions."); *Smith v. State*, 477 So.2d 191 (Miss. 1995); *Cole v. State*, 666 So.2d 767, 782 (Miss. 1995); *Pinkney v. State*, 602 So.2d 117 (Miss. 1992); *Clemons v. State*, 593 So.2d 1004, 1005 (Miss. 1992).

26. The Mississippi Supreme Court has held that procedural bars will not prevent consideration of issues on the merits "where errors at trial affect fundamental rights." *Gallion v. State*, 469 So.2d 1247, 1249 (Miss. 1985), *citing Brooks v. State*, 46 So.2d 87 (Miss. 1950). Most of the claims raised in this motion implicate "fundamental rights" – particularly the right not to be sentenced to death except in accordance with legal and constitutional principles. *Furman v. Georgia*, 408 U.S. 238 (1972).

27. The claims in this petition, when considered by themselves and in light of the fact that they arise in the context of a death sentence, are so serious as to allege "plain error" of the sort which is routinely reviewed by the Mississippi Supreme Court even in the absence of procedural

preservation.

28. The provisions of the Post-Conviction Collateral Relief Act regarding procedural bar are an unconstitutional invasion of the Mississippi Supreme Court's rule-making powers, in that they constitute a legislatively created limitation on this Court's scope of review of post-conviction petitions.

29. Alternatively, the issues presented in this Motion are not procedurally barred because failure to consider these issues would result in a fundamental miscarriage of justice. *See Smith v. Murray*, 477 U.S. 527, 538 (1986); *Murray v. Carrier*, 477 U.S. 478, 496 (1986); *Sawyer v. Whitley*, 120 L.Ed. 269 (1992).

STANDARD OF REVIEW

30. The Mississippi Supreme Court has recognized "that post-conviction efforts, though collateral, have become an appendage, or part, of the death penalty appeal process at the state level" *Jackson v. State*, 732 So.2d 187, 190 (Miss. 1999); *see also id.* at 191(finding that in capital cases, state post-conviction efforts, though collateral, have become part of the death penalty appeal process at the state level"). The Mississippi Supreme Court's well-established standard for review of capital convictions and sentences is "one of 'heightened scrutiny' under which all bona fide doubts are resolved in favor of the accused." *Flowers v. State*, 773 So.2d 309, 317 (Miss. 2000) (internal cites omitted); *see also Randall v. State*, No. 1999-DP-01426-SCT (Miss. Sept. 27, 2001) (". . . the rule in this State is clear: death is different. In capital cases, all bona fide doubts are resolved in favor of the defendant"). The Supreme Court recognizes that "what may be harmless error in a case with less at stake becomes reversible error when the penalty is death." *Flowers*, 773 So.2d at 317.

RELEVANT FACTUAL BACKGROUND PRESENTED AT TRIAL

31. Before delving into the specific grounds for relief, it may be helpful to review the case against petitioner at trial. In this case, the state's case was relatively weak, a combination of circumstantial evidence and testimony from jailhouse informants and other witnesses with overwhelming incentives to align their testimony with the state's theory of the case. What will ultimately be clear when reviewing the claims addressed below is that the state went to great lengths to shield the defense and the jury about the utter lack of credibility of its chief witnesses. This may not seem so surprising in a case in which the prosecution recognized that for the jury the "really only issue in this case" was "who are you going to believe." Tr. 1529. It is against this evidentiary backdrop and considerations that the claims presented below must be viewed.

32. Tiffany Miller, a Mississippi State student, was dating Jon Steckler, a fraternity brother at Sigma Chi. Tr. 605-06. They left the fraternity house together at roughly 1:00 a.m. on December 11, 1992. Tr. 607. Tiffany had an MR2 Toyota, a small two-seater sports car, and they were going to her trailer at the University Hills Trailer Park. Tr. 608-09. They were found dead on Pat Station Road in Oktibbeha County. Tr. 734. Tiffany was dead; Jon was still breathing, but had been run over. Tr. 789.

33. John Wise, who pledged Sigma Chi together with Jon, had his car burgled that night. The stolen items included a CD player, a brown leather bomber jacket, a silver monogrammed huggie, and several dollars in change from the console. Tr. 633. Wise parked the car the night before at 6:30 p.m., and found it broken into the next morning between 8:00 and 9:00 a.m. Tr. 632. When he went out to the car at about 1:30 a.m., he did not notice anything amiss then, save for the doors

being unlocked.[3] Tr. 632. There were no marks on the car at that time. Tr. 632. However, the next morning he noticed many things missing, and damage to the car. Tr. 663.

34. The prosecution presented evidence to try to link Manning to the theft from John Wise's car. Paula Hathorn, petitioner's girlfriend, produced a jacket that she said belonged to Manning. Wise identified the bomber jacket as having been taken from his car, Tr. 638, 641, although he had not been able to identify the jacket at first. Tr. 647[4]

35. The prosecution then tried to link the theft from the car to the scene of the murder. Wise identified a token, found at the scene of the murder,[5] as coming from a public rest room in Grenada. He said it had lost its shine sitting on his console. Tr. 638. However, the one found at the scene was, according to Sheriff Dolph Bryan, a bright shiny gold color. Tr. 784. There was no evidence how it got there, and there were no fingerprints on the token. Tr. 855. Yet this was the only evidence they had that purported to link the murder to the car theft in any way. Tr. 856-57.

36. The prosecution struggled with motive. Initially, Manning was indicted for murder in the course of a kidnapping, but this was amended to robbery. Indeed, there was no proof of kidnapping. John Wise testified that the only way to have three people in the MR2 was to have one on the other's lap in the passenger seat, since there was no space behind the front seats. Tr. 655. However, the motive did not appear to be robbery, either. Someone had apparently tried to rape Tiffany. Tr. 749. Sheriff Bryan testified that "[t]here's no doubt in my mind that the man that killed

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3. He usually locked his car, Tr. 661, but a fraternity brother had gone out for soda at about 11:00 pm. Tr. 630-31.

4. The investigators had looked at 100 jackets, and Mirage is a popular brand. Tr. 830.

5. A token was found where the bodies were discovered. Tr. 752. No other coins were found.

Tiffany Miller tried to rape her." Tr. 861. In contrast, Jon's wallet was in his pocket, and Tiffany's purse was left behind in the car. Tr. 773, 867-68.[6] There was no sign that items were left because the killer was in any rush at the scene of the murder. Tr. 869.[7]

37. It was the prosecution's and the sheriff's theory that the victims walked up on a car burglary in progress. Tr. 852. However, Sheriff Bryan admitted that there was absolutely no evidence of this. Tr. 853. Indeed, the sheriff noted no marks that would have shown a forced entry. "[W]e just assumed that he opened the door and got the stuff out of the car rather than burglarizing it. Since the door was unlocked, there was no need to break into it." Tr. 854.

38. Tiffany's apartment was within view from where her car was found. Tr. 871. This might suggest to the reasonable person that her killer had been someone who may have known her or a perverted admirer from the area around her trailer. On the other hand, there was no link between Manning and the victims, Tr. 874, and it was ten miles from where her car was abandoned to where Manning lived. Tr. 874. "There was no evidence that linked him to that . . . apartment complex." Tr. 874.

39. The prosecution also struggled to link the time of the murders to the time that the victims left the fraternity house. The crimes must have occurred between 1:00 a.m., when they left, and 2:33 a.m. when the bodies were found. It was very cold that night--one officer had to de-ice his car. Tr. 863-64. Yet when the sheriff arrived at the scene just before 3:00 a.m., Tr. 863, finding Tiffany with her clothes pulled up, body and limbs exposed, Tr. 865, she was still warm. Tr. 865.

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6. Concededly, it was empty. Tr. 840. However, the assailant would not have known this.

7. Tiffany's ring was still on the seat of the car. Tr. 868. Her other ring was lying by the road alongside where the car was found parked, near Tiffany's trailer and the apartment complex. Tr. 868.

In addition, Jon still had a pulse when law enforcement arrived at 2:33 a.m. Tr. 770.

40. The MR2 – the sports car in which the victims were allegedly kidnapped – was found in the parking lot of some apartments on Old Mayhew Road. Tr. 790. As the sheriff testified, "I do know . . . there was no evidence developed that put Willie Jerome Manning in that [MR2] car." Tr. 877.[8]

41. No physical evidence was found to link Manning directly to the crime. Deputy Elmore was careful to preserve the bullet casings for prints. Tr. 776. There were none. There were none on the token. Tr. 855. There were footprints at the scene, Tr. 858, but no footwear was found in Manning's house that matched them. Tr. 859. No gun was ever found linking anyone to the crime. Tr. 866.[9] None of the items supposedly missing from the victims – two watches, a class ring and perhaps a necklace, Tr. 866-67[10] – was ever linked to the accused.[11] They were linked to other people.[12]

42. What supposedly 'led' them to Manning was finding the huggie in the proximity of

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8. The FBI did exhaustive work on gleanings from the case. Tr. 832. All the laborious processing revealed no fingerprints that matched Manning, although there were 17 that were not identified as belonging to the victims or any other known person, and could therefore have been left by the real killer. Tr. 1498.

9. They checked on every .380 transferred in the area in over a year, sending them all to the FBI lab for comparison. Tr. 831.

10. Nothing in the ashes of burned material at Manning's house linked him to the crime. Tr. 913.

11. Jon wore a gold high school ring from Cathedral High in Natchez, and a distinctive watch with a leather band, and little clocks decorating the main face. Tr. 609. Paula Hathorn had listed all the things that Manning had supposedly stolen, and nowhere on the list was the class ring that the prosecution alleged that he stole from Jon. Tr. 714-15.

12. For example, Carl Rambus gave a statement early on to the authorities about another person who had been seen in possession of the ring allegedly stolen from Jon Steckler. Tr. 1332-33.

where he lived. Tr. 882. Actually, it was found five miles from his house, Tr. 882, and it is hard to see what this proved at all. There were many thousand people who lived closer to it than he did. As the sheriff conceded, "[t]here was nothing on the huggie that would link Willie Jerome Manning to the huggie." Tr. 883.

43. In the end, the case was 'made' by the highly questionable testimony of Paula Hathorn. This was the person who was "number one on [Sheriff Bryan's] list" for receiving a large part of the $25,000 reward for solving this crime. Tr. 886. Previously, the sheriff had said she was untrustworthy, and "you couldn't believe a word Paula said." Tr. 887. She showed the authorities a tree where there were four bullets that allegedly matched the bullets in the victims. Tr. 996 *et seq.* Even if the over-stated ballistics evidence were accepted at face value, however, the sheriff conceded that others could still have been responsible: "Once a gun gets in the street in the street hoodlum's hands, it can pass many, many times." Tr. 902. Furthermore, she gave inconsistent statements about whether she actually saw Manning fire into the tree, and she received generous treatment on a substantial number of false pretense charges pending against her.

44. Then the prosecution dredged up two jailhouse snitches to try to shore up its failing case. According to one, Frank Parker, Manning had a conversation with one "Miami" about the gun, saying that "I had sold it on the street." Tr. 1120.

45. The other, Earl Jordan, was an all-purpose snitch. According to him, Manning had confessed to committing the crime with another person--however impossible it might have been to get four people into the MR2. However, he had initially given a statement to the police fingering the two suspects--Johnny Lowery and Anthony Reed--who the police were first seeking to

implicate.[13] Jordan told the police that he had seen them in the victim's car with Tiffany. Tr. 1164-65. In addition, Jordan, who could have been indicted as a habitual offender, found his pending charge for burglary reduced to looting shortly after giving his statement to law enforcement.

46. The defense sought to establish that Manning was elsewhere – the 2500 Club – at the time of the crime. Gene Rice, one of the few visitors at the 2500 Club that night who had no criminal record, recalled seeing Manning at the club that night. As the prosecutor so aptly pointed out, if this was the case, Manning "could not possibly have committed this crime. . . ." Tr. 1302. Since Rice did not like Manning, there was little reason for him to lie. Various others also saw Manning at the club.[14]

47. The defense poked holes in the state's unsubstantiated kidnapping theory. A resident of the Mayhew Apartment complex, where Tiffany's car was ultimately found, recalled seeing the car there at around 1:00 a.m. Thus, Tiffany and Jon may not have been going directly to her trailer after leaving the fraternity. This would have also explained why the car was eventually found at that apartment complex. If the killer met Jon and Tiffany there (or at her nearby trailer), the apartment complex would have been a place to return the car. The defense also tried to show who could have been the real killer. For example, other witnesses saw a small, brown car that was behaving very suspiciously in the vicinity of the crime. Tr. 1339-42, 1379 *et seq.*

48. Indeed, much as the prosecution's case may have been strong that Manning had some

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13. Earl Jordan had said that he "believe[d] that this [Tiffany] is the girl that I would see with Anthony [Reed]." Tr. 1188.

14. King Hall saw Willie Manning at the 2500 Club sometime after 11:30 or 12:00. Tr. 1270. Landon "Poncho" Clayborne saw him around 11:00 p.m. Tr. 1282. Mario Hall saw sometime after 12:00 a.m. Tr. 1256. Keith Higgins saw him there possibly up to 12:30 a.m. Tr. 1216.

kind of stolen property in his possession, this did not translate beyond a very flimsy case for capital murder. Even if the evidence were accepted at face value, it still did not exclude the reasonable theory that Manning acted as a fence for another person or persons who committed the crime itself or came into possession of the articles by chance as they were passed along.

GROUNDS FOR RELIEF WITH SUPPORTING FACTS

GROUND A

PETITIONER WAS DENIED HIS RIGHTS TO A FAIR TRIAL, CROSS-EXAMINATION OF WITNESSES, AN OPPORTUNITY TO REBUT THE STATE'S CASE, AND DUE PROCESS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS AND MISSISSIPPI LAW BECAUSE THE PROSECUTION WAS ALLOWED TO BOLSTER THE TESTIMONY OF EARL JORDAN, A JAILHOUSE INFORMANT, BY ELICITING TESTIMONY THAT HE OFFERED TO TAKE A POLYGRAPH EXAMINATION

1. Specific Facts Relevant to this Ground for Relief

49. Earl Jordan was a twice-convicted burglar. After serving prison time, he returned to Starkville in July 1992 and resumed his criminal activity, this time on the Mississippi State University campus. In fact, on December 10, 1992, Luther Wade, a student, informed the sheriff's department that on November 14, 1992, the night of a football game against Alabama, Earl Jordan and another individual referred to as "Babyface" (later determined to be Steve Evans) came to the fraternity house. Earl took money from Luther's wallet and began acting tough. Earl also threatened to steal Luther's car and said that he and Babyface "are not afraid to kill anybody, don't mess with us." Exhibit 1. Later, Earl pulled a knife on Preston O'Neal. *Id.*

50. Earl Jordan's criminal activity on campus continued. On December 30, 1992, he was arrested and charged with burglary of a fraternity house. Exhibit 2 (arrest warrant for Earl Jordan)).

At that time, however, Jordan knew that law enforcement was scrambling to determine who killed Jon Steckler and Tiffany Miller. Jordan understood that he was a suspect because of his crimes on campus, and he also knew that Johnny Lowery (aka "Judy") and Anthony Reed were the lead suspects. Facing a burglary charge (and likely indictment as a habitual offender) and realizing that he was a suspect, Jordan wasted no time in deflecting attention to Reed and Lowery. Jordan told the sheriff that he had heard that "the girl that got killed she is the one that rides around with the guy that's friends with Judy Lowery." Exhibit 3 (statement of Earl Jordan, dated December 30, 1992). Jordan added that he had "seen Anthony [Reed] with a white girl on several occasions in a small Toyota." *Id.* In fact, Jordan informed law enforcement that he had "seen Anthony with this girl several times and people notice because it was a white girl with a black man." *Id.* Finally, Jordan stated that "I have looked at a picture of Pam Miller and I believe that this is the girl that I could see with Anthony." *Id.*

51. Earl Jordan agreed to take a polygraph about his December 30, 1992, statement. According to a document titled "Underlying Facts and Circumstances," Jordan took a polygraph and "cleared the test very well." Exhibit 4.

52. Nothing more was said of this once the sheriff concluded that Reed and Lowery had nothing to do with the deaths of Steckler and Miller. Undeterred by his initial failure to pin the crime on someone and help his own precarious legal predicament, Jordan turned his attention to the next lead suspect, Willie Manning. On May 21, 1993, just one day after Manning was arrested,[15] Jordan concocted an elaborate but unrealistic account of the offense. Before relating the details of what purportedly happened to the students, Jordan first told the sheriff that he had seen Manning

[15]Exhibit 5 (arrest warrant for Willie Manning, dated May 20, 1993)

"put guns to people's heads." Exhibit 6 (Jordan statement of May 21, 1993 and undated statement given near the time of trial). In fact, he had seen Manning "put the gun to Bowlegged 'Bo' (Doug Miller)." *Id.* With respect to the murders, Jordan stated that Manning admitted his involvement. According to Jordan, Manning was with Jessie Lawrence, who is known as "One Wing." Jordan added that "Fly was saying that it was One Wing's idea to kill them, that he just wanted to make them get out of the car and walk." *Id.*

53. Just two months after reporting Manning's "confession," the state reduced charges against Jordan and indicted him only for looting. Exhibit 7. Significantly, the state chose not to indict him as a habitual offender. Although Jordan was apparently willing to plead guilty to looting, his case was continued until after petitioner's trial. Tr. 1170. Shortly after the trial, he entered his plea of guilty to looting and was sentenced to three years. Exhibit 8.

54. At trial, Jordan testified as expected. He began by admitting that he was previously convicted of two burglaries and that he was awaiting trial on looting charges. Tr. 1134. He denied, however, that he had any kind of a deal with the prosecutor's office. Jordan then testified while he and Manning were walking around the jail, Manning admitted that he killed the two students. Tr. 1136. According to Jordan, they did not discuss the matter in any great detail at that time.

55. Jordan testified that later that day, in Manning's cell, the student murders came up again in conversation. As in his statement to the sheriff, Jordan testified that Manning had stated that he was with Jessie Lawrence on campus.

> Uh, he [Manning] told me that him and Jessie Lawrence was, uh, wind up out there at Mississippi State some kind of way. He was fixin' to, uh, get ready to go into a car when, uh, Jessie told him to watch out. He, uh – dat when he looked up and he saw the two students. He went over to the stu – two, pulled the gun and, uh, he hollered for Jessie to come on, and, uh, that, uh, he, uh,

> told the student to get into the car, and, uh, him and Jessie got into the car; they drove off; uh, he didn't say what road; uh, when they got to wherever it was that, uh, he den ask the student to get out the car and, uh, he asked Jessie what – what they going to do with them, and Jessie told him that we got to get rid of 'em, and uh, say he suggested that he make 'em walk down the road, but, uh, Jessie told him that, uh, he had to get rid of 'em. And, uh, when, uh, dis was taking place I guess Jessie supposed to been going to the – going through the car, and, uh, and – and, uh, they was discussing what they was going to do with it still, and that, uh, Jessie walked – walked away from the car and he asked Jessie where was he going, and Jessie, uh, told him just do it, and he said that when he pulled up the gun and shot them.

Tr. 1140.

56. Jordan tried to assure the jury that he really had not wanted to become involved, but that someone else who also heard Manning confess reported the incident to the sheriff, and the sheriff then summoned Jordan. Tr. 1141. Significantly, there is no record of any statement taken from anyone else about this "confession."

57. On cross-examination, it was revealed that petitioner's counsel previously represented Jordan. Tr. 1142. Jordan admitted that was convicted of burglary in 1987 but was not sentenced to the penitentiary. Two years later, he was again convicted of burglary. This time he went to prison and served time until July 1992. Six short months later, he was again arrested and eventually charged with looting, which carried a sentence of up to fifteen years. Tr. 1144. Manning's defense counsel also brought out that Jordan was not indicted as a habitual offender. Tr. 1145. Defense counsel also attempted to show that Jordan could have heard many of the details about the crime while in jail. Tr. 1155. After having Jordan go over the details of the "confession," defense counsel brought out Jordan's prior statement implicating Anthony Reed. Tr. 1163.

58. After questioning Jordan as to why he waited until a week before trial to give a detailed account of petitioner's "confession," defense counsel asked about the delay in the

disposition of the looting charge. Jordan testified that his lawyer did not know that he was going to testify against petitioner, but that he had asked his lawyer to put off his own trial. Tr. 1170. At the conclusion of cross-examination, Jordan admitted that he was hoping for assistance with his charges. Tr. 1170-71.

59. The cross-examination exposed Jordan's motivations, his propensity to provide statements against others to advance his case, and apparent favorable treatment from the state on pending charges. The cross-examination also highlighted the falsity of Jordan's account of the offense. Miller drove an MR2, which has room only for a driver and a passenger. In Jordan's account, four grown people crammed into that tiny space. Also, it was later brought out that Jessie Lawrence was actually in jail in Alabama in December 1992 and so could not have been connected with the crime. Tr. 1193, 1210.

60. The prosecution moved quickly on re-direct examination to salvage Jordan's credibility: "Now, you were questioned at length about your motives, you were questioned at length about the substance of what you testified to. Mr. Jordan, ***didn't you volunteer to take a lie detector test on this***?" Tr. 1171 (emphasis added). The trial court initially sustained the defense's objection. The prosecutor, however, pointed out that under *Conner v. State*, 632 So.2d 1239 (Miss. 1993), it is permissible to ask a witness whether he volunteered to take a polygraph. Tr. 1172. The trial court then reversed its decision and even denied the defense the right to cross-examine Jordan on that point. Tr. 1173, 1174.

61. After proceedings outside of the presence of the jury, the prosecutor repeated the question as to whether Jordan volunteered to take a polygraph, and Jordan responded that he had. Tr. 1181. The prosecutor asked Jordan whether Manning had actually been charged with murder

when he supposedly "confessed" to Jordan. Tr. 1181.

2. Legal Argument

62. On direct review, the Mississippi Supreme Court found no error with the question concerning the polygraph. The Court found that "the prosecutor made no attempt to disclose to the jury whether a test was actually taken or what the results of the test were. . . . This was proper redirect after Jordan's credibility had been attacked on cross-examination by the defense. *Manning v. State*, 726 So.2d 1152, 1179 (Miss. 1998). The Court added that the trial judge did not abuse his discretion in denying defense cross-examination of Jordan about the matter. *Id.*

63. The following year, the Mississippi Supreme Court reversed course and held that questions about a witness' willingness to take a polygraph were improper. *Weatherspoon v. State*, 732 So.2d 158 (Miss. 1999). Quoting from *Carr v. State*, 655 So.2d 824, 836 (Miss. 1995), the Court explained:

> "If the fact that an accused volunteered to subject himself to polygraph testing is revealed, it may be self-serving and destroy any value motivation, particularly if the accused knows that the test results are inadmissible. However, to permit a jury to hear that the accused voluntarily submitted to a polygraph test, without giving the results, may also work a prejudice to the accused. The jury most likely would draw unwarranted inferences as to guilt or innocence of the defendant. Thus, the rule of inadmissibility has valid supporting analysis." . . . . We find this reasoning to be persuasive not only with respect to the accused but also to all witnesses testifying on behalf of either the State or the defendant.

Weatherspoon, 732 So.2d at 162. The Court then turned to an older decision to conclude its reexamination of the issue.

> The successful attempt by the prosecution by the means employed to implant in the minds of the jury the impression that because the witness had voluntarily submitted to a lie detector test prior to trial he must perforce be testifying truthfully in the course of the trial, resulted, in effect, in the

> substitution of a mechanical device, without fair opportunity for cross-examination, for the time-tested, time-tried, and time-honored discretion of the judgment of a jury as to matters of credibility.

Id. (quoting *Mattox v. State*, 240 Miss. 544, 561, 128 So.2d 368, 373 (1961)).

64. These precise dangers were present in petitioner's case. After listening to cross-examination, the jury no doubt had reservations about finding Jordan to be a credible witness. He had a record of violent criminal activity, he was currently incarcerated, he gave statements implicating earlier suspects, his version of the events did not match the evidence, he had his charges reduced, and he was not indicted as a habitual offender. Furthermore, there was no evidence that he knew Manning particularly well, and there is not the slightest indication as to why Manning would recklessly and spontaneously choose to make such a "confession" to Jordan shortly after the focus of the sheriff's investigation turned to him.[16] The prosecution propped up Jordan's crumbling credibility by eliciting testimony that he had offered to take a polygraph, the clear inference being that Jordan, by allegedly offering to take the polygraph, was being truthful in his rendition of Manning's "confession."

65. Under the intervening decision in *Weatherspoon*, there clearly was error in Manning's trial. The next question is whether reversal is warranted, because, as the Court explained, reversal is not automatically required when an offer or a refusal to take a polygraph is **inadvertently** admitted. 732 So.2d at 163. Of course, in this case, the mention of a "lie detector" test was anything but inadvertent; the prosecutor deliberately interjected the matter to restore the credibility of a

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[16]Manning was not formally arrested until May 20, 1993. Exhibit 5. Before this, however, the sheriff's department had already obtained two warrants to search his mother's house, and the sheriff had interrogated him about the offense. C.R. 28, 34 (search warrant affidavits dated April 27, 1993, and May 5, 1993).

discredited witness. The Court canvassed a number of decisions in which a conviction was upheld despite the mention of a polygraph. Petitioner's case is distinguishable from all of the cases discussed in *Weatherspoon*. For example, the Court notes that in *Pittman v. State*, 236 Miss. 592, 111 So.2d 415 (1959), a conviction was upheld because a witness' response was unsolicited, the results were not disclosed to the jury, the trial judge held the evidence to be not relevant, a motion for a mistrial was not timely, and the error was not prejudicial. In petitioner's case, however, the testimony was explicitly solicited, over vehement defense objection, and the judge found it to be relevant. Likewise, the Court pointed out that in *Stringer v. State*, 454 So.2d 468 (Miss. 1984), there was simply a "mere mention" of the failure to take a polygraph, and the defense did not object to that statement. The Court indicated that in *Garrett v. State*, 549 So.2d 1325 (Miss. 1989), the disclosure of the defendant's agreement to take a polygraph was "inadvertent." Finally, in *Pennington v. State*, 437 So.2d 37 (Miss. 1983), the Court observed that the defense did not object to the prosecutor's innuendo that the witness passed a polygraph.

66. Was the error in petitioner's case prejudicial? How could it not have been? Jordan's credibility was a central issue at trial. He was the sole witness who testified that Manning admitted to committing the crimes. As the United States Supreme Court has recognized, improper testimony concerning a defendant's confession can almost never be harmless. *See Arizona v. Fulminante*, 499 U.S. 279 (1991). This, however, is only part of the story. Jordan's account of the crime was inconsistent with the evidence. The other alleged perpetrator, Jessie "One Wing" Lawrence, was in jail in Alabama at the time of the offense, and it would have been impossible for four adults to have fit into Miller's MR2. Finally, Jordan was taking advantage of every available opportunity to further his own position. When Reed was the top suspect, Jordan was happy to implicate him. When that

effort failed to produce results, Jordan turned to Manning. Being in jail at the time, Jordan surely knew that the sheriff's attention had been drawn to petitioner. Given the multiple avenues to impeach his testimony, the only reason why the jury likely gave Jordan's testimony any credence was due to his alleged offer to take the polygraph. In light of the intervening decision in *Weatherspoon*, Manning is entitled to a new trial.

67. The Sixth Amendment to the United States Constitution and Article 3, Section 26 of the Mississippi Constitution guarantee every criminal defendant the right to confront witnesses. *See, e.g., Davis v. Alaska*, 415 U.S. 308 (1974); *Delaware v. Van Arsdall*, 475 U.S. 673 (1986); *Earl v. State*, 672 So.2d 1240, 1243 (Miss. 1996). In assessing whether the denial of cross-examination on this central point was prejudicial, the United States Supreme Court concluded that "the focus of the prejudice inquiry in determining whether the confrontation right has been violated must be on the particular witness, not on the outcome of the entire trial." *Van Arsdall*, 475 U.S. at 680. The factors to consider are "the importance of the witness' testimony in the prosecution's case, whether the testimony was cumulative, the presence of evidence corroborating or contradicting the witness on material points, the extent of cross-examination otherwise permitted, and, of course, the overall strength of the prosecution's case." *Earl*, 672 So.2d at 1244 (quoting *Van Arsdall*, 475 U.S. at 684).

68. As discussed above, Jordan was a central part of the state's case because he testified about Manning's purported "confession." Since he was the only witness offering this information, his testimony was not cumulative. In addition, a wealth of evidence contradicted Jordan's account of the "confession," and Jordan had every incentive to lie. Beyond Jordan, with the exception of the dubious testimony of Frank Parker (see Grounds D-F, below), the state's case was almost entirely circumstantial and rested on the testimony of witnesses, such as Paula Hathorn, who also had

abundant incentives to shade the truth. On the defense side, Manning presented a number of alibi witnesses and wholly disinterested witnesses whose testimony undermined the sheriff's theory of the timing of the murders and alleged kidnapping. Finally, there was a complete absence of credible physical evidence tying Manning to the crime scenes.

69. The trial court prevented Manning's counsel from cross-examining Jordan about the most significant testimony that was deliberately elicited to salvage his credibility. Because other rules, such as the bar against testimony on the actual results of polygraph results, would have also hindered further cross-examination, petitioner could possibly have asked Jordan about his willingness to take a polygraph when implicating Anthony Reed. If nothing else, it would have appeared that Jordan's willingness was little more than bravado designed to impress the authorities.

70. The Due Process Clause of the Fourteenth Amendment provides that a defendant in a capital case has the right to rebut or explain evidence presented against him. *See Gardner v. Florida*, 430 U.S. 349 (1978); *Lankford v. Idaho*, 500 U.S. 110 (1991); *Gray v. Netherland*, 518 U.S. 152 (1996). Here, the prosecution presented evidence about Jordan's willingness to take a polygraph, but petitioner had no opportunity to explore this area or attempt to rebut it.

71. With respect to petitioner's due process and confrontation rights, petitioner's showing of prejudice is necessarily limited because he has not had an opportunity to complete discovery. Although he availed himself of the mandatory discovery provisions of M.R.A.P. 22 and inspected the files of the Oktibbeha County Sheriff's Department and the District Attorney's Office, petitioner did not find any indication that Jordan had taken a polygraph, except with respect to his statements about Anthony Reed. Petitioner also inspected all available files pertaining to Jordan in the custody of the Oktibbeha County Clerk of Court. In reviewing the available discovery, petitioner found

information on polygraphs taken by Anthony Reed, Johnny Lowery, and Merry Kelly, but nothing on Jordan. Finding nothing on the alleged offer to take a polygraph pertaining to petitioner's "confession," petitioner filed a motion for leave to invoke discovery. That motion included a request for all files from the Sheriff's Department, Starkville Police Department, and District Attorney's Office pertaining to Earl Jordan, including files that may not be specifically related to petitioner's case. Because of an issue arising with respect to the participation of Robert S. Mink as co-counsel, the trial court cancelled a hearing and stayed the consideration of all pending motions.

GROUND B

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO THE PROSECUTION'S CREATION OF A FALSE IMPRESSION OF THE EVIDENCE WITH RESPECT TO THE TESTIMONY OF EARL JORDAN.

72. Petitioner incorporates by reference the facts set forth in Ground A.

Clearly established Supreme Court precedent firmly instructs that the State's knowing use of or its failure to correct false testimony or its presentation of evidence which creates a materially false impression of the evidence violates a defendant's right to due process. *Mooney v. Holohan*, 294 U.S. 103 (1935); *Napue v. Illinois*, 360 U.S. 264 (1959); *Miller v. Pate*, 386 U.S. 1 (1967); *Alcorta v. Texas*, 355 U.S. 28 (1957). If the state presents or fails to correct false or misleading evidence, or allows a false impression of the evidence to go uncorrected, then the state must show, beyond a reasonable doubt, that the error could not have affected the verdict. *United States v. Agurs*, 427 U.S. 97, 103 (1976); *Brown v. Wainwright*, 785 F.2d 1457 (11th Cir. 1986); *Boone v. Paderick*, 541 F.2d 447 (4th Cir. 1976) (prosecutor knew or should have known that false evidence was being

presented where witness denied deal at trial).

73. As discussed at the conclusion of the preceding Ground, petitioner has thus far been denied his right to full discovery on matters related to Earl Jordan. As soon as he is able to review additional discovery, petitioner may be able to provide additional evidentiary support. As it stands, it appears that the prosecution created a false impression of the evidence with the testimony of Jordan, including evidence regarding his offer to take a polygraph regarding Manning's "confession."

74. Questions remain as to whether Jordan ever took a polygraph. If he took a polygraph and failed, then there is no question that the prosecution knowingly created a false impression of the evidence. Because the prosecution knew that the defense could not ask about the results of the polygraph, asking about whether Jordan was "willing" to take a polygraph would have created the false impression that Jordan took and passed the test.

75. Likewise, the prosecution would have created a false impression of the evidence if Jordan actually offered to take a polygraph but the prosecution and law enforcement declined to give him a polygraph for fear that he would show deception. Presenting testimony whose sole purpose was to bolster the credibility of a witness when the prosecution had qualms about that witness' believability violates petitioner's rights to a fundamentally fair trial.

76. Finally, it is possible that the prosecution knowingly created a false impression of the evidence even if Jordan had shown no deception on the polygraph. It would be important to know the relevant questions that Jordan had to answer. In addition, it would also be important to review the first polygraph that Jordan took with respect to Anthony Reed. That Jordan may be able to take and pass polygraphs on subjects that may be inconsistent would demonstrate that lying comes so

easily to him that polygraphs do not actually prove anything.

77. Petitioner reserves the right to supplement the petition after being afforded the opportunity for additional discovery. In addition, he reserves the right to supplement this petition with respect to other possible false testimony from Jordan or about Jordan concerning any consideration he may have received in exchange for his testimony. *See generally Giglio v. United States*, 405 U.S. 150 (1972).

GROUND C

PETITIONER WAS DENIED HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO TRIAL COUNSEL'S FAILURE TO IMPEACH EARL JORDAN, THE JAILHOUSE INFORMANT.

78. Petitioner incorporates by reference the facts alleged in Ground A.

79. As noted, Earl Jordan's May 12, 2001, statement to the sheriff began with a description of petitioner's alleged violent tendencies. To illustrate his point, Jordan told the sheriff that Manning had supposedly pulled a gun on Doug Miller. Exhibit 6. On cross-examination, defense counsel neglected to ask Jordan about the incident with Doug Miller.

80. At the outset of the defense's case-in-chief, defense counsel called Doug Miller to ask him whether Manning had ever pulled a gun on him. The prosecutor objected, arguing that because defense counsel did not ask Jordan about the incident, defense counsel failed to lay a proper foundation prior to questioning a witness about a prior inconsistent statement of another witness. Tr. 1200. The trial judge sustained the objection, and the defense curtailed its questioning of Doug.

Miller. Tr. 1201.

81. Earl Jordan also tried to avoid the more than plausible inference that he struck some kind of deal with the state. He testified on cross-examination that he had asked his lawyer to postpone his trial. Tr. 1170. Jordan, however, denied that his lawyer knew anything about whether he was going to testify. Tr. 1170. Of course, this was simply not true. At a pretrial hearing, local attorney Bruce Brown, who had originally been appointed to represent Manning, moved to withdraw due to a conflict of interest. One of the reasons cited by Mr. Brown was that he understood that Jordan, one of his clients, was expected to be a witness against Manning. Tr. 11. Regrettably, Manning's lawyer failed to cross-examine Jordan about that or to present evidence on that score to rebut Jordan's perjured testimony.

82. Claims of ineffective assistance are reviewed under the test established in *Strickland v. Washington*, 466 U.S. 668 (1984); *see also Davis v. State*, 743 So.2d 326 (Miss. 1999). Petitioner must show that counsel's performance fell below an objective standard of reasonableness and that but for counsel's deficient performance there is a reasonable probability that the result of the proceeding would have been different. *Id.* at 688, 692. Unfortunately, defense counsel failed to lay the foundation by first asking Jordan about his statement. State rules of evidence provide that "[e]xtrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same . . . ." M.R.E. 613(b); *see also Hall v. State*, 691 So.2d 415, 420 (Miss.1997) (citations omitted); *Ivy v. State*, 641 So.2d 15, 19 (Miss.1994); *Cox v. State*, 736 So.2d 450 (Miss. 1999). As a result, the jury heard a vivid example of Jordan's propensity to lie.

83. Obviously, the defense intended to expose Jordan's lie about Manning's propensity

to violence and about the alleged gun incident with Doug Miller. Counsel thus had no strategic reason for not laying the foundation; instead, the failure was inadvertent. Under these circumstances, where counsel failed to follow well-established evidentiary rules, his performance was deficient. *See Stouffer v. Reynolds*, 214 F.3d 1231 (10th Cir. 2000) (counsel found to have been ineffective in part for failing to lay foundation for an exhibit and additional evidence impeaching key state witness); *United States v. Wolf*, 787 F.2d 1094 (7th Cir. 1986) (trial counsel ineffective in part for failing to lay a proper foundation for impeachment by prior inconsistent statement); *Ellyson v. State*, 603 N.E.2d 1369 (Ind. Ct. App. 1992) (counsel ineffective in rape of wife case for failing to lay an adequate foundation for admission of wife's prior inconsistent statement); *Wright v. State*, 581 N.E.2d 978 (Ind. Ct. App. 1991) (counsel ineffective in child molestation case for failing to lay an adequate foundation for admission of witness' testimony concerning prior inconsistent statement by alleged victim saying that she lied about her step-father molesting her).

84. Counsel was also ineffective for not impeaching Jordan about the fact that his lawyers actually knew that he was going to be a witness. *See, e.g., Sullivan v. Fairman*, 819 F.2d 1382 (7th Cir. 1987); *Smith v. State*, 547 N.E.2d 817 (Ind. 1989).

85. Counsel's failure prejudiced petitioner. If defense counsel had asked Jordan and if Jordan had repudiated his initial statement, defense counsel would have established that Jordan had been lying about Manning and that would have gone a long way toward further undermining Jordan's tattered credibility. On the other hand, if Jordan had stuck with his initial statement, there would have been no better way to rebut it other than to have the person on whom Manning supposedly pulled a gun testify that such an event never happened. Exhibit 9 (affidavit of Dog Miller). Either way, Jordan, the state's star snitch, would have been impeached.

86. Likewise, exposure of Jordan's false testimony about his lawyer having been in the dark about his prominent role in petitioner's trial would have had a profound effect on the jury's assessment of Jordan's credibility. Counsel could have easily exposed a transparent lie and also substantially strengthened the impression that Jordan had struck an agreement with the state.

87. Without a credible "confession," the state's case would have been entirely circumstantial and would have rested largely on the testimony of another witness of dubious credibility, Paula Hathorn.

GROUND D

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION BY THE STATE'S KNOWING PRESENTATION OF FALSE EVIDENCE FROM JAILHOUSE INFORMANT FRANK PARKER.

88. Frank Parker faced criminal charges in Texas. According to Parker, he was on the run, happened to be in Starkville, and decided to turn himself in. Tr. 1117. On May 12, 1993, Parker shared a cell in the Oktibbeha County Jail with Willie Manning and Henry "Miami" Richardson. Two days later, Parker supposedly overheard a conversation between Manning and Richardson about the student murders. Specifically, Parker testified that Manning mentioned that he sold the gun that he used to commit the crime on the street. Tr. 1120; *see also* Exhibit 10 (statement of Frank Parker).

89. Parker admitted at trial that at one point he had a burglary charge lodged against him. Tr. 1116. However, he added that he "had written the governor of Texas and the sheriff asking them to drop all charges against me and they did." Parker denied receiving any consideration for his

testimony and reiterated that the charges against him in Texas had been dropped. Tr. 1121.

90. On cross-examination, Parker added details about the process by which he supposedly secured the dismissal of his charges in Texas. He testified that he wrote about having his charges dismissed in June or July 1993 and then again in August 1993. Tr. 1125. According to Parker, someone from Texas supposedly wrote to Sheriff Dolph Bryan claiming that all charges against Parker had been dismissed, and that when one of the jailers submitted his name to NCIC, his status came back "completely clear." Tr. 1126. Parker added that, "I just know that my charges were dismissed by the governor and the sheriff of Frio County." Tr. 1129. Parker also said that he had almost wished that he had not said anything to Sheriff Bryan because he was required to stay in the Oktibbeha County jail for about sixteen months even though he had no charges pending against him. Tr. 1130. Parker also tried to minimize the seriousness of the Texas charges, stating that if the charges had not been dropped, he would only have had to serve "approximately six weeks in a drug rehab." Tr. 1132.

91. Frank Parker portrayed himself almost as an unintended, but unfortunate, victim of the great efforts to convict Manning. According to Parker, he faced minor charges in Texas, did the right thing by turning himself in, had the charges dropped, but had to remain incarcerated far from home to do the right thing. This pitiful portrait, however, was a pack of lies, and the prosecution knew it. One aspect of Parker's testimony was true: he was wanted on charges of burglary in San Antonio. After that, his account departs from the truth. Parker had lived with his aunt and uncle since his mother died in an accident when he was around eight years old. Parker was a long-time thief, often stealing from his family. In fact, his uncle had to padlock the doors within the house to prevent Parker from stealing valuables. Exhibit 11 (affidavit of Chester Blanchard). Around March

11, 1993, while his aunt and uncle were out of town, Parker cleaned out their house and pawned their valuables. Parker even stole the telephones, requiring Blanchard to report the burglary from a neighbor's house. *Id.* A short time later, Parker called his family and admitted his wrongdoing. His uncle taped the telephone conversation and pressed charges. This information is corroborated by police reports and complaints filed at the time of the crimes. Exhibit 12 (Offense Report listing property stolen); Exhibit 13 (Declaration of Complaint signed by Chester Blanchard); Exhibit 14 (statement of Carolyn L. Blanchard and Stacey L. Blanchard); Exhibit 15 (Investigation Bureau Supplementary/Follow Up Report).

92. The Bexar County Sheriff's Department learned that Parker was in custody in Mississippi on May 14, 1993. Parker's uncle, Chester Blanchard, recalled receiving a call from a sheriff's department in Mississippi at around 2:00 a.m. stating that Parker was in custody and was going to be a witness in a murder trial. Exhibit 11 (affidavit of Chester Blanchard). During that conversation, Mr. Blanchard informed the authorities in Mississippi about the charges he had pressed against his nephew. *Id.*

93. At trial, Parker testified that due solely to his own efforts, Texas authorities dropped charges against him. That was not true. In August, when Parker said that the charges were supposedly dropped, a Texas grand jury indicted him for theft. Exhibit 16 (True Bill of Indictment, *Parker v. State*, No. 93-CR-5281, filed August 11, 1993). Furthermore, Parker was under indictment in Texas for almost the entire duration of his residency in the Oktibbeha County jail.

94. Parker tried to minimize the charges that he claimed had been dropped by claiming that he would have been sentenced to no more than six weeks in a drug rehabilitation center. That, however, was not true. Under Texas law, he faced a sentence of two to ten years. Exhibit 17.

95. Parker also testified that charges against him in Frio County had been dropped. Parker, however, never faced charges in that county. Exhibit 18 (note from Frio County Clerk of Court on fax).

96. This rampant lying was characteristic of Frank Parker. As his uncle explained,

> I have known Frank since he was very young, and he lived in my house for more than ten years. In my opinion, Frank has a reputation for dishonesty. I would not take his word for anything. I have no idea about whether the defendant in Mississippi is guilty or innocent, but I would not let anything that Frank said have any bearing at all on any case.

Exhibit 11 (affidavit of Chester Blanchard).

97. This information was either known or should have been known by the prosecution. Law enforcement has the means to determine whether someone from another jurisdiction faces charges. In addition, the sheriff's department spoke to Parker's uncle and knew about the nature of the charges facing Parker. Exhibit 11. More significantly, Parker made it clear in correspondence addressed to the District Attorney and the trial judge that he faced theft charges. Exhibits 19, 20 (letter from Frank Parker to Forrest Allgood, dated March 24, 1994, and a letter addressed to Forrest Allgood and Judge Lee Howard, with an envelope postmarked March 25, 1994). This correspondence was never disclosed to defense counsel. Exhibit 39 (affidavit of Mark G. Williamson).

98. This correspondence also provides a clue to Parker's true motivation for testifying. He was desperately trying to get his hands on some of the reward money that was being offered. Although it appeared that Parker may not have received any reward money, nothing was said about the Texas charges, which suggests that there may have been an understanding that authorities in

Mississippi would try to help with his Texas charges.[17]

99. When Parker finally returned to Texas, he pled guilty to theft. The trial judge was initially going to reject the plea bargain reached by the prosecution and the defense. The prosecution then apparently explained to the judge that Parker's incarceration and testimony factored into the plea bargain. After hearing this, the judge accepted the plea bargain and sentenced Parker to three years probation. Exhibit 23 (Transcript, Plea of Guilt and Sentencing, *State v. Parker*, No. 93-CR-5281, 144th Judicial District, dated April 10, 1995).[18]

100. Defense counsel was not aware of the true nature of the charges facing Frank Parker despite exercising due diligence to uncover impeachment material. The defense filed motions requesting exculpatory material and even interviewed Parker. Neither the state nor Parker was truthful about his pending charges. In addition, the state never disclosed to defense counsel the letters from Parker discussing his motivation. And when Parker lied and made it seem that he remained in Mississippi solely out of civic duty, the prosecution did not correct his testimony.

101. "In adjudicating a claim involving the use of false testimony, the 'any reasonable likelihood' standard has been applied to determine materiality. Under that standard, '[a] new trial is required if the false testimony could have . . . in any reasonable likelihood affected the judgment

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[17]Petitioner attempted to interview Parker in the hope of obtaining an affidavit. Parker, however, was not cooperative. He made it clear in the interview, however, that while he was in jail in Mississippi he faced charges in Bexar County, the sheriff in Mississippi discussed the facts of petitioner's case and even showed him crime scene photographs, and the sheriff in Mississippi explicitly promised to try to help with the Texas charges after Parker testified in Mississippi. Exhibit 21 (affidavit of Kristen Murray); Exhibit 22 (affidavit of Deena Kalai).

[18]Only a few months after this generous plea bargain, Parker violated the terms of his probation and was required to serve a term of three years in the Texas Department of Corrections. Exhibit 24 (Commitment Notice, *State v. Parker*, No. 93-CR-5281, 144th Judicial District, October 24, 1995).

of the jury." *Barrientes v. Johnson*, 221 F.3d 741, 756 (5th Cir. 2000) (citing *Napue v. Illinois*, 360 U.S. 264, 271 (1959) and *Giglio v. United States*, 405 U.S. 150, 153-54 (1972)); *see also United States v. MMR Corp.*, 954 F.2d 1040, 1047 (5th Cir. 1992) ("[I]f the government used false testimony and knew or should have known of its falsity, a new trial must be held if there was any reasonable likelihood that the false testimony affected the judgment of the jury.").

102. The state will not be able to bear its burden of showing beyond a reasonable doubt that the use of false testimony was harmless. Parker was essential to its case for at least two reasons. First, he provided what purported to be an admission from Manning about his involvement in the crimes. Specifically, Parker's testimony linked Manning to the gun and also provided an explanation as to why law enforcement had not been able to locate the weapon used to kill Steckler and Miller. Second, as the prosecution stressed during closing argument, Parker was essential to corroborate Paula Hathorn's testimony. Tr. 1533. The importance of these factors cannot be overstated given the defense's case at trial. Knowing that the prosecution was going to link the bullets found at the crime scene to bullets found in a tree in Manning's yard, the defense presented witnesses who described how often guns are passed around in the community. Tr. 1419-22. Thus, according to the defense, almost anybody at any time may have had possession of what ultimately became the murder weapon. Because Paula Hathorn could only provide testimony that purported to link Manning to a gun before the students' deaths, it was critical to have a witness who could link Manning to the gun after the killings.

103. Parker, with the state's knowing assistance, effectively insulated himself from thorough cross-examination. Because he testified falsely that he did not have pending charges, he could not be cross-examined about his expectations of assistance. Because charges had supposedly

been dismissed by none other than the governor of Texas and a Texas sheriff, it appeared that Parker was a wholly innocent participant unwittingly caught up in the prosecution, but willing to do his duty as a solid citizen. Of course, this was nothing but a charade.

104. The Mississippi Supreme Court has looked with a jaundiced eye at this sort of 'jail-house snitch' testimony. The Court has observed that it is "becoming an increasing problem in this state, as well as throughout the American criminal justice system." *Moore v. State*, 787 So.2d 1282, 1287 (Miss. 2001) (quoting *McNeal v. State*, 551 So.2d 151, 158 (Miss. 1989)). If Parker's false testimony had been corrected, his credibility would have been demolished, and the state would have lost its crucial post-crime connection between Manning and the gun.[19]

105. Petitioner reserves the right to supplement this petition to include additional claims or evidence concerning Frank Parker. He filed a motion for additional discovery pertaining to Frank Parker from the Oktibbeha County Sheriff's Department, the Starkville Police Department, and the District Attorney's office pertaining to Parker. Due to a conflict pertaining to Rob Mink's representation of petitioner, the trial court stayed consideration of all motions.

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[19]In addition, under these circumstances, Manning surely would have been entitled to an instruction regarding the credibility of this jailhouse snitch. *Moore v. State*, 787 So.2d 1282 (Miss. 2001).

GROUND E

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO THE STATE'S FAILURE TO DISCLOSE EXCULPATORY EVIDENCE REGARDING FRANK PARKER.

106. Petitioner incorporates by reference the factual allegations set forth in Ground D.

107. Even if the Court finds that the state did not knowingly present false evidence, it is clear that the state failed to disclose exculpatory material. In the seminal case of *Brady v. Maryland*, 373 U.S. 83, 87 (1963), the Supreme Court held that the "suppression of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or punishment. . . ." Favorable evidence includes that which is either directly exculpatory or items which can be used for impeachment purposes. *Giglio v. United States*, 405 U.S. 150 (1972). Evidence is material if its nondisclosure "undermine[s] confidence in the outcome." *United States v. Bagley*, 473 U.S. 667, 682 (1985).[20]

108. Furthermore, the good faith – or bad faith – of the prosecution is irrelevant. *Brady*, 373 U.S. at 87. It is equally irrelevant if the undisclosed evidence was in the hands of the police rather than the prosecution. *Kyles*, 514 U.S. at 437-38; *see also United States v. Antone*, 603 F.2d 566 (5th Cir. 1979); *Barbee v. Warden*, 331 F.2d 842, 846 (4th Cir. 1964); *Boone v. Paderick*, 541 F.2d 447, 450-51 (4th Cir. 1976); *United States v. Perdono*, 929 F.2d 967 (3rd Cir. 1991).

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[20]In *Kyles v. Whitley*, 514 U.S. 419 (1995), the Court explained in more detail the meaning of "materiality," emphasizing that the adjective "reasonable" is important. 514 U.S. at 434. The Court noted: "[T]he question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence. *Id.*

109. For the reasons discussed in Ground D, the failure to disclose the true nature of Parker's charges, the likelihood that he would receive a substantial sentence in Texas, his desperation to say or do anything to obtain reward money, and his expectation of assistance with his Texas charges would have undermined whatever credibility that he may have had. This, in turn, would have undercut the state's only attempt to link Manning to the gun after the crime had been committed.

GROUND F

IN THE ALTERNATIVE TO GROUNDS D AND E, PETITIONER WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL DUE TO COUNSEL'S FAILURE TO ADEQUATELY INVESTIGATE AND DEVELOP EVIDENCE TO IMPEACH FRANK PARKER.

110. Petitioner incorporates by reference the facts set out in Ground D.

111. If the Court finds that the state did not knowingly present false evidence or that the state fulfilled its duty under *Brady v. Maryland*, 373 U.S. 83 (1963), then counsel were ineffective for failing to exercise due diligence and uncovering evidence to impeach Parker. Counsel, for example, could have attempted to obtain records from Texas regarding any charges facing Parker. Counsel could have also contacted Parker's uncle and obtained a witness who could have testified about Parker's reputation for truthfulness. Exhibit 11 (affidavit of Chester Blanchard); *see also* M.R.E. 608(a).

112. As noted in Ground C, a challenge to counsel's effectiveness is governed by the two-part test of *Strickland v. Washington*, 466 U.S. 668 (1984). Counsel have a duty to conduct a thorough investigation not only to attempt to develop witnesses beneficial to the defense but also to acquire available information to impeach the state's witnesses.

113. For the reasons discussed at the conclusion of Grounds D and E, the failure to uncover evidence with which to impeach Parker prejudiced petitioner.

GROUND G

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND MISSISSIPPI LAW BY THE STATE'S FAILURE TO DISCLOSE EVIDENCE THAT COULD HAVE BEEN USED TO IMPEACH PAULA HATHORN.

1. Summary of Hathorn's Trial Testimony and Disclosed Statements

114. Around April 27, 1993, Sheriff Dolph Bryan saw Paula Hathorn around the courthouse and asked to see her. When they eventually met, the sheriff asked her whether Willie Manning had a leather jacket. Paula responded that Manning had given her a jacket. Tr. 687. She provided the sheriff with the jacket, and later, John Wise claimed that it was actually his leather jacket.

115. The sheriff also asked Hathorn if Manning had a gun, and she told the sheriff that she had seen him shooting into a tree. Tr. 703. She admitted, however, that she had originally said that she had not seen Manning shoot into the tree. Tr. 695-96; Exhibit 25 (Hathorn statement).

116. Hathorn testified that she saw Manning on December 9, 1992. He was supposed to be going to Jackson. She then stated that she did not see him again until December 14, 1992. She testified, without objection, that when he returned from Jackson, he had a carload of clothing, jewelry, electronics, and other materials. Although one inference that could be drawn from Hathorn's testimony was that Manning was in possession of stolen goods, none of those things was positively linked to the items taken from John Wise or the murder victims.

117. Hathorn also testified, again without objection, about what she perceived to be

Manning's violent nature when he had been drinking.

118. Hathorn testified that she received no deals or consideration for her testimony. The sheriff, in turn, denied that he had the authority to enter into deals with witnesses. Tr. 838. Nevertheless, the sheriff testified that he would recommend that Hathorn receive a monetary reward for her cooperation. Tr. 885.

2. Exculpatory Evidence Never Disclosed to Defense Counsel

119. Significant details about Hathorn's close relationship with law enforcement, however, were never disclosed to defense counsel. After Hathorn's initial meeting with the sheriff, she agreed to act as a state agent to elicit incriminating statements from petitioner. She and the sheriff arranged for her to call petitioner at different times and from different locations so as not to arouse Manning's suspicions. Exhibit 29 (affidavit of Paula Hathorn). Furthermore, the sheriff's office provided her with questions to ask Manning during the conversations. The conversations were taped, and a transcript was made of at least one conversation. After reviewing the list of questions that Hathorn was supposed to ask petitioner as well as the transcript of the recording, Williamson is certain that he was not provided with that information during pretrial discovery. Exhibit 39. The questions that Hathorn was supposed to ask Manning and the transcript are attached as an Exhibit to Williamson's affidavit. Williamson was never informed that Ms. Hathorn was acting as a state agent, and was never told that conversations between Hathorn and Manning had been taped.

120. There are at least two microcassettes of conversations between Manning and Hathorn. Petitioner learned of the existence of the tapes when inspecting the sheriff's file pursuant to M.R.A.P. 22. He was afforded an opportunity to listen to them, but was not able to make a copy at that time. Informal efforts to obtain copies of the microcassettes have been unsuccessful, but

petitioner has moved the trial court to order the sheriff's department to make copies. Because of the issues concerning Robert Mink's representation of petitioner, the trial judge has stayed the proceedings. Petitioner reserves the right to supplement the record after he has an opportunity to review the tapes and have them transcribed.

121. The failure to inform the defense of Hathorn's position as a state agent and the failure to disclose the microcassettes are clear violations of the rule set out in *Brady v. Maryland*, 373 U.S. 83 (1963); *see also Kyles v. Whitley*, 514 U.S. 419 (1995).

122. The materiality of the suppressed information stems from its value as impeachment of the state's key witness. The state based its applications for search warrants on Hathorn's statements, and at trial relied heavily on her testimony to attempt to establish that Manning left on December 9, 1992, supposedly wearing gloves, was in possession of stolen property, gave her a leather jacket later alleged to belong to John Wise, and shot a gun into a tree at his mother's house. The withheld information about her efforts as a state agent and the tapes of her conversations with Manning would have provided invaluable information to expose Hathorn's bias and incentives for testifying, and it would have been evidence of additional statements inconsistent with her sworn trial testimony.

123. Attachment A to Williamson's affidavit (Exhibit 39) includes a list of topics that Hathorn was supposed to cover with Manning during their telephone conversations. At the top of the sheet, is the statement, "You better tell me what to tell these folk [sic]." After that, the sheet includes a list of specific topics:

- about the bullets in the tree
- about that disc player
- about that leather jacket

- about that bag with your belongings
- what do I tell them
- where is that gun and did you get rid of it
- is there anything you want me to tell Shawn [referring to petitioner's brother Mashon] or [illegible word] to get rid of
- they showed me a picture like that gun you had
- that watch with that leather band on it
- what do you want me to do.

124. On the undisclosed transcript prepared by the sheriff's department, Hathorn covered most, if not all, of these topics. Not only did she fail to elicit an incriminating statement from Manning, she also made several statements directly contradicting her trial testimony or the testimony of Sheriff Dolph Bryan. With respect to possessing a gun, Manning said nothing incriminating. At most, his response reflects concern that he would be arrested for having been a felon in possession of a firearm. Nothing in Manning's responses indicated that there was any connection between the bullets in the tree and the murders. On the third page of the typed transcript, Manning told Hathorn:

> [Y]ou go on and say I didn't have no gun, I never had a gun. You know I never carried a weapon so period. You know because what they'll try to do like only thing they can think about, anything like that I had carried a weapon then they automatically say that I was a habiusal [sic] criminal carrying a weapon period. You know what I'm saying. So I never had a weapon and so that's why.

Exhibit 39 (attachment B – transcript of conversations).[21]

125. Regarding the bullets in the tree, Hathorn testified that she saw Manning fire a gun into the tree during the first week in December, just a few days before the crimes. She admitted that

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[21]Later in the conversation, petitioner asked Hathorn to assure his mother that all was well: "I'm just saying like just go tell momma don't worry about it cause she know I never had a gun and Shun [sic] and them know I never had a gun. So just, you know, don't worry about me, okay." Exhibit 39, attachment B. At no point did Hathorn ever contradict petitioner. This acquiescence in petitioner's denials constitutes an admission on Hathorn's part. M.R.E. 801(d)(2)(B) and (D) and comment.

she told the sheriff that she initially said that she did not see Manning fire at the tree. The state did not disclose, however, that Hathorn was even more emphatic about not knowing about the bullets when discussing the matter on the telephone with Manning:

> Uh huh, asking me about those bullets and stuff that they got out of some tree, which I told them **I don't know nothing about it. I don't know who been out there shooting.**

Exhibit 39, attachment B (emphasis added).

126. At trial, Hathorn testified that she saw Manning with a CD player on December 14. Tr. 678. In the undisclosed, recorded conversation with Manning, however, Hathorn said that she told law enforcement that she did not know about a CD player. Exhibit 39, attachment B.

127. At trial, there was some discussion as to whether Hathorn ever saw Manning with a class ring. Tr. 711. In the undisclosed telephone conversations, however, Hathorn denied any knowledge of a class ring. *Id.*

128. A discussion about the leather jacket proved no more incriminating; in fact, it demonstrated that law enforcement believed not that Manning stole the jacket but that he had bought it from someone. As Manning explained to Hathorn:

> See Bone [Deputy Sheriff Jesse Oden] came back, I mean Bone came in our house 'bout two months ago **saying that somebody told him that I bought the jacket off the street**. He never came back after that so I didn't think nothing of it which I was thinking about that long brown jacket.

Id.

129. Toward the end of the handwritten portions of the transcript, when discussing the overall situation, Hathorn tells Manning, "I don't know nothing." *Id.* (handwritten portion). She later added, "Everything they ask me I told them I didn't know." *Id.*

130. Besides declaring that she had told the sheriff that she did not really know anything that would be relevant to the investigation, Hathorn did not dispute in any way Manning's contention that he was at the 2500 Club the night of the students' death and that he came home after being at the club. *Id.* Of course, at trial Hathorn testified that Manning was gone from December 9 until December 14. Since she was living with him at the time, she would have known that he really was home on the morning of December 11.

131. In the suppressed recordings, Hathorn also ventured her own opinion of the evidence: "I said [to the sheriff] I know Fly didn't do that." *Id.*

132. On every key point – the bullets, the jacket, the class ring, Manning's whereabouts on December 11, and the CD player – Hathorn gave statements inconsistent with her trial testimony and never disputed anything that Manning told her on the telephone. Besides showing inconsistent statements on the part of Hathorn, the undisclosed recordings are also revealing for what they do not contain, namely any kind of inculpatory statement on the part of Willie Manning. The prosecution would have the jury believe that just at the moment that law enforcement zeroed in on Manning, he started blabbing to other pretrial detainees whom he did not know very well, but did not admit anything to his girlfriend.

133. As defense counsel recognized, the exculpatory value of the undisclosed recordings also goes far toward establishing both law enforcement's nearly unbridled determination to make a case against Manning, and Hathorn's incentives to testify in a manner consistent with the state's theory of the case. Perhaps the most important information, withheld from the defense, consisted of the state's threats to charge Hathorn as an accessory after the fact to murder and push for a prison sentence of at least ten years. In the transcripts of the recordings, Hathorn, in a discussion about

some papers taken from Manning's house, mentioned, "They talking about arresting me." Exhibit 39, attachment B.

134. The handwritten section of the transcript contains a great deal more about the coercion applied to Hathorn. She told Manning, "Well, Dolph [told] me if he come to me again to get me he gonna be coming to pick me up to arrest me talking bout you know something." *Id.* (handwritten section). Later, Hathorn returned to the threats of prosecution: "Well, Dolph told me that I would be accessory after the fact of murder that I could get 10 yrs what's that." *Id.*

135. The undisclosed recordings also reveal that the sheriff was preying on her jealousy and insecurity about her relationship with Manning. Paula informed Manning, "Because when Dolph approached me with your other two girlfriends. That really hurt me really bad." *Id.* (typed section).

136. Trial counsel could have used the secret recordings impeach Hathorn with her prior inconsistent statements and her incentives to testify against Manning. He also could have used the withheld taped conversations to highlight Hathorn's close working relationship with the state. Contrary to the state's presentation of Hathorn as relatively passive, she was in fact actively trying – though without success – to induce Manning to incriminate himself.

3. The Materiality of Hathorn's Relationship with the State and the Secret Recordings

137. As should be obvious from the foregoing discussion, the state violated petitioner's constitutional rights by not disclosing Hathorn's role as a state agent, and by withholding the tapes and transcripts of the surreptitiously recorded conversations of Hathorn and Manning. This suppressed information was exculpatory and should have been disclosed. *Giglio v. United States*, 405 U.S. 150 (1972); *Kyles v. Whitley*, 514 U.S. 419 (1995). The fact that the withheld information

was in the hands of the police and perhaps not the prosecution does not matter. The duty of disclosure is not limited to evidence in the actual possession of the prosecutor. Rather, it extends to evidence in the possession of the entire prosecution team, which includes investigative and other government agencies. *Kyles, supra*; *see also Strickler v. Greene*, 119 S.Ct. 1936, n.12 (1999). The relevant question is whether the undisclosed information is "material." Under the *Brady* rule, favorable evidence that is suppressed is material if disclosure of the evidence creates a reasonable probability of a different result. As the Court explained in *Kyles*, "the adjective is important," and "[t]he question is not whether the defendant would more likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a trial resulting in a verdict worthy of confidence." *Kyles*, 514 U.S. at 434.

138. As the district attorney emphasized in his closing argument, petitioner's case turned on the credibility of the witnesses:

> [L]adies and gentlemen, really what you are going to have to determine and **practically the only thing you have to determine** when you go back into that jury room **is who are you going to believe**. Genuinely, ladies and gentlemen that is your really only issue in the case. Who are you going to believe, because if you believe the state's witnesses, then he did it. It's just that simple. . . . **Who are you going to believe**.

Tr. 1529 (emphasis added). The prosecutor then spent the bulk of his argument arguing why the jury should find Hathorn to be credible. The prosecutor had cause to worry how the jury may have reacted to Hathorn. After all, the state intended to reward her financially for her testimony (but never disclosed the amount of the reward), and the jury could have drawn the inference that Hathorn provided statements against her boyfriend to obtain favorable treatment for her own false pretense charges. Finally, the jury heard Hathorn give several incriminating statements, such as whether she

actually saw petitioner fire a gun into the tree and how many jackets petitioner had on December 14. Tr. 710.

139. These factors – the possibility of receiving reward money, possible assistance with charges, and inconsistent statements – undermined Hathorn's credibility, but they do not match the strength of the suppressed evidence. As discussed in greater detail above, Hathorn, in the concealed recordings, contradicted herself on all areas critical to assessing petitioner's guilt. At the same time, she remained silent – thereby tacitly agreeing – when petitioner denied involvement and discussed his alibi. She also expressed her belief that he was actually innocent of the charges.

140. The materiality of the evidence, however, went far beyond inconsistent statements. It also included a wealth of information relevant to motive or bias. For example, Hathorn was being threatened with prosecution as an accessory. This was a far cry from the benign picture painted at trial of a cooperative, but passive, witness who had to be sought out by the sheriff. The tapes also reveal that the sheriff was attempting to manipulate Hathorn by insinuating that petitioner was involved with two other women.

141. It should also not be forgotten that the suppressed evidence must be considered against the backdrop of the other inconsistencies in Hathorn's testimony and inconsistencies between her testimony and the testimony of other witnesses. For example, petitioner has already discussed her inconsistent statement about whether she actually saw him shoot a gun at a tree. In addition, Hathorn claimed not to have seen Manning from December 9 through December 14. However, Lindell Grayer testified that he picked Manning up from his mother's house on the morning of December 11 and gave him a ride into town. Tr. 1480.

142. Hathorn also testified that she was with petitioner when he first attempted to pawn

a CD player. Theo Jasper, the owner of the pawn shop who had no connection to any party involved in the case, told law enforcement that Manning was with a black man. Exhibit 26 (statement of Theo Jasper to the FBI); Tr. 1101. There is also no way, from Hathorn's testimony, to link Manning to the theft of the jackets except by extraordinary leaps of faith. She testified that when the police first came to ask about whether he had a leather jacket, Manning took three jackets uptown. Tr. 724-25. About a month or two later, when Manning exchanged a leather jacket for a denim jacket that she was wearing, Hathorn noted that the jacket had grease on it. Tr. 718, 728. John Wise, of course, was certain that his jacket did not have much "wear and tear" on it. Tr. 648. If the jacket was in good condition when it was stolen, if the jacket was a common brand, and if petitioner did not have it for long before he took it uptown, how could Hathorn possibly conclude with confidence that the greasy jacket given to her by petitioner about a month or so later was the same jacket? Even if one were to accept Wise's assertion that the jacket presented in court was actually his, it does not follow, based on Hathorn's testimony, that Manning stole that particular jacket from Wise.[22]

143. After petitioner obtains copies of the microcassettes, he may be able to expand on this discussion of the materiality of the undisclosed evidence. Nevertheless, even at this point, it is clear that in a case in which "practically the only thing" the jury had to decide was the credibility of witnesses, there is a reasonable probability that the result of the proceeding would have been different. *United States v. Fisher*, 106 F.3d 622 (5th Cir. 1997) (new trial ordered where government failed to disclose FBI report directly contradicting testimony of a key government witness on bank

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[22]Hathorn's testimony was confusing in other respects. For example, she provided varying lists of material that Manning had with him when he returned on December 14, 1992. For instance, she apparently told the FBI that Manning had two jackets with him but later testified that he had three jackets. Tr. 710.

fraud charge; because the witness' credibility was crucial to the government's case, there was a reasonable probability that the result would have been different if the report had been disclosed); *Walter v. Lockhart*, 763 F.2d 942 (8th Cir. 1985) (state held, for over twenty years, a transcript of a conversation tending to exculpate the defendant); *United States v. Dollar*, 25 F.Supp.2d 1320, 1332 (N.D.Ala. 1998); *Reasonover v. Washington*, 60 F.Supp.2d 937 (E.D.Mo. 1999) (finding violation of *Brady* where state failed to disclose two audiotapes, one containing the petitioner's conversation with an ex-boyfriend in which she credibly asserted her innocence, and another containing petitioner's conversation with a snitch which is consistent with petitioner's claims of innocence and inconsistent with the snitch's subsequent trial testimony); *Ex parte Adams*, 768 S.W.2d 281 (Tex.Cr.App. 1989); *Jefferson v. State*, 645 So.2d 313 (Ala.Cr.App. 1994).

GROUND H

PETITIONER WAS DENIED HIS RIGHT TO CONFLICT FREE COUNSEL GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION.

1. Facts Relevant to this Ground for Relief

144. The factual allegations in this ground will also be relevant to Grounds I and J.

145. In April 1991, Mark G. Williamson was appointed to represent Paula Hathorn in connection with two false pretense charges. In case number 12-183, she was indicted for writing a bad check in the amount of $120.92. (That file is included in the appendix as Exhibit 27). In case number 12-184, she was indicted for writing a bad check in the amount of $265. (That file is attached in the appendix as Exhibit 28). Williamson successfully negotiated a plea bargain with the state. Even though Hathorn had written a large number of bad checks (see Exhibit 31 for a list of

her bad checks written between 1989 and the time of petitioner's), the state agreed to retire case number 12-184 to the file and recommended a sentence of three years probation on the other charge. Hathorn was required to pay restitution on all bad checks and was ordered to the Pascagoula Restitution Center. For her felony conviction, the presiding judge was the Honorable Lee Howard, the same judge who presided over Manning's trial.

146. Hathorn violated the terms of her probation. Exhibit 27. As a result, in December 1991, her probation was revoked, and she was sentenced to the penitentiary. After she was released from prison, she returned to Starkville. At trial, she testified that she attempted to turn her life around by acting as an informant for law enforcement. Tr. 698, 700. The sheriff admitted that before Hathorn was sentenced to the penitentiary, he felt that she had no credibility whatsoever. Tr. 887. His opinion of her changed, however, after she began providing tips to law enforcement. Tr. 887-88. On direct examination, the prosecution elicited testimony about Hathorn's prior record. She admitted that she had been convicted of a felony count of false pretenses as well as twelve misdemeanor false pretense cases. Tr. 689.

147. On cross-examination, defense counsel delved into Hathorn's criminal record and clarified several aspects of her testimony. Hathorn admitted that she had approximately fourteen or fifteen misdemeanor false pretense charges prior to being sent to prison, and about six false pretense charges after her discharge from prison. Tr. 690. She also stated that for her felony conviction she was initially sent to the restitution center and only later sent to the penitentiary. Tr. 691. She denied receiving any assistance from the prosecution on the six misdemeanor offenses that she committed after returning from prison. She denied having a lawyer for those charges, adding that those cases were resolved when she agreed to make payment. Tr. 692. Besides questioning Hathorn about her

prior convictions, defense counsel also explored prior inconsistent statements, the condition of the jacket, details in her statements to law enforcement, and her interaction with the sheriff.

148. The prosecution obviously felt that Hathorn's credibility had been called into question. To restore Hathorn's credibility and to savage the credibility of defense counsel, the prosecutor engaged Hathorn in the following colloquy:

> Q: Miss Hathorn, a number of things, first those checks that you had difficulties with in Columbus, those six checks that you just got through testifying about that you had problems with in Colubmus.
>
> A: Yes.
>
> Q: Explain for the ladies and gentlemen of the jury why that came up and how that came up, if you would, please, ma'am.
>
> A: Because Mark Williamson was my appointed attorney; he told me that he was going to take care of those checks, which he didn't.
>
> Q: An be – you thought what, Miss Hathorn?
>
> A: He had tooken (sic) care of them.
>
> Q: And so you didn't do anything on them, is that correct?
>
> A: No. Then they charged me with a fine.
>
> Q: And –
>
> A: – for his wrongdoing.
>
> Q: – insofar as the – the checks that have not been paid, you agreed to pay those checks at the first part of this year I believe, is that correct?
>
> A: Correct.

Tr. 720.

149. The prosecutor later prompted Hathorn to point the finger at Williamson for her legal

"difficulties":

> Q: These – these difficulties that you incurred, these difficulties you were having after you got out, and after you began coming to the sheriff's office, concerning checks.
>
> A: Yes.
>
> Q: These difficulties were the ones occasioned by your attorney's failure to take care of them, is that correct?

Tr. 724.

150. Hathorn's surprise testimony leveling the blame for her legal difficulties on Mark Williamson was false. Williamson had absolutely nothing to do with Hathorn's repeated problems, in particular her inability to pay her fines or restitution. Exhibit 39. Nevertheless, he faced an irreconcilable conflict of interest. To establish that she was lying, he would have had to cross-examine her in great detail about his prior representation of her and have her recall prior conversations, including privileged communications. More likely, he himself would have had to take the witness stand to explain the scope of his representation of Hathorn. Precluded by this conflict from acting with undivided loyalty to Manning, defense counsel could not establish that the state's chief witness, the one who was supposedly reformed and cooperative with law enforcement, was making up new lies on the witness stand.

2. Relevant Legal Principles

151. The Sixth Amendment guarantees a defendant the right to unconflicted counsel. *See Holloway v. Arkansas*, 435 U.S. 475, 489-90 (1978); *Cuyler v. Sullivan*, 446 U.S. 335 (1980); *Smith v. State*, 666 So.2d 810, 812-13 (Miss. 1995); *Armstrong v. State*, 573 So.2d 1329 (Miss. 1990). "An 'actual conflict' exists when defense counsel is compelled to compromise his or her duty of loyalty

or zealous advocacy to the accused by choosing between or blending the divergent or competing interests of a former or current client." *Perillo v. Johnson*, 205 F.3d 775, 781 (5th Cir. 2000); *see also Campbell v. Rice*, ___ F.3d ___, 2001 WL 1044603 at *6 (9th Cir. Sept. 12, 2001) ("A conflict of interest exists if a defense attorney owes duties to a party whose interests are adverse to those of the defendant.") (internal quotes and cites omitted). Thus, a conflict may arise in cases where defense counsel has previously represented a material witness against the defendant, as in the case at bar. *See, e.g., United States v. Malpiedi*, 62 F.3d 465 (2d Cir. 1995) (conflict where counsel failed to vigorously cross-examine former client); *Ciak v. United States*, 59 F.3d 296 (2d Cir. 1995); *United States v. Martinez*, 630 F.2d 361 (5th Cir. 1980).

152. There are two separate and distinct tests which pertain to a conflict of interest claim. First, if a defendant or his counsel objects at trial to the joint representation, or if the court has reason to believe that a conflict of interest may exist, the court must conduct a thorough inquiry into the possibility that there may be a conflict which denies the defendant his right to the effective assistance of counsel. *Cuyler*, 446 U.S. at 347; *see also Atley v. Ault*, 191 F.3d 865 (8th Cir. 1999); *Hoffman v. Leeke*, 903 F.2d 280, 289 (4th Cir., 1990). In this case, the trial judge should have been on notice about the conflict. He had accepted Hathorn's guilty plea when she was represented by Williamson, he knew the terms of the plea bargain, and he knew why Hathorn subsequently had her probation revoked. Exhibit 27. Therefore a reversal is mandated by *Holloway*, *Wood*, and *Sullivan*.

153. Second, if no objection is made, or if the trial judge could not have reasonably known of the potential conflict (contrary to the case at bar), *Cuyler v. Sullivan, supra*, the petitioner must demonstrate that his lawyer represented conflicting interests, and that this conflict adversely affected his lawyer's performance. *Id.* at 348-349. Once these demonstrations are made, prejudice is

presumed and need not be explicitly shown. *Id.* at 349-350; *Perillo v. Johnson*, 205 F.3d 775 (5th Cir. 2000); *Perry v. State*, 682 So.2d 1027 (Miss. 1996).

154. On direct appeal, the Mississippi Supreme Court, based on the limited record developed at trial, found that Williamson "owed no conflicting duty to Hathorn" in large part because his prior representation was unrelated to Manning's charges. *Manning v. State*, 726 So.2d 1152, 1168 (Miss. 1998). The Court also noted that "Williamson conducted a thorough cross-examination of Hathorn." *Id.* Finally, the Court declined to speculate "that the jury, because Williamson was embarrassed by Hathorn's testimony, decided to hold it against Manning." *Id.* at 1169. The problem with the Court's prior treatment of the issue is that it rested on what turns out to have been an erroneous premise, namely that Hathorn's re-direct testimony was true, although perhaps embarrassing. In reality, however, her unanticipated testimony was false. The falseness of the testimony, not the "embarrassment," created a conflict for Williamson. He suddenly had to balance his continuing duty to Hathorn against his duty to Manning as well as his personal considerations. This crucial fact was not known to the Mississippi Supreme Court when it addressed this claim, and could not have been known because of the conflict.

3. Counsel Labored Under a Conflict of Interest

155. After reviewing a release executed by Hathorn, Williamson touched on his representation of Hathorn and stated unequivocally that he was not at fault for Hathorn's failure to provide restitution as ordered by the Court. Thus, Hathorn's accusations concerning Williamson's representation of her were false. Under the Rules of Professional Conduct, Williamson was placed in an unresolvable conflict. Although Hathorn was a former client, he continued to owe a duty of loyalty to her and thus would have been constrained about delving into matters learned during the

course of the relationship. As the Mississippi Supreme Court has explained,

> Rule 1.6(a) provides that a "lawyer shall not reveal information relating to representation of a client unless the client consents after consultation. . . ." Lawyer/client confidentiality is a fundamental principle in the lawyer/client relationship. It is this principle which allows the full and frank communication necessary for proper legal representation. See Rule 1.6, Comment. The confidentiality of Rule 1.6 is broader in scope than that provided for by M.R.E. 502. Rule 1.6 applies to all information relating to legal representation rather than just to confidential communications. Rule 1.6, Comment. Such information may be revealed by the lawyer only in certain exceptions, i.e., to prevent a criminal act, to establish a claim or defense for the lawyer or to respond to allegations brought against the lawyer, or if required by law or court order. Rule 1.6(b)(1) and (2) and (c). Most importantly for this particular situation, "[t]he duty of confidentiality continues after the client-lawyer relationship has terminated." Rule 1.6, Comment.

Flowers v. State, 601 So.2d 828, 832 (Miss. 1992).[23] Because issues concerning Williamson's past performance came up during the trial of another client, the exception in Rule 1.6 that allows an attorney to respond to allegations brought against him by a former client would not have been applicable.[24] Furthermore, perhaps the only way that Williamson could have responded to Hathorn's

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[23]Williamson would have also confronted the strictures of Rule 1.7(b), which provides that "a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person . . . ." Similarly, Williamson also confronted a dilemma under Rule 1.8(b)(1) and Rule 1.9(b). Rule 1.8(b)(1) provides that "[a] lawyer shall not use information relating to representation of a client to the disadvantage of the client." Rule 1.9(b) also prohibits an attorney from using "information relating to the representation to the disadvantage of the former client except as Rule 1.6 would permit with respect to a client or when the information has become generally known." *See also Flowers v. State,* 601 So.2d 828, 833 (Miss. 1992).

[24]Even then, the Rules of Professional Conduct place limits on a lawyer when responding to allegations brought by a former client. Under those circumstances, "the lawyer must make every effort practicable to avoid unnecessary disclosure of information relating to a representation, to limit disclosure to those having the need to know it, and to obtain protective orders or make other arrangements minimizing the risk of disclosure." Rule 1.6(a) and comment. *See Gates v. Cook*, 234 F.3d 221, 230 (5th Cir. 2000) (discussing Mississippi Rules of Professional Conduct and cases).

allegations was for him to have taken the witness stand. Rule 3.7, however, provides that "a lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness except where the testimony relates to an **uncontested** issue." The Mississippi Supreme Court has explained the rationale behind Rule 3.7:

> The rationale of the rule rests on the premise that there exists a conflict of interest when an advocate is asked to be a witness. . . . The justification for this rule has been discussed by various courts. Some courts hold that the dual role of advocate and witness may be detrimental to the client's interest in that the lawyer/witness is more impeachable because of his personal interest in his client's case. Groper v. Taff, 717 F.2d 1415 (C.A.D.C.1983). A factfinder may suspect the attorney is distorting the truth to further his client's interest. MacArthur v. Bank of New York, 524 F.Supp. 1205 (S.D.N.Y.1981). The opposing attorney may be inhibited in cross-examination of an attorney-witness. Ford v. State, 4 Ark.App. 135, 628 S.W.2d 340, (1982). In comments to Mississippi's Rule 3.7, it is noted that the combination of roles of advocate and witness may confuse the factfinder. A witness is required to testify on the basis of personal knowledge, while an advocate is expected to explain and comment on evidence given by others. It may not be clear whether a statement by an advocate – witness should be taken as proof or as an analysis of the proof.

Pearson v. Parsons, 541 So.2d 447, 452 (Miss. 1989). This Court has recognized an exception to Rule 3.7 in the context of a criminal trial to protect the defendant's Sixth Amendment right to compulsory process. *See, e.g., Ivy v. State*, 641 So.2d 15, 19-20 (Miss. 1994). There was no indication in *Ivy*, however, that the attorney was enmeshed in a conflict pertaining to the prior representation of the witness. In short, Hathorn's unanticipated but false testimony entangled Williamson in a confusing mixture of ethical obligations that exceeded by far his mere personal embarrassment.

4. There Should Have Been A Hearing on the Conflict Issue

156. Under well-established law, if the trial judge has a reasonable basis to believe that defense counsel faces an actual conflict, the trial judge must have a hearing. The failure to have a hearing mandates reversal. *Holloway v. Arkansas*, 435 U.S. 475 (1978). The issue as to whether a conflict exists is often vague and, as occurred here, may not always be apparent prior to trial. *See Wheat v. United States*, 486 U.S. 153 (1988). At first, an actual conflict likely seemed remote. Defense counsel simply planned to ask the witness about her actual convictions and sentences and whether she received any consideration from the state in exchange for her testimony. The prosecutor, however, sprang a trap on re-direct that created an actual conflict for Williamson. At that point, the trial judge should have been aware of the need to explore the burgeoning conflict of interest. This is especially true because the trial judge was the same judge who had presided over Hathorn's proceedings in which Williamson represented her and would have known of the true nature of her "difficulties."

157. The prosecutor also has the burden of alerting the judge to an actual conflict. Knowing what he was going to ask Hathorn, the prosecutor would have been aware of the predicament in which he was going to place defense counsel. Although the accusations of wrongdoing, and hence the actual conflict, may have come as a surprise to Williamson, the same cannot be true of the prosecutor, who deliberately interjected this conflict into the proceedings at a point in which defense counsel would have been in no position to rectify the situation. The Mississippi Supreme Court has emphatically stated that a prosecutor has a duty to call an actual conflict of interest to the attention of the trial judge. *Littlejohn v. State*, 593 So.2d 20, 25 (Miss. 1992). Given the prosecutor's role in using the manufactured conflict to ambush the defense, the

situation in Manning's case is far worse. This, too, mandates automatic reversal of Manning's convictions. *Holloway, supra*; *Littlejohn*, *supra*.

5. In the Alternative, Reversal is Mandated Due to the Adverse Effect of the Conflict

158. Even if the Court does not find that reversal is warranted under *Holloway* and its progeny, under *Cuyler*, once an actual conflict is established, the next question is whether it had an adverse effect on the case. The adverse effect from the conflict is striking. First, it was a clear example of Hathorn's willingness to lie, even under oath, to advance her own position. Second, although the sheriff and prosecutor acknowledged that Hathorn in the past had not been credible, they essentially asserted that she had turned over a new leaf. The fact that she would lie under oath at Manning's trial, however, would have shown that to be false. Third, the jury no doubt reached the conclusion that Hathorn was telling the truth because Williamson was unable to do anything to rebut or refute the false accusations made against him. This served to reinforce her credibility and also supported the prosecution's assertions that Hathorn had changed for the better. Fourth, Manning's overall case suffered because the jury likely reached the erroneous conclusion that Williamson was not credible, competent, or trustworthy. It is always important for an attorney to retain his credibility with a jury under any circumstances. But here, where the entire case turned on whether the jury was going to believe convicted felons and jailhouse informants, the prosecutor's decision to elicit Hathorn's false attacks on Williamson and the credibility of Manning's defense was devastating.

159. Due to the conflict, Williamson obviously felt that he could not have asked to take the stand or recross-examine Hathorn in depth to expose the untruthfulness of her testimony. His failure or inability to pursue these possible tactics is as indicative – if not more – of the very real

conflict of interest as defense counsel's abrupt halt of cross-examination in *Smith v. State*, 666 So.2d 810, 813 (Miss. 1995); *see also Littlejohn v. State*, 593 So.2d 20 (Miss. 1992). Here, Williamson's hands were tied and he could do nothing to dispel the shadow that had been cast upon him. His "prestige as an attorney, the respect he held as an officer of the Court, had been removed by [Hathorn's] unanswered and undenied testimony." *Anderson v. State*, 332 So.2d 420, 425 (Miss. 1976).

160. In light of the adverse impact of the conflict of interest, prejudice must be presumed, and petitioner is entitled to post-conviction relief.

GROUND I

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE EIGHTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO THE PROSECUTION'S CREATION OF A FALSE IMPRESSION OF THE EVIDENCE WITH RESPECT TO THE TESTIMONY OF PAULA HATHORN.

1. Facts Relevant to this Ground

161. Petitioner incorporates by reference the facts set forth in Ground H.

The prosecutor elicited from Paula Hathorn on re-direct examination an accusation levied at the competence and credibility of Mark Williamson, counsel for Willie Manning. Specifically, Hathorn blamed Williamson, her former attorney, for continuing "difficulties" due to his failure to take care of some matters for her. The prosecution knew or should have known that this testimony was false. A review of Exhibit 27, Case No. 12-183, reveals nothing amiss about Williamson's representation of Hathorn. He successfully negotiated a favorable settlement for her, allowing her to avoid going to prison, and he arranged to have another case, No. 12-184, retired to the file.

Exhibit 28. According to the District Attorney's Office, Hathorn owed $7,432.49 in restitution as of July 29, 1991. This included $3,773.33 to the Justice Court in Oktibbeha County for returned checks, $1,901.60 to the Justice Court in Lowndes County, and $1,160.53 to the District Attorney Worthless Check Unit. (These documents are included in Exhibit 27). Later, the state moved to revoke the suspension of her sentence because she "failed to complete the program at the Pascagoula Restitution Center and failed to make full and complete restitution on all outstanding checks by absconding from said restitution center" and because she "failed to pay fine and costs." Exhibit 27. Because she failed to abide by the conditions of her probation, the court revoked her probation and sentenced her to the penitentiary. Exhibit 27. There is absolutely no indication at all in files pertaining to Hathorn that Mark Williamson did anything that could possibly have caused her to have continuing difficulties.

162. Hathorn also testified that she received no assistance in exchange on the charges she was facing. Tr. 690. As she put it, "They treated me like anybody else that done a crime." Tr. 690. Later, the sheriff indicated that Hathorn received no assistance from the state on her charges in exchange for her cooperation. Tr. 838-39. That, however, was false. As Hathorn explained in her recent affidavit,

> When I was approached to help Sheriff Bryan, I had about thirteen bad check charges in Oktibbeha County. I also had about twenty bad check charges in Lowndes County. There were also bad check charges in Macon, Clay, and Jackson Counties. Altogether, I owed more than $10,000 in fraudulent checks and court fees.

Exhibit 29 (affidavit of Paula Hathorn). Hathorn understood that she could probably have gotten as much as eight to ten years for her pending charges. However, because of her cooperation with law enforcement, which included providing testimony consistent with the state's case and attempting to

elicit incriminating statements from Manning, she realized that she would receive favorable treatment. Turning again to her affidavit:

> . . . [A]fter I testified against Willie, my charges were passed to the file, and I have not served any time. I was worried about this before I was approached by Sheriff Bryan, but **he told me not to worry about going to jail**.

Exhibit 29 (emphasis added). Because of the assurances from the sheriff, Hathorn agreed to waive her right to counsel and plead guilty to charges in Justice Court in Oktibbeha County. Exhibit 29. At her plea, she received only the lightest slap on the wrist. On one charge, she received a $100 fine, and five days in jail, suspended for two years on good behavior. On a second charge, she was sentenced to pay a $300 fine, spend thirty days in jail, suspended for two years good behavior, and pay restitution and court costs. Exhibit 30 (Oktibbeha County Justice Court file, *Hathorn v. State*, sentences imposed September 28, 1993).

163. Mild treatment at the hands of law enforcement was only part of the consideration Hathorn received. The sheriff testified that he would recommend that Hathorn receive a reward. No one, however, disclosed the magnitude of the reward: $17,500. Exhibit 29. Furthermore, it was never disclosed that the sheriff held out the hope for a reward when he first approached Hathorn in the hopes of making a case against Manning. Exhibit 29 (Hathorn affidavit). Facing the prospect of serving eight to ten years in prison, the carrot held out by the sheriff was too good to pass up.

2. Legal Analysis

164. Clearly established Supreme Court precedent firmly instructs that the State's knowing use of or its failure to correct false testimony or its presentation of evidence which creates a materially false impression of the evidence violates a defendant's right to due process. *Mooney v.*

Holohan, 294 U.S. 103 (1935); *Napue v. Illinois*, 360 U.S. 264 (1959); *Miller v. Pate*, 386 U.S. 1 (1967); *Alcorta v. Texas*, 355 U.S. 28 (1957). If the state presents or fails to correct false or misleading evidence, or allows a false impression of the evidence to go uncorrected, then the state must show, beyond a reasonable doubt, that the error could not have affected the verdict. *United States v. Agurs*, 427 U.S. 97, 103 (1976); *Brown v. Wainwright*, 785 F.2d 1457 (11th Cir. 1986); *Boone v. Paderick*, 541 F.2d 447 (4th Cir. 1976) (prosecutor knew or should have known that false evidence was being presented where witness denied deal at trial). The prosecution-prompted smear against Williamson was false. The prosecutor knew or should have known that Hathorn was not truthful, but he pressed ahead to rehabilitate Hathorn's credibility and tarnish the jury's view of the credibility and competence of the defense.

165. The defense is entitled to disclosure of matters directly relating to a witness' credibility, including information about agreements or understandings reached by the state and a witness concerning the disposition of charges. *Giglio v. United States*, 405 U.S. 150 (1972). Moreover, false testimony by the witness concerning the existence of a deal requires a new trial "if 'the false testimony could . . . in any reasonable likelihood have affected the judgment of the jury. . . .'" *Id.* at 154, quoting *Napue*, 360 U.S. at 271; *see also Brown v. Wainwright*, 785 F.2d 1457 (11th Cir. 1986). This is especially true when the testimony of the witness is essential to the state's case. *See Haber v. Wainwright*, 756 F.2d 1520, 1523 (11th Cir. 1985); *United States v. Oxman*, 740 F.2d 1298 (3rd Cir. 1984). Thus, the law is clearly established. The only question that remains is whether there was in fact an agreement or deal or negotiations which would be construed by a reasonable person as impacting upon a witness' credibility.

166. The sheriff denied that any explicit or formal arrangement had been reached.

Nevertheless, Hathorn opted to proceed without counsel, despite a wealth of charges, after the sheriff assured her that she would not have "to worry about going to jail." Exhibit 29 (Hathorn affidavit). The state cannot escape its duties by resorting to informal understandings of this nature. *See, e.g., Boone v. Paderick*, 541 F.2d 447, 451 (4th Cir. 1976). In fact,"[t]he more uncertain the agreement, the greater the incentive to make the testimony pleasing to the promisor." *Boone*, 541 F.2d at 447; *see also Campbell v. Reed*, 594 F.2d 4, 7-8 (4th Cir. 1979) (same).[25] In sum, whether the deal was written or oral, formal or informal, is irrelevant. A deal is a deal is a deal, and the jury must be told the truth about any arrangement entered into in exchange for a witness' testimony. *Campbell v. Reed*, 594 F.2d at 7-8; *see also Annunziato v. Manson*, 566 F.2d 410 (2d Cir. 1977).

167. Finally, the sheriff's assurances to Hathorn were material. She was the key state witness, and as the prosecutor argued, the case boiled down to a test as to which witnesses the jury was going to believe. Tr. 1529. As the Supreme Court stated in *Giglio*, "[w]hen the 'reliability of a given witness may well be determinative of guilt or innocence,' nondisclosure of evidence affecting credibility" especially "evidence of any understanding or agreement as to a future prosecution" violates due process. 405 U.S. at 154-55 (quoting *Napue*, 360 U.S. at 269); *see also Haber v. Wainwright*, 756 F.2d at 1523; *United States v. Oxman*, 740 F.2d 1298 (3rd Cir. 1984); *Scott v. Foltz*, 612 F.Supp. 50 (E.D.Mich. 1985). Because "a witness who realizes that he can procure his own freedom by incriminating another . . . [has] the motivation to falsify," *see United*

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[25]*See also DuBose v. Lefevre*, 619 F.2d 973 (2nd Cir. 1980) (relief granted where the state encouraged a witness to believe that favorable testimony would result in leniency toward him); *Blanton v. Blackburn*, 494 F.Supp. 895 (M.D.La. 1980), *aff'd*, 654 F.2d 719 (5th Cir. 1981) (state failed to disclose all understandings it had with key government witnesses and failed to correct testimony that it knew or should have known was false, even though witnesses' answers to questions about agreements were technically corect, and even though no formal agreements had been entered into); *Bragan v. Morgan*, 791 F.Supp. 704 (M.D.Tenn. 1992).

States v. Leonard, 494 F.2d 955, 961 (D.C. Cir. 1974), the jury was entitled to the truth about the arrangement which had been struck.

GROUND J

PETITIONER WAS DENIED HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO TRIAL COUNSEL'S FAILURE TO ADEQUATELY IMPEACH PAULA HATHORN; COUNSEL WAS ALSO INEFFECTIVE FOR NOT PRESERVING FOR REVIEW THE LIMITATION OF HIS EXAMINATION OF HATHORN.

168. Petitioner incorporates by reference the facts set forth in Ground H.

169. If the Court does not find that trial counsel labored under a conflict of interest, it must then find that he was ineffective for not adequately impeaching Hathorn. In the absence of a conflict, his performance was deficient in two respects: 1) he failed to take steps, such as becoming a witness or cross-examining Hathorn, to establish the falsity of her testimony about his representation of her; and 2) he failed to impeach her with the vast number of bad checks that she had written (at least fifty) since she first began giving statements to the sheriff.

170. As indicated, a conflict of interest emerged suddenly when the district attorney ambushed trial counsel through the testimony of trial counsel's former client. As a result, trial counsel had his hands tied due to his split loyalty to his former client and Manning. If the Court, however, finds that no actual conflict existed, then it follows that trial counsel should have taken steps to show that the state's key witness just lied. In that situation, trial counsel would have had two options. First, he could have launched a cross-examination to develop the scope of his prior representation, the charges pending against her, the time she was facing, his efforts to help her avoid

prison time, and the fact that her probation was revoked due to her failure to abide by the terms established by the court. He could have also forced her to admit that he was not responsible for payment of fines related to any charges out of Lowndes County or Columbus. Second, if necessary, he could have taken the stand, since Manning would have had the Sixth Amendment right to compulsory process. *Ivy v. State*, 641 So.2d 15, 19-20 (Miss. 1994).

171. For the reasons discussed in Ground H, this would have affected the trial in several ways. It would have shown Hathorn's willingness to lie about people when something they did angered her. The sheriff knew that she and Manning had recently been in a fight, and the sheriff realized that Hathorn would get jealous and vindictive if she thought that Manning was involved with other women. Likewise, Hathorn may have held a grudge for some reason against Williamson and no doubt resented other aspects of his cross-examination. Williamson's testimony would have also undermined the state's dubious theory that Hathorn emerged from the Mississippi Department of Corrections a changed woman. Finally, it would have reestablished the credibility of the defense following Hathorn's false accusations by showing beyond all question that Hathorn's accusations were false.

172. Besides exposing Hathorn's false testimony about his prior representation, counsel should have also explored in greater detail the magnitude of Hathorn's criminal history. Closely related to this claim is the allegation that counsel failed to preserve for appellate review the limitations on his cross-examination of Hathorn. On direct appeal, the Mississippi Supreme Court declined to consider the limits on cross-examination. It found that "the nature and purpose of the cross-examination is not apparent from the record, nor was it apparent to the trial judge." *Manning v. State*, 726 So.2d 1152, 1177 (Miss. 1998). The Court then faulted trial counsel for not making

the requisite offer of proof to explain the purpose of delving into Hathorn's charges. *Id.* (citing M.R.E. 103(a)(2)).

173. The Mississippi Supreme Court generally allows "wide-open cross-examination of any matter affecting the credibility of the witness." *Id.* at 1176 (quotes and cites omitted). This includes the right to explore whether a witness received or expected to receive favorable treatment on pending charges in exchange for testimony. *See, e.g., Hill v. State*, 512 So.2d 883 (Miss. 1987); *Suan v. State*, 511 So.2d 144 (Miss. 1987). Trial counsel knew that since the time she first spoke to Sheriff Bryan about petitioner's suspected involvement in the murders, Hathorn wrote at least **fifty (50)** bad checks. She went on several sprees of writing bad checks after she had supposedly turned over a new leaf to better herself. A summary of her bad checks is included in Exhibit 31. As she indicated in her affidavit, she had amassed by that time approximately $10,000 in bad checks and related fines and other costs. Exhibit 29. She had already been convicted as a felon and sent to the penitentiary on prior charges. Subsequent bad check violations could also be treated as a felony, each bad check could be treated as a separate offense carrying a prison term, and she could have been indicted as a habitual offender. Miss. Code § 97-19-65; Miss. Code § 97-19-67(1)(c). Despite this overwhelming number of charges and the prospect of serving a substantial prison sentence, Hathorn did not serve any time whatsoever. Presentation of this evidence would have rendered Hathorn's and the sheriff's denials of any arrangement more than suspect, and would have made Hathorn's attempt to blame her "difficulties with checks" on Williamson's failure to have taken care of them, Tr. 724, almost laughable.

174. Counsel's failure to impeach Hathorn with her pending charges and obvious favorable treatment was unreasonable, especially given that counsel had no strategic reason for failing to do

so. *See, e.g., Stephens v. Hall*, ___ F. Supp. 2d ___, 2001 WL 92269 (D. Mass. Jan. 24, 2001) (counsel ineffective in armed robbery case for failing to cross-examine state's witness with evidence of four prior convictions and a pending charge against her); *State v. Gunsby*, 670 So. 2d 920 (Fla. 1996) (counsel ineffective in part because jury never learned that the victim's brother and the state's key eyewitness had unrelated charges dropped so he would not be discredited during testimony and that the brother had been arrested on additional charges which were pending at the time of trial). Had counsel presented to the jury Hathorn's incredible record of duplicity, including unsubstantiated attacks levied against himself (or at least made an adequate offer of proof to preserve the error for appellate review), there is at least a reasonable probability that the result of the proceeding would have been different.

GROUND K

PETITIONER WAS DENIED HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO TRIAL COUNSEL'S FAILURE TO ADEQUATELY INVESTIGATE AND PRESENT AN ALIBI DEFENSE, OR IN THE ALTERNATIVE TO MOVE FOR ADDITIONAL TIME TO CONDUCT NECESSARY INVESTIGATION.

175. To support his alibi, petitioner located several witnesses who saw him at the 2500 Club the night that the students were murdered. The defense presentation had two weaknesses. Most of the witnesses saw Manning no later than around 11:00 p.m., which, according to the sheriff, would have given Manning sufficient time to somehow make his way to the other side of town to break into John Wise's car and abduct and kill Jon Steckler and Tiffany Miller. Two other witnesses saw Manning later, but their testimony was subject to impeachment.

176. Mario Hall recalled seeing Manning around 11:00 p.m. Tr. 1258. King Hall, Mario's brother, saw Manning some time around 11:30 or 12:00. Tr. 1272. Landon Clayborne saw him around 11:00 p.m. Tr. 1283.

177. Gene Rice testified that he got into an argument with Manning at the club. Based on his testimony, it appears that he and Manning had their confrontation some time between 12:30 and 1:00 a.m. He claimed that they squabbled because he danced with Hathorn. The problem that emerged with Rice's testimony was that no else who was at the club recalled seeing either him or Hathorn that night.

178. Keith Higgins testified that he saw Manning at the club some time between 11:00 p.m. and 12:30 a.m. Tr. 1216. He also testified that the sheriff had threatened to prosecute him for perjury if he testified on behalf of Manning. Tr. 1218. He also said that he was reluctant to become involved because he also had brothers in jail facing serious charges. On cross-examination, the prosecution impeached Higgins with a tape made of a conversation he had with law enforcement in which Higgins made it seem that Manning was pressuring him to make up an alibi for him. Higgins tried to explain that he had the conversation because of threats made against his brothers. Tr. 1225. Nevertheless, the damage was done.

179. The state agreed that Manning appeared at the 2500 Club early in the evening. Thus, it did not seriously dispute the testimony of Mario and King Hall or Landon Clayborne. Tr. 1535. On the other hand, the state criticized the defense for not being able to present any reliable witnesses who could have placed Manning at the 2500 Club any later.

180. Had counsel conducted a thorough investigation, the defense could have had the benefit of additional witnesses who could have clearly placed Manning at the Club as late as 1:00

a.m., which would have made it impossible for him to have gotten all the way across town where the students were allegedly abducted.[26]

181. Counsel apparently sensed that the case for an alibi had drawbacks. Nevertheless, if counsel had conducted a more probing investigation for other witnesses, they could have presented a substantially stronger case that would have made a difference in the outcome. For example, Sherron Armstead Mitchell recalled going to the 2500 Club on the night of December 10, 1992. She remembered the night for two reasons. First, that was the night Steve Moore shot himself. Second, she had recently gotten married, and her husband was not happy that she was going out. Exhibit 32 (affidavit of Sherron Armstead Mitchell).

182. She recalled seeing Manning, and even remembered what he was wearing that night. She knew that she saw him inside the club at 12:30 a.m. because she "was fixing to leave because I knew that my husband would be mad at me for being out so late." She knew that when she left it was almost 1:00 a.m., and Manning was still at the club. Mitchell recalls arriving at her house at around 1:15 a.m. because she and her husband fought; in fact, her husband became abusive. *Id.* Mitchell added that prior to the trial, she had gone to the Delta for a period of time, and that when she returned, she did not realize how she could have contributed to Manning's defense; otherwise, she would have come forward. *Id.*

183. Doug Miller also recalled seeing Manning at the club that night. He first saw Manning outside drinking beer. He later saw Manning a couple of times inside the club drinking beer. Due to the passage of time, Miller is not absolutely certain exactly when he last saw Manning,

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[26]The state presented no evidence that Manning had a car that night or that anyone gave him a ride. It would have taken him a substantial amount of time to walk from the 2500 Club to the fraternity.

whether it was 12:15 or 12:20. He is sure, however, that it was after 12:00. Exhibit 9 (affidavit of Doug Miller).

184. Troylin Jones also remembers seeing Manning at the 2500 Club. Exhibit 33 (affidavit of Troylin Jones). She arrived at the club around 9:30 p.m. At the time, she saw Manning outside talking to a group of other men. She remembers people discussing the incident at Arby's involving Steve Moore. *Id.* She later saw Manning in the club at midnight, if not a little later. She also adds that even though it was chilly that night, Manning was not wearing gloves. *Id.*

185. These witnesses, in particular Sherron Mitchell, would have provided Manning with a much stronger alibi. They would have placed him far from the crime scenes at a time when the crimes were being committed. Even Ms. Jones, who placed Manning at the club closer to midnight, would have been helpful. The prosecution had no evidence that Manning had a car that night or that anyone had given him a ride to campus. Thus, according to the prosecution, after spending several hours at the club drinking, Manning walked to the other side of town on a chilly night, broke into a car, abducted two students who caught him, drove off with them in a two-seat car, shot them, drove her blood-streaked car to an apartment complex, and walked the ten or so miles home laden with stolen goods. All of this for a mere leather jacket, CD player with a cracked lid, a class ring that could easily be traced to the murder victim, and a handful of coins?

186. Obviously, defense counsel were trying to prove Manning's alibi and thus had no strategic reason for not developing that defense in greater detail. A possible explanation for this shortcoming was presented on direct appeal in a challenge to the denial of timely investigative assistance. On direct appeal, the Mississippi Supreme Court rejected this claim, faulting the defense for not moving for a continuance or making some kind of record to show the need for additional

time. *Manning v. State*, 726 So.2d 1152, 1192 (Miss. 1998).

187. In addition, petitioner was prejudiced by counsel's failure to develop more substantial evidence in support of his alibi. Credible witnesses who could have placed Manning at the club after 12:00 would have made the state's already far-fetched theory even more improbable. Under similar circumstances, reviewing courts have found counsel ineffective for not adequately presenting an alibi defense. *See, e.g., Grier v. State*, 299 S.C. 321, 384 S.E.2d 722 (1989) (counsel ineffective in armed robbery case for failing to call alibi witnesses; two alibi witnesses did testify, but there were a number of others available); *Richardson v. State*, 375 S.E.2d 59 (Ga. Ct. App. 1988) (trial counsel ineffective for failing to interview and present alibi witnesses who would have testified that defendant was with them at time of robbery); *State v. Tapia*, 725 P.2d 1096 (Ariz. 1986) (trial counsel ineffective in murder case for failing to interview or present witnesses to corroborate the defendant's alibi); *cf. People v. Pitts*, 629 N.E.2d 770 (Ill. App. Ct. 1994) (counsel ineffective for failing to seek continuance in order to subpoena alibi witnesses).

188. With respect to other potential alibi witnesses, petitioner has requested that the state provide statements from individuals who were at the 2500 Club. Johnny Lowery and Anthony Reed, when they were under investigation, stated that they were at the 2500 Club at 1:00 a.m the morning of the murders. They gave names of individuals who might be able to corroborate their alibi. When petitioner became a suspect, there was a directive in law enforcement files to re-interview those individuals to see if they remembered petitioner. When inspecting law enforcement and prosecutorial files concerning this case, however, there were no additional statements from these individuals. As a result, petitioner filed a discovery request specifically requesting these materials. Because the trial court continued the matter, this motion remains outstanding. Petitioner reserves

the right to supplement the petition in light of these additional statements.

GROUND L

PETITIONER WAS DENIED HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO TRIAL COUNSEL'S FAILURE TO PRESERVE FOR REVIEW ISSUES FOR DIRECT APPEAL AND FOR OTHER ERRORS COMMITTED DURING THE FIRST PHASE OF HIS CAPITAL TRIAL.

189. Petitioner challenges several aspects of counsel's performance during the culpability phase of his trial, including (1) the failure to establish that the prosecutor's reasons for striking African-American jurors were pretextual; (2) the failure to object to evidence of petitioner's prior bad acts; (3) the unkept promise to present evidence that someone else was accused of the murders; and (4) the failure to object to improper prosecutorial argument.

1. Failure to Preserve the *Batson* Issue.

190. On direct appeal, the Mississippi Supreme Court found that petitioner's allegation that the prosecutor violated the principles of *Batson v. Kentucky*, 476 U.S. 79 (1986), was procedurally barred because trial counsel did not attempt to establish that the prosecutor's ostensibly race-neutral reasons for his strikes were in fact pretextual. *Manning v. State*, 726 So.2d 1152, 1183 (Miss. 1998). The prosecution had used its peremptory strikes to eliminate five out of the seven black people that came before it. Tr. 558. Had counsel adequately preserved this issue for appellate review and presented to the trial court evidence of pretext, this Court would have granted petitioner a new trial.

191. Although petitioner requests that the Court reconsider the reasons offered by the

prosecution in support of all of the strikes, he will address only two specific points here. On direct appeal, when discussing the jurors, the Court found, in the alternative, that the prosecution's stated reasons were sufficient to justify the peremptory strikes, with one exception. When discussing the stated reasons for striking juror Christi La Marque Robertson, the Supreme Court simply noted that, "Manning is procedurally barred from asserting this claim for error for failure to rebut the prosecutor's reason for the strike as pretextual." 726 So.2d at 1185. Had the Court addressed the merits of this aspect of the claim, it would have found the reasons to have been pretextual.

192. The state claimed one of its reasons for striking Mr. Robertson included, "He lives in an extremely bad neighborhood." Tr. 554. This reason is clearly impermissible. *See United States v. Bishop*, 959 F.2d 820 (9th Cir 1992) (holding that prosecutor's reason for exercising peremptory challenge to exclude prospective black juror, that juror lived in predominantly low-income, black neighborhood, was inadequate under *Batson).*

193. Another of the state's reasons for striking Mr. Robertson was that he read the "liberal publications" Time and Newsweek. It strains all credulity to imagine that striking jurors for reading such mass publication weekly news magazines is anything but pretext. There are no doubt millions of people, white and black, of all political persuasions, who read one of these magazines. The state also stated that the fact that Mr. Robertson did not complete his jury questionnaire made the state "question the veracity of his responses." Tr. 544. In fact, Mr. Robertson only neglected to answer three questions. C.R. 1575. Two white jury members failed to fill in much of their questionaires and one of those people, Mr. Earl Bolinger, a white male, sat on the jury. C.R. 1330.

194. For other jurors, such as James Graves and Joyce Merritt, the prosecutor struck them because they subscribed to magazines, such as Jet, that supposedly ran articles espousing the

innocence of O.J. Simpson. As at least one court has found, however, a prosecutor's reference to the Simpson case and speculation about jurors' attitudes about the case reflects racial animus and indicates that peremptory strikes may have been undertaken on the basis of race. *Valdez v. People*, 966 P.2d 587 (Colo. 1998).

195. Had counsel adequately preserved this issue for review, petitioner would have received a new trial. *See, e.g., Gov't of Virgin Islands v. Forte*, 865 F.2d 59 (3rd Cir. 1989); *State v. Williams*, 679 So. 2d 275 (Ala. Crim. App. 1996).

2. Failure to Object to Evidence of Prior Bad Acts.

196. During her testimony, Paula Hathorn injected inadmissible evidence about Manning's prior bad acts and character. She testified at length that when Manning returned home on December 14, 1992, he carried in suit jackets, alarm clocks, flashlights, dishes, microwave, shirts, men's trousers, and tennis shoes. It took him three trips to carry all of the material into the house. Tr. 677. This created the unmistakable impression that Manning had either stolen the goods or was fencing stolen merchandise. Even evidence that initially seemed potentially relevant later turned out to be inadmissible bad act evidence. Although Manning allegedly had a CD player, Hathorn testified – and the prosecutor knew she would – that it was only "something like" but "not the one" stolen from John Wise's car. Tr. 678. The sheriff confirmed this. Tr. 893.

197. The use of evidence of other bad acts or crimes is prohibited under Mississippi law and the federal constitution. The rule is well-settled that "evidence of criminal acts unrelated to that charged in the indictment and with respect to which the accused has not been convicted may not be shown." *Hughes v. State*, 470 So.2d 1046, 1948 (Miss. 1985); *see also Eubanks v. State*, 419 So.2d 1330, 1331-32 (Miss. 1982). Besides forcing a defendant to have to defend himself against other

acts besides the ones for which he has been charged, such evidence also has the irresistible tendency to lead the jury to use evidence of those other bad acts as proof that the defendant acted in conformity with those bad acts. *Spraggins v. State*, 606 So.2d 592, 593-94 (Miss. 1992).

198. On direct appeal, the Mississippi Supreme Court found the issue procedurally barred due to the failure of trial counsel to make a contemporaneous objection. *Manning v. State*, 726 So.2d 1152, 1171 (Miss. 1998). In the alternative, the Court found that the evidence was admissible to show identity and motive. *Id.* Had the issue been adequately preserved, however, it would have been clear that the goods about which Hathorn testified had nothing to do with identity. They were unrelated to the student murders and the burglary of John Wise's car. Likewise, the fact that Manning had what could have been stolen goods in his possession would have cast no light at all on any motive that he would have had for allegedly killing anyone.

199. Under similar circumstances, courts have found counsel to have been ineffective for not preventing the introduction of bad acts. *See, e.g., Brown v. State*, 974 S.W.2d 289 (Tex. Ct. App. 1998); *State v. Nolan*, 605 N.E.2d 480 (Ohio Ct. App.), *appeal denied*, 602 N.E.2d 253 (Ohio 1992); *People v. Ullah*, 550 N.W.2d 568 (Mich. App. 1996).

3. Imprudently Promising Evidence Concerning George Patterson.

200. In his opening statement, defense counsel informed the jury:

> You're going to hear testimony, uh, from the sheriff that the sheriff had several or had a call pertaining to a George Patterson, and that George Patterson had confessed to this crime, and you're going to hear testimony that the sheriff didn't follow that up, and you're going to hear testimony that George Patterson was allegedly according to one of the first two suspects with one of those first two suspects that night.

Tr. 600. Defense counsel, however, did not follow up on his promise to the jury. Either he should

not have made this guarantee in his opening statement, or he should have presented evidence or engaged in cross-examination to elicit this. The prosecutor, not surprisingly, capitalized on the defense's misstep. In his closing argument, the prosecutor reminded the jury of the unkept promise:

> One of the things, ladies and gentlemen, that I noticed that you were very interested in or at least I thought that you were going to – I thought you were interested in it at the time was when he [defense counsel] said, "We're going to prove to you that there was another individual that confessed to this crime. We're going to prove to you that he told his girlfriend he did it and the sheriff's department never followed up on it. You had a guy who confessed to it and the sheriff's department never followed up." Did you see any proof of that, ladies and gentlemen? Did anybody get on the witness stand and testify that that happened, anybody at all?"

Tr. 1549.

201. The consequence of this unfulfilled promise was detrimental to the defense. Because of the unsubstantiated comment that there was someone else who had confessed to the crime, the defense no doubt came across as looking desperate or as trying to substitute rumor or innuendo for solid evidence or impeachment of the state's case. "The trial attorney should only inform the jury of the evidence that he is sure he can prove. His failure to keep [a] promise [to the jury] impairs his personal credibility. The jury may view unsupported claims as an outright attempt at misrepresentation." McCloskey, Criminal Law Desk Book, §§ 1506(3)(O) (Matthew Bender, 1990), *cited with approval in*, *State v. Zimmerman*, 823 S.W.2d 220 (Tenn. Ct. App. 1991); *see also, Avery v. State*, 737 So. 2d 1166, 1167 (Fla. App. 1999) ("arguing [a] defense in opening, and presenting no evidence to support the defense during the trial, constitutes ineffective assistance of counsel"); *State v. Moorman*, 320 N.C. 387, 358 S.E.2d 502 (1987) (counsel ineffective for failing to produce evidence promised in opening; "cardinal tenet of successful advocacy is that the advocate be

unquestionably credible"); *People v. Mejia*, 617 N.E.2d 799 (Ill. App. 1993) (counsel ineffective in reckless homicide prosecution for failing to call witnesses who he said in opening argument would testify that defendant was not driving); *Montez v. State*, 824 S.W.2d 308 (Tex. App.1992) (counsel's ineffectiveness included unfulfilled promises of what would be shown to jury).

4. Failure to Object to Improper Argument.

202. At the conclusion of his argument, the prosecutor improperly labeled Willie Manning as a "monster":

> [W]hen that horror takes human form, when it materialized and takes a human form, few there be that are willing to confront it because you see he's one of us now. He's been sitting in this courtroom up here with us day after day and he's dressed nice and he just doesn't look like a blood thirsty monster. The real monsters never do, ladies and gentlemen, not on the outside. They look just like us, and we don't want to see and we don't want to believe and we don't want to recognize that dark side of humanity, that ugly reality, that beast that lurks inside.

Tr. 1626-27. Following the repeated references to Willie Manning as a "horror" in human form, a "blood thirsty monster," and a "beast," the prosecution prejudicially alluded to the O.J. Simpson case, which at the time of Manning's trial in 1994 would have been fresh in the minds of the jurors:

> There have been a number of jury verdicts lately in cases that I think each and every one of you have followed. It's caught your imagination and you followed it in the press, you've watched it on TV, and at the end of the evidence the jury comes back with a perfectly outrageous verdict, and they'll interview a juror, you knnow what they always say, "Well, the State just didn't provie it," and the whole thing may have been on video tape from start to finish, every bit of it, and the State didn't prove it. They proved it; the State proved it; they just weren't willing to see it.

Tr. 1627. This closing comment reflects the prosecution's obsession with the Simpson case. After all, he went to extraordinary lengths to purge African-American jurors who merely subscribed to

general, mass circulation magazines, such as Time, Newsweek, or Jet, that may have had an article that was not slanted toward the prosecution. The argument also improperly interjected matters wholly unrelated to the facts of the case. Rather than assessing the evidence to determine if the state carried its burden, the jury was cautioned not to return with a "perfectly outrageous verdict." By referring to interviews that Simpson jurors may have given, the prosecutor also warned Manning's jurors would be held publicly accountable for their verdict, especially if it was in Manning's favor.

203. Defense counsel did not object to the closing argument, but they should have. References to high-profile, but unrelated cases, such as the prosecution of O. J. Simpson, are improper. *See DeFreitas v. State*, 701 S.2d 593 (Fla. 1997) (reversing conviction in part due to reference to Simpson case in closing argument). Likewise, raising the specter that jurors will be publicly accountable to the community introduces arbitrary and irrelevant factors into the jurors' decision. *See generally Smith v. State*, 499 So.2d 750 (Miss. 1986). With respect to referring to Manning as a "horror," "blood thirsty monster," and a "beast," the Mississippi Supreme Court has repeatedly condemned prosecutors for making arguments that personally vilify the defendant. *See, e.g, Bridgeforth v. State*, 498 So.2d 796, 801 (Miss. 1986).

204. Reviewing courts have found defense counsel to have been ineffective for not objecting to improper prosecutorial arguments. *See, e.g, Eure v. State*, 764 So.2d 798 (Fla. Dist. Ct. App. 2000); *Ross v. State*, 726 So.2d 317 (Fla. Dist. Ct. App. 1998); *Fossick v. State*, 453 S.E.2d 899 (S.C. 1995); *People v. Tillman*, 589 N.E.2d 587 (Ill. App. Ct. 1991).

GROUND M

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND MISSISSIPPI LAW DUE TO THE CUMULATIVE EFFECT OF THE ERRORS AT THE CULPABILITY PHASE OF HIS CAPITAL TRIAL.

205. Although each of the errors discussed above warrants reversal of petitioner's convictions, it is clear that "[w]hen all errors are taken together, the combined prejudicial effect requires reversal." *Randall v. State*, No. 1999-DP-01426-SCT (Miss. Sept. 27, 2001) (citing *Williams v. State*, 445 So.2d 798, 810 (Miss. 1984)).

206. It is also imperative that with respect to allegations of counsel's ineffectiveness and violations of *Brady v. Maryland*, 373 U.S. 83 (1963), the Court must consider the cumulative impact of the specific errors. *Williams v. Taylor*, 120 S. Ct. 1495 (2000); *Kyles v. Whitley*, 514 U.S. 419 (1995).

GROUND N

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND MISSISSIPPI LAW DUE TO DEFENSE COUNSEL'S FAILURE TO DEVELOP AND PRESENT EVIDENCE IN MITIGATION OF PUNISHMENT.

207. This ground, perhaps more than many of the others previously raised, is incomplete due to the trial court's decision to stay proceedings until issues concerning petitioner's legal representation could be resolved by the Supreme Court. After the trial court indicated that he would stay the proceedings, Robert S. Mink ceased working on the case. He had offered to handle issues that arose during the penalty phase of the trial. Without his assistance, the presentation of this claim is, of course, incomplete. Equally important, due to Mr. Mink's current inability to proceed,

additional investigation that he planned to do was also postponed; thus, petitioner has not had the opportunity to secure affidavits from a number of witnesses. In addition, petitioner had outstanding motions to authorize funding for expert assistance, and the state had outstanding a motion to quash petitioner's subpoena to obtain vital Department of Human Services records. Because of the trial court's decision to stay the proceedings, those motions, which are essential to this claim, have not yet been heard.

208. For present purposes, petitioner will summarize relevant legal principles and inform the Court of the evidence that is currently available to establish counsel's deficient performance and the resulting prejudice.

1. Overview of Relevant Legal Principles.

209. A reviewing court must resolve a Sixth Amendment claim of ineffective assistance of counsel by examining the facts of the case in light of the principles enunciated by the Supreme Court in the now-familiar two-pronged standard of *Strickland v. Washington*, 466 U.S. 688 (1984); *see also Williams v. Taylor*, 120 S. Ct. 1495 (2000). In *Strickland*, the United States Supreme Court stated that counsel was constitutionally ineffective if counsel's conduct so undermined the proper functioning of the adversarial process that one cannot rely upon the trial as having produced a just result. *Id.* at 668. *Strickland* held that in order to establish ineffective assistance of counsel a defendant must establish both that his attorney's representation "fell below an objective standard of reasonableness," *id.* at 688, and that the defendant was "prejudiced" by his attorney's substandard performance. *Id.* at 692; *see also Lockett v. Anderson*, 230 F.3d 695 (5th Cir. 2000); *Brown v. State*, 749 So.2d 82 (Miss. 1999); *Leatherwood v. State*, 539 So.2d 1378 (Miss. 1989).

2. Counsel were deficient.

210. In a capital trial, counsel has a duty to unearth all relevant mitigating evidence. *Caro v. Calderon*, 165 F.3d 1223, 1227 (9th Cir. 1998). Counsel, therefore, must conduct a thorough investigation into a range of possible mitigating evidence, consider all viable theories, and develop evidence to support those theories. *See Hill v. Lockhart*, 28 F.3d 832, 837 (8th Cir. 1994); *see also Strickland v. Washington*, 466 U.S. 668, 691 (1984) (counsel "has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary."); *Huffington v. Nuth*, 140 F.3d 572, 580 (4th Cir. 1998) ("*Strickland*'s objective reasonableness prong requires counsel to conduct appropriate factual and legal inquiries and to allow for adequate time for trial preparation and development of defense strategies."); *Berryman v. Morton*, 100 F.3d 1089, 1095 (3rd Cir. 1996); *Antwine v. Delo*, 54 F.3d 1357, 1367 (8th Cir. 1995) ("it was counsel's duty to collect as much information as possible about [him] for use at the penalty phase"); *Baxter v. Thomas*, 45 F.3d 1501 (11th Cir. 1995)[27]; *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991).

211. As the United States Supreme Court recognized, counsel's duties with respect to the penalty phase include gathering readily obtainable records, including juvenile records of abuse, poverty, and neglect, determining the effect of head injuries, and investigating whether the defendant has had a positive record of adapting to incarceration. *Williams*, 529 U.S. 362, 373 and n.4 (2000). It is also well-established that counsel must consult with experts who are reasonably necessary to the development of mitigating evidence. *See, e.g., Lockett v. Anderson*, 230 F.3d 695 (5th Cir. 2000) (discussing testimony of experts who were not retained until post-conviction proceedings); *Bean*

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[27]*See also Agan v. Singletary*, 12 F.3d 1012 (11th Cir. 1994); *Brewer v. Aiken*, 935 F.2d 850 (7th Cir. 1990).

v. Calderon, 163 F.3d 1073, 1078 (9th Cir. 1999); *cf. Hendricks v. Calderon*, 70 F.3d 1032, 1044 (9th Cir. 1995) (counsel's performance deficient and prejudicial where trial expert's testimony was not corroborated, and the little evidence adduced was not connected to the statutory mitigating factors).

212. If counsel fail to present certain types of evidence, a reviewing court, of course, must be mindful of counsel's tactical reasons, if any. If counsel had no tactical reason for any omissions, courts usually find such performance to be unreasonable. "[O]ur case law rejects the notion that a 'strategic' decision can be reasonable when the attorney has failed to investigate his options and make a reasonable choice between them." *Horton v. Zant*, 941 F.2d 1449, 1462 (11th Cir. 1991); *see also Foster v. Lockhart*, 9 F.3d 722 (8th Cir. 1993) (though deference given to strategic decisions, counsel's preparatory activities must be closely scrutinized); *Bouchillon v. Collins*, 907 F.2d 589, 597 (5th Cir. 1990). "Failing to interview witnesses or discover mitigating evidence relates to trial preparation and not trial strategy." *Kenley v. Armontrout*, 937 F.2d 1298, 1304 (8th Cir. 1991).

213. On direct appeal, Manning asserted that the performance of counsel, Richard Burdine, at the penalty phase of his trial was deficient. The Mississippi Supreme Court, however, declined to find Burdine's performance deficient due to insufficient evidence in the record. *Manning v. State*, 726 So.2d 1152, 1170 (Miss. 1998). Even the record developed now, however, demonstrates Burdine's deficient performance. It is clear that Manning's counsel divided the labor so that Mark Williamson took primary responsibility for preparing for the culpability phase, and Burdine was to prepare for the penalty phase. C.R. 375, 376. Exhibit 39 (affidavit of Mark G. Williamson).

214. Although Burdine had primary responsibility for the penalty phase, Williamson provided him with leads for potentially valuable witnesses. For example, Williamson discovered

that Dr. Oswald Rendon-Herrero, a professor at Mississippi State, knew Mr. Manning's family and was willing to cooperate with defense counsel. C.R. 376 (letter from Williamson to Burdine, dated September 9, 1994). Likewise, Williamson urged Burdine to contact Prof. Kimberly Cook, another teacher at the university who was willing to assist. *Id.* Less than a week later, Williamson informed Burdine that Richard and Valerie Davis, a young couple working for the Department of Human Services, had a great deal of information about Manning's background and would make excellent witnesses. C.R. 382 (Letter from Mark Williamson to Richard Burdine, dated September 15, 1994). Williamson also provided Burdine with notes of an interview conducted by John Holdridge, an attorney from New Orleans. As should be evident from a review of the correspondence, the defense strategy was to prepare a strong case in mitigation. As Williamson explains in his affidavit, "I became convinced – and remain convinced – that Mr. Manning is innocent. Nevertheless, I was not naive enough to believe that we should rest solely on my efforts for the first part of the trial." Exhibit 39.

215. Holdridge confirms that he attempted to assist the defense in preparing for the penalty phase. He discussed the case with Clayton Hall, who was an investigator assisting the defense. Holdridge, an experienced capital litigator in Louisiana and Mississippi, felt that the prosecution's case seemed weak; nevertheless, he pressed the importance of preparing for the penalty phase. To assist the defense, Holdridge interviewed Manning and his mother in July 1994. Exhibit 34 (affidavit of John Holdridge; his interview summaries and recommendations are attached to his affidavit). From Manning and his mother, Holdridge learned valuable mitigating evidence as well as names of relatives and neighbors who needed to be interviewed. In addition, Holdridge suspected that Manning suffered from neurological impairments such as brain damage or fetal alcohol

syndrome or effects. He reached this conclusion because Manning's mother drank throughout her pregnancy, there was apparently something wrong with Manning's skull when he was born, and Manning suffered head injuries. Exhibit 34 (Holdridge affidavit).

216. As the trial date approached, Williamson became concerned that Burdine was not fulfilling his responsibilities to Manning. On October 5, 1994, Williamson reminded Burdine of his assurances that he would provide the names of witnesses to be called at trial as well as a summary of their likely testimony. C.R. 382 (October 5, 1994, letter). Williamson sent two additional letters to Burdine, imploring him to conduct the investigation necessary to prepare for the penalty phase. C.R. 393, 408. From the Court records, it appears that Burdine did not conduct any investigation. Petitioner attempted to discuss the matter with Richard Burdine. Several months ago, investigator James Green discussed Manning's case with Burdine informally. Burdine noted that he had not done any investigation for the penalty phase. Burdine somehow had the impression that while he was supposed to present the witnesses for the penalty phase, he was not supposed to conduct the actual investigation. When petitioner recently attempted to contact Burdine and ask for an affidavit about his trial preparation, he learned that Burdine is on medical leave in Chicago and is not expected to return until December 15, 2001. Exhibit 35 (affidavit of Hubert Chandler, an investigator who works closely with Burdine). James Green has provided an affidavit about his earlier conversation with Burdine. Exhibit 36 (affidavit of James Green).

217. The inadequate – or more accurately, non-existent – preparation was apparent at the penalty phase. The defense presented very brief and sketchy testimony from only two witnesses: Ella Lee Fuller and Ruth Ann Bishop Manning. Ms. Fuller, for example, testified that she knew Manning and his grandmother when he was very young, but "after he got grown I loose track of

him." Tr. 1642. After establishing that Ms. Fuller was Manning's aunt and that he was born in Moorhead, Mr. Burdine declined to ask any more questions. Tr. 1643.

218. After Ms. Fuller testified, Burdine called Manning's mother, Ruth Bishop. She testified only that her mother raised Manning for most of his childhood, but that she bought some of his clothes and toys. Tr. 1646-47. Ms. Bishop added that she took her son back when her mother's health began to fail. Tr. 1648. The defense did not present any details about the grinding poverty in which Manning was raised, the chaos, abuse, violence, and neglect that he suffered. Moreover, the defense did not even consult with an expert, much less present expert testimony, to explain the consequences of the abuse and deprivation on Mr. Manning's development. The presentation was so bad that in closing argument, Burdine even admitted that there was no evidence about Manning's age, even though the defense was relying on age as a statutory mitigating circumstance. Instead, Burdine could only ask the jury to venture a guess about his client's age. Tr. 1681. Not surprisingly, given the virtual absence of any mitigating evidence, the jury sentenced him to death.

219. Since the trial, Manning's current counsel, in particular Robert S. Mink, have gathered numerous records. Petitioner has also attempted to obtain Department of Human Services records, which should richly document his upbringing. Petitioner's early attempts to acquire these records were thwarted when the Attorney General's office filed a motion to quash. At the time of trial, however, defense counsel made no effort to obtain those records.

220. Counsel in capital cases have an elementary duty to gather records, interview witnesses, and consult with reasonably necessary experts before they can be in a position to make strategic decisions about what evidence to present. *See Tokman v. State*, 564 So.2d 1339, 1343

(Miss. 1990) ("At a minimum, counsel has a duty to interview potential witnesses and to make an independent investigation of the facts and circumstances of the case."). Although petitioner intends to supplement the petition after having the opportunity to discuss the matter with Burdine, it should be clear that the necessary pretrial preparation was not done.[28] The relevant question now is whether petitioner suffered prejudice.

3. Prejudice from Counsel's Deficient Preparation

221. Besides demonstrating that counsel's performance was deficient, under *Strickland*, petitioner also "must show that there is a reasonable probability that, but for counsels' unprofessional errors, the result of the proceeding would have been different." 466 U.S. at 694. *Strickland* defined "reasonable probability" as a "probability sufficient to undermine confidence in the outcome" of the proceeding. *Id.* at 692; *see also Williams v. Taylor*, 120 S. Ct. 1495, 1512 (2000). This test is not, however, an outcome determinative inquiry. *Strickland* made it clear that applicant does not have to prove that the outcome would have been different, *id.* at 693-94, because "[t]he result of a proceeding can be rendered unreliable, and hence the proceeding itself unfair, even if the errors of counsel cannot be shown by a preponderance of the evidence to have determined the outcome." *Id.* at 694. Thus, "a defendant need not show that counsel's deficient conduct more likely than not altered the outcome in the case." *Id.* at 693 (emphasis added). In other words, as the Court reiterated in *Kyles v. Whitley*, 514 U.S. 419 (1995),[29] the "touchstone" of the prejudice test in ineffective

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[28]Burdine has been found to have been constitutionally ineffective in other cases. *See, e.g., Nealy v. Cabana*, 764 F.2d 1173, 1178 (5th Cir. 1985); *Triplett v. State,* 666 So.2d 1356, 1361 (Miss. 1995) (cataloging gross deficiencies stemming from Burdine's failure to investigate or even familiarize himself with the state's case and elements of the defense).

[29]In *Kyles*, the Court reviewed a petitioner's claim that the state did not disclose evidence favorable to the defense in violation of the rule established in *Brady v. Maryland*, 373 U.S. 83

assistance of counsel claims is "a 'reasonable probability' of a different result, and the adjective is important. The question is not whether the defendant would more likely than not have received a different verdict . . . , but whether . . . he received a fair trial, understood as a trial resulting in a verdict worthy of confidence." *Id.* at 434; *see also Williams*, 120 S. Ct. at 1519 (O'Connor, J., concurring) (holding petitioner to a preponderance of the evidence test "would be 'diametrically different,' 'opposite in character or nature,' and 'mutually opposed' to our clearly established precedent because we held in *Strickland* that the prisoner need only demonstrate a 'reasonable probability that . . . the result of the proceeding would have been different.").

222. Likewise, the prejudice test of *Strickland* "is not a sufficiency of evidence test." *Kyles*, 514 U.S. at 434. Thus, in this context, the question is not whether if counsel had performed adequately applicant would have received a life sentence. The appropriate question is whether counsel's conduct so undermined the proper functioning of the adversarial process that this Court cannot be confident that the outcome of the trial would have been the same. In the context of a capital trial, the Supreme Court also explained that a reviewing court must evaluate the totality of the mitigating evidence, and significantly, it explicitly provided that a reviewing court must consider all evidence even if that evidence "does not undermine or rebut the prosecution's death-eligibility case." *Williams v. Taylor*, 120 S. Ct. 1495, 1516 (2000). Finally, the resulting prejudice from

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(1963), and refined in *United States v. Bagley*, 473 U.S. 667 (1985). In *Brady*, the Court held that the government must disclose evidence that is both favorable to the defense and "material." 373 U.S. at 87. In *Bagley*, the Court held that the "materiality" test under *Brady* was the same as the prejudice test espoused in *Strickland* for determining ineffective assistance of counsel claims. *Bagley*, 473 U.S. at 682. (Blackmun, J., with O'Connor, J., concurring) and 473 U.S. at 685 (White, J., with Burger, C.J., and Rehnquist, J., concurring in part and concurring in the judgment). Thus, the Court's discussion of the "materiality" test in *Kyles* is equally applicable to the analysis of prejudice in resolving claims of actual ineffectiveness of counsel under *Strickland*.

counsel's errors must be "considered collectively, not item-by-item." *Kyles*, 514 at 436; *Williams*, 120 S. Ct. at 1515 (a reviewing court applies controlling precedent unreasonably when "it failed to evaluate the totality of the available mitigating evidence"); *see also Henry v. Scully*, 78 F.3d 51 (2nd Cir. 1996); *Harris ex rel. Ramseyer v. Wood*, 64 F.3d 1432 (9th Cir. 1995). Thus, the court must consider the cumulative prejudice of counsel's errors, as opposed to considering the prejudice based only on each individual instance of inadequate representation by counsel.

223. At this point, due to the stay of the proceedings issued by the trial court, petitioner can do little except proffer the rough outlines of what he would have been able to present. He retained Dr. Gary Mooers, a professor of Social Work at the University of Mississippi, to conduct an evaluation of Manning and his family. Dr. Mooers has reviewed a number of records and interviewed some family members but at this time he cannot reach any definitive conclusions. As he states in his affidavit, however, he believes that Manning may suffer from neurological impairments, was an alcoholic, and suffered abuse and deprivation that scarred his life. In addition, because Manning witnessed or was the victim of extreme violence (e.g., he saw his mother severely beaten, was present when his mother stabbed his step-father, and was shot in the leg when he was an innocent bystander during a robbery) he may suffer from posttraumatic stress disorder. Exhibit 37 (affidavit of Gary Mooers, Ph.D.). In addition, petitioner has attached the affidavit of Mary Wayne Prather, one of his cousins, about his character. *See also* Exhibit 38.

224. At trial, the district attorney credibly argued that "[t]he state has proved its aggravation. What has the defendant proved in mitigation? Against this act what does he show?" Tr. 1669. Tragically due to the failure to investigate, the defense showed very little, but as Holdridge notes in his affidavit, there was a wealth of the type of mitigating evidence that makes a difference

in capital trials in Mississippi. Exhibit 34 (affidavit of John Holdridge).

225. Reliable, well-supported expert mitigating evidence "has the potential to totally change the evidentiary picture." *Baxter,* 45 F.3d at 1515 ("[p]sychiatric mitigating evidence has the potential to totally change the evidentiary picture");[30] *Wallace v. Stewart*, 184 F.3d 1112, 1116 (9th Cir. 1999) (petitioner prejudiced by counsel's failure to present evidence of "major depressive disorder" and most probably organic brain damage); *Bean v. Calderon*, 163 F.3d 1073 (9th Cir. 1998) (petitioner prejudiced by trial counsel's failure to present evidence of PTSD, brain damage, functional mental retardation, and drug use).[31] In addition, the presentation of lay witnesses to discuss his redeeming qualities would have also altered the overall picture presented to the sentencer. *See also State v. Tokman* 564 So.2d 1339 (Miss. 1990); *Woodward v. State*, 635 So.2d 805 (Miss. 1993) (counsel ineffective presenting almost no facts in mitigation when there was available evidence that he suffered from a major depressive disorder).

226. It bears mentioning that "[t]he horrific nature of the crimes" cannot preclude a finding of prejudice. *Smith v. Stewart*, 189 F.3d 1004, 1013 (9th Cir. 1999). In fact, a petitioner can make a showing of prejudice even when the crimes are particularly heinous. *See Williams v. Taylor*, 120 S. Ct. 1495 (2000) (defendant with prior convictions for armed robbery, burglary, grand larceny, and

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[30]*See also id.* at 1514-15 (petitioner "suffered prejudice from his attorneys' failure to conduct a reasonable investigation into his background" and present evidence of mental impairments).

[31]*See also Clabourne v. Lewis*, 64 F.3d 1373 (9th Cir. 1995) (counsel ineffective for failing to investigate and present evidence of mental illness); *Antwine v. Delo*, 54 F.3d 1357, 1368 (8th Cir. 1995) (counsel ineffective for not presenting evidence of petitioner's mental impairments); *Jackson v. Herring*, 42 F.3d 1350 (11th Cir. 1995) (counsel ineffective for failing to present evidence concerning petitioner's low IQ, alcoholism, and circumstances of petitioner's upbringing); *Foster v. Lockhart*, 9 F.3d 722, 726 (8th Cir. 1993); *Brewer v. Aiken*, 935 F.2d 850 (7th Cir. 1990) (failure to investigate and present evidence of applicant's brain damage).

who committed two auto thefts and two separate violent assaults on elderly victims before beating to death an elderly man prejudiced by attorney's deficient performance); *Combs v. Coyle*, 205 F.3d 269 (6th Cir. 2000) (finding prejudice despite defendant being guilty of killing two people); *Wallace v. Stewart*, 184 F.3d 1112 (9th Cir. 1999) (finding prejudice even though petitioner lay in wait and beat a sixteen year old girl over the head with a baseball bat and beat a twelve year old and his mother to death with a pipe wrench); *Collier v. Turpin*, 177 F.3d 1184 (11th Cir. 1999) (finding prejudice even though defendant committed murder of deputy sheriff while fleeing after committing three armed robberies); *Smith v. Stewart*, 140 F.3d 1263 (9th Cir. 1998) (finding prejudice even though petitioner committed three armed robberies shortly after being released on parole and shooting a store clerk during a fourth robbery); *Bloom v. Calderon*, 132 F.3d 1267 (9th Cir. 1997) (prejudice found even where petitioner was convicted of three counts of first degree murder); *Hendricks v. Calderon*, 70 F.3d 1032 (9th Cir. 1995) (court found prejudice despite substantial evidence of aggravation and even though petitioner was convicted of two counts of first degree murder, one count of robbery, one count of burglary, and one count of grand theft); *cf. Caro v. Calderon*, 165 F.3d 1223 (9th Cir. 1999) (petitioner entitled to a hearing even in light of evidence that he was guilty of two counts of first degree murder, one count of kidnapping, and two counts of assault with intent to commit murder).

227. Here, "[counsel's] failure to investigate or present . . . mitigating evidence undermined the adversarial process and rendered the death sentence unreliable." *Austin v. Bell*, 126 F.3d 843, 848 (6th Cir. 1997). Had trial counsel conducted an adequate investigation and secured adequate expert assistance, there is at least a reasonable probability that the sentencer would have been moved to show mercy and vote for a life sentence. *Hendricks*, 70 F.3d at 1044; *see also*

Emerson v. Gramley, 91 F.3d 898, 907 (7th Cir. 1996) (noting that counsel had to convince only one of twelve jurors to refuse to go along with a death sentence). For these reasons and based on evidence which will provided after the trial court has an opportunity to address pending motions, petitioner is entitled to post-conviction relief or at least an opportunity to proceed in the trial court.

GROUND O

PETITIONER WAS DENIED HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO TRIAL COUNSEL'S INCOHERENT AND PREJUDICIAL CLOSING ARGUMENT.

228. Due to the utter lack of mitigation evidence, counsel had little to argue at the penalty phase. As indicated above, he admitted that there was no evidence concerning petitioner's age, even though that was one of only two mitigating circumstances listed in the jury instructions. Tr. 1681. In fact, at the outset of his argument, Burdine made it seem that he was powerless to make any kind of argument that would make a difference to the jury:

> [I]f you put Jon and Tiffany in one hand and put Willie Jerome Manning in the other and you physically weighed them, Ron – Jon and Tiffany would outweigh Willie Jerome Manning from a physical standpoint of view. So how is it that I can appeal to you and only you know it's for whatever reason or reasons we can balance these scales back out and let Willie Jerome Manning live. How can I do that? Now I know you can't say well if you do it this way you convince me this way, if you say this to me this will convince me, you say that to me that will convince me, or you say nothing to me which will convince me. I know you cannot respond to me. It is my job to try to respond to you. Now I don't know how there are no court instructions on how I can do that successfully. There's no court instructions , none whatsoever, none whatsoever.

Tr. 1673. Other parts of his argument were incoherent. For example,

> Now it can be argued that . . . Willie Jerome Manning, since you have found him guilty of killing those two young persons, should have thought carefully, but what should have been ain't, and ain't is not what it's going to be, and I know I seem like sometime I be talking out of both sides of my mouth, but at this stage, ladies and gentlemens of the jury, it is not time for me to be a lawyer.

Tr. 1674.

229. Burdine's argument concerning the difference between punishment and vengeance was equally hard to follow. In fact, it virtually blurred the difference between a life sentence and death:

> [T]he punishment he deserves is not vengeance but to spend the rest of his natural born life in Parchman. Vengeance, let's get even with him. Eye for an eye and a tooth for two – tooth for tooth, rather. Vengeance or punishment and yet you can very easily argue that vengeance and punishment is one and the same, can't you, but is it?

Tr. 1676. Without any mitigating evidence to argue, Burdine could only retreat to vague and general arguments about love. As he explained, "I know no other way to ask you to save his life." Tr. 1675.[32]

230. The first prong of the *Strickland* test for ineffective assistance of counsel requires that the conduct of counsel be deficient by falling below an objective standard of reasonableness. In this case, counsel's closing argument failed to articulate a credible reason why the jury should spare Manning's life, and instead meandered from the irrelevant to the incoherent. These actions and omissions constituted gross departures from the attorney's overarching duty to advocate vigorously for his client. *See also Berryman v. Morton*, 100 F.3d 1089, 1095 (3rd Cir. 1996) (counsel ineffective in part because closing arguments were "unguided, and inept shots at anything that moved, or that

[32]Counsel also argued residual doubt. Although that may have been important in this case, it should not have been the sole basis of asking for a life sentence.

appeared to move, with no apparent purpose, thought, or strategy").

231. The Mississippi Supreme Court has found counsel to have been ineffective during the closing argument of the penalty phase under similar circumstances. In *Woodward v. State*, 635 So.2d 805, 809 (Miss. 1993), the defense presented "almost no facts in mitigation upon which the jury could act to spare Woodward's life." Without evidence to support any of the eight statutory mitigating circumstances, defense counsel argued that the jury should vote to spare the defendant's life based on "redeeming love." Like counsel in *Woodward*, Burdine turned to "love" because he knew of "no other way to ask [the jury] to save his life." In light of counsel's poor closing argument, petitioner is entitled to post-conviction relief.

GROUND P

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE EIGHTH AND FOURTEENTH AMENDMENTS TO A RELIABLE DETERMINATION OF HIS SENTENCE BY THE PROSECUTOR'S IMPROPER ARGUMENT; IN THE ALTERNATIVE, PETITIONER WAS DENIED HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL GUARANTEED BY THE SIXTH AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND ANALOGOUS PROVISIONS OF THE MISSISSIPPI CONSTITUTION DUE TO TRIAL COUNSEL'S FAILURE TO OBJECT TO IMPROPER PROSECUTORIAL ARGUMENT AT THE PENALTY PHASE.

232. The prosecution's closing argument improperly elaborated on religious themes to invoke God's approval of capital punishment in petitioner's case, invoked Manning's alleged future dangerousness, and raised the specter of Manning being released from prison when he would not have been eligible for parole. At the outset of his argument, the prosecutor delved into religion, drawing on the Ten Commandments, stories concerning pharaoh, and Romans Chapter 9. In his foray into the New Testament, the prosecutor quoted Paul: "What if God willing to display his power

set up for himself vessels of wrath fit only for destruction." Tr. 1684. The prosecutor then described Willie Manning as one of these "vessels." Tr. 1684, 1688. Speaking about the death penalty as a Biblical sanction for murder, the prosecutor declared: "God commanded it." Tr. 1684.

233. Such religious appeals on the part of a prosecutor are impermissible. *See Bennett v. Angelone*, 92 F.3d 1336 (4th Cir. 1996); *Cunningham v. Zant*, 928 F.2d 1006, 1019 (11th Cir. 1991) (appeals to religious symbols and beliefs during penalty phase arguments constituted improper appeals to jurors' passions); *United States v. Giry*, 818 F.2d 120 (1st Cir. 1987).

234. After assuring the jury that God approved capital punishment for "vessels of wrath" such as Manning, the prosecutor asked the jurors to imagine how they would feel if they voted for a life sentence and Manning killed again:

> Suppose, ladies and gentlemen, you decide to disregard your oath, suppose you find that the aggravating circumstances far outweigh any mitigating and yet in derogation of your oath, you return a verdict of less than capital, suppose you do that, and suppose, ladies and gentlemen, you pick up the paper some day and find that he has killed again, however will you live with yourself? What will you think to yourself then?

Tr. 1686. This sort of below-the-belt argument has no place in a capital sentencing proceeding, especially when it is clear that the defendant will not even be eligible for parole. *See Jackson v. State*, 684 So.2d 1213, 1233 (Miss. 1996); *cf. Smith v. State*, 724 So.2d 280, 293 (Miss. 1998). To suggest falsely and contrary to the law that the defendant will be able to commit another murder and then to hang that responsibility around the jury's neck is fundamentally unfair. *Wallace v. Kemp*, 581 F.Supp. 1471, 1482 (M.D. Ga. 1984), *rev'd*, 757 F.2d 1102 (11th Cir. 1985) ("The fears and passions of a jury cannot be excited by speculation as to what might happen if the death penalty is withheld"); *Tucker v. Zant*, 724 F.2d 882, 888 (11th Cir. 1984) ("[t]he Constitution will not permit

arguments on issues extrinsic to the crime or the criminal aimed at inflaming the jury's passions, playing on its fears, or otherwise goading it into an emotional state more receptive to the call for imposition of death"); *cf. Miller v. Lockhart*, 65 F.3d 676, 682-84 (8th Cir. 1995) (reversing death sentence in part because prosecutor improperly argued that defendant may pose a threat to the jurors). In addition, by raising the possibility of Manning committing murder in the future, the prosecutor introduced future dangerousness into the proceeding, when by law, future dangerousness is not a proper consideration. *See Balfour v. State*, 598 So. 731, 746 (Miss. 1992).

235. Near the end of his argument, the prosecutor drew together these themes – religious sanction of the death penalty, future dangerousness, and the likelihood of getting out of prison – to belittle any thought that the jurors might have had of showing mercy:

> [He] is indeed more beast than man, and against so monstrous an act, against so great an evil, what does he marshal? What does he bring before you to offset it? Please don't kill me. Please don't kill me. Ladies and gentlemen, it is the plea of a hypocrite because when he held the power of life and death in his hand, he proved a cruel master, and he comes to you and asks for your mercy, **a vessel of wrath fit only for destruction**. Does he dare ask you for mercy, ladies and gentlemen? How has he earned it? Another chance? **Another chance to do what to who, when?**

Tr. 1688-89 (emphasis added). Misstatements of the law to discourage jurors from voting for a life sentence are unconstitutional. *See, e.g., Nelson v. Nagle*, 995 F.2d 1549 (11th Cir. 1993); *Romine v. Head*, 253 F.3d 1349 (11th Cir. 2001).

236. As noted, defense counsel did not lodge objections to these improper and prejudicial remarks. Nevertheless, in light of the Mississippi Supreme Court's relaxation of procedural rules in capital cases, these unconstitutional arguments should be reviewed on the merits and petitioner granted a new sentencing hearing. *Gilliard v. State*, 614 So.2d 370, 375 (Miss. 1992) ("This Court

has looked beyond a procedural bar in instances where the error was of constitutional dimensions."); *Smith v. State*, 477 So.2d 191 (Miss. 1995).

237. In the alternative, counsel should be found ineffective for not making timely objections and preserving the claims for appellate review. Reviewing courts have not hesitated to find counsel ineffective for failing to object to improper prosecutorial argument. *See, e.g., People v. Tillman*, 589 N.E.2d 587 (Ill. App. Ct. 1991); *Eure v. State*, 764 So.2d 798 (Fla. Dist. Ct. App. 2000); *Ross v. State*, 726 So. 2d 317 (Fla. Dist. Ct. App. 1998); *Fossick v. State*, 453 S.E.2d 899 (S.C. 1995); *Mincey v. State*, 444 S.E.2d 510 (1994); *State v. Humphries*, 818 P.2d 1027 (Utah 1991); *State v. Storey*, 901 S.W.2d 886 (Mo. 1995). The types of arguments here effectively encouraged the jury to abandon the task of weighing mitigating evidence and ensured that a death sentence would result instead from a consideration of prejudicial and inappropriate sentencing factors.

GROUND Q

PETITIONER WAS DENIED HIS RIGHTS GUARANTEED BY THE SIXTH, EIGHTH, AND FOURTEENTH AMENDMENTS TO THE FEDERAL CONSTITUTION AND MISSISSIPPI LAW DUE TO THE CUMULATIVE EFFECT OF THE ERRORS AT THE PENALTY PHASE OF HIS CAPITAL TRIAL.

238. Although each of the errors discussed above warrants reversal of petitioner's sentence, it is clear that "[w]hen all errors are taken together, the combined prejudicial effect requires reversal." *Randall v. State*, No. 1999-DP-01426-SCT (Miss. Sept. 27, 2001) (citing *Williams v. State*, 445 So.2d 798, 810 (Miss. 1984)).

239. It is also imperative that with respect to allegations of counsel's ineffectiveness and violations of *Brady v. Maryland*, 373 U.S. 83 (1963), the Court must consider the cumulative impact

of the specific errors. *Williams v. Taylor*, 120 S. Ct. 1495 (2000); *Kyles v. Whitley*, 514 U.S. 419 (1995).

CONCLUSION

Wherefore, premises considered, the Court should find that petitioner is entitled to post-conviction relief and reverse his convictions or, at a minimum, his death sentence. In the alternative, petitioner requests that the Court allow petitioner a sufficient period of time to conduct discovery and additional investigation after it resolves issues concerning petitioner's legal representation. At a minimum, petitioner requests that the Court grant an evidentiary hearing on the issues.

Respectfully submitted,

David P. Voisin (MS Bar #100210)
MS Office of Capital Post-Conviction Counsel
P.O. Drawer 23786
Jackson, MS 39225
(601) 354-6066

Robert S. Mink (MS Bar #9002)
Holcomb Dunbar, PA
1217 Jackson Avenue
P.O. Drawer 707
Oxford, MS 38655
(662) 234-8775

By: David P. Voisin
COUNSEL FOR PETITIONER

October 8, 2001.

CERTIFICATE OF SERVICE

I certify that on October 8, 2001, I mailed a true and correct copy of petitioner's petition for post-conviction relief by first-class mail to counsel for respondent at the following address:

Marvin L. White, Jr.
Assistant Attorney General
Post Office Box 220
Jackson, MS 39205-0220

This the 8th day of October, 2001.

David P. Voisin

ORIGINAL

IN THE CIRCUIT COURT FOR OKTIBBEHA COUNTY
STATE OF MISSISSIPPI

No. 2001-0144-CV

WILLIE JEROME MANNING, Petitioner,

v.

STATE OF MISSISSIPPI, Respondent

EXHIBITS TO PETITION FOR POST-CONVICTION RELIEF

DAVID P. VOISIN (MS Bar #100210)
MS Office of Capital Post-Conviction Counsel
P.O. Drawer 23786
Jackson, MS 39225
(601) 354-6066

ROBERT S. MINK (MS Bar #9002)
Holcomb Dunbar, PA
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ROBERT S. MINK (MS Bar #9002)
Holcomb Dunbar, PA
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Oxford, MS 38655
(662) 234-8775

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postmarked March 25, 1994

21. Affidavit of Kristen Murray

22. Affidavit of Deena Kalai

23. Transcript, Plea of Guilt and Sentencing, *State v. Parker*, No. 93-CR-5281, 144th Judicial District, dated April 10, 1995

24. Commitment Notice, *State v. Parker*, No. 93-CR-5281, 144th Judicial District, October 24, 1995

25. Statement of Paula Hathorn, undated.

26. Statement of Theo Jasper, dated April 27, 1993.

27. Court file, *Paula Hathorn v. State*, No. 12-183.

28. Court file, *Paula Hathorn v. State*, No. 12-184.

29. Affidavit of Paula Hathorn

30. Oktibbeha County Justice Court file, *Hathorn v. State*, sentences imposed September 28, 1993

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32. Affidavit of Sherron Armstead Mitchell

33. Affidavit of Troylin Jones

34. Affidavit of John Holdridge

35. Affidavit of Hubert Chandler

36. Affidavit of James Green

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39. List of Questions for Hathorn to Ask Manning
40. Transcript of Telephone Conversation between Manning and Hathorn

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38. Affidavit of Mary Wayne Prather

39. Affidavit of Mark G. Williamson

    a. List of Questions for Hathorn to Ask Manning
    b. Transcript of Telephone Conversation between Manning and Hathorn
    c. Correspondence from Frank Parker (also attached as Exhibits 19 and 20)

EXHIBIT 1

12/10-11/92

Luther Wade, 01/08/75 #425-35-2949
P.O. Box 1134 Greenwood, Miss. 38930
Ph. 453-1924

The night of the Alabama football game 11/14/92 while I was at S.A.E. House one of my friends brought two Black Guys in the house from the ball game. Trent Turner is the one who brought them in. They called themselves "Earl" and "Babyface"

Earl was the one who took my money out of my ~~money~~ wallet. He just ask for my wallet and I gave it to him. He took my money out. I could not see him taking the money out but I heard the bill slip out. One of my friends ask him if he took my money and he told him that he had better shut up!

At first they ask us if we had any transportation. We told them no! Then they started acting real tough and stuff. Earl told us not to talk to "Babyface" for us to talk to him. As though Babyface was the leader and we had to go through him (Earl).

At one point they told us they were looking to steal a car. And Earl was saying that we are not afraid to kill anybody don't mess with us.

My friend Trent Turner was the one who first met them.

Buck Rideout was also there and he saw them. They finally went on and walked off. And We went back to the S.A.E. House.

We had not been back in the S.A.E. House but a little while when Preston O'Neal and Jayson Miriam came in they said that the two black guys they had seen earlier in the S.A.E. House one of them had put a knife to Preston ~~Miriam's~~ O'Neal's throat and said don't mess with us.

Luther Wade

Trent Turner 455-5632

Buck Rideout 455-4541

Preston O'Neal Drew Miss.
Preston's brother lives in S.A.E. House.

Luther picked out Steve Gens out of a stack of pictures and said that he thought that was the man they called "Babyface". Luther explained to me that the one who called himself "Earl" looked like it was no doubt to me the person he was talking about was Earl Jorden. Earl was in Jail so I took Luther back and I talked to all the men in 8 cells and Luther had no problem picking

EXHIBIT 2

THE STATE OF MISSISSIPPI
JUSTICE COURT
COUNTY OF OKTIBBEHA

ARREST WARRANT
(Felony)

TO ANY LAWFUL OFFICER OF THE STATE OF MISSISSIPPI:

You are hereby ordered to take the body of EARL JORDAN, defendant, and bring said person before the undersigned Justice Court Judge of the aforesaid court without unnecessary delay for initial appearance on the charge of BURGLARY 97-17-33

The defendant's copy of this warrant is to be served upon the defendant. Said defendant may be admitted to bail upon making appearance bond in the amount of _____

to be approved by _____

GIVEN under my hand and issued this the 30 day of Dec, 19 92.

alton Gillis
Justice Court Judge

(SEAL)

IMPORTANT NOTICE TO DEFENDANT

An explanation of your rights and the procedure of this court is printed on the back of this page and should be carefully read by you.

OFFICER'S RETURN

I have this day executed the foregoing ARREST WARRANT.

Wayne Mullen 12/30/92
Officer Date

White Original — Court
Canary Copy — Defendant

5046

Vaughan Printing Co.

GENERAL AFFIDAVIT

Form 455

THE STATE OF MISSISSIPPI

Oktibbeha County

BEFORE ME, the undersigned, a Justice Court Clerk of said County Wayne Miller makes affidavit that upon information and belief, Earl Jordan, 426-29-8471, Starkville, Mississippi, on or about the 29th day of December, 1992 in the County aforesaid, did willfully, unlawfully, feloniously and burglariously break and enter the Kappa Alpha Fraternity House, Oktibbeha County, the property of Kappa Alpha Housing Corp. in which valuable things were kept for use, with intent to steal therein. Said information and belief based upon items recovered and statements of Earl Jordan and Steve Evans. §97-17-33

1(Lon) contrary to the form of the statute in such cases made and provided, and against the Peace and Dignity of the State of Mississippi.

Wayne Miller

Sworn to and subscribed before me this 30 day of Dec, 1992.

Alton Gillis

JUSTICE COURT CLERK

Vaughan Printing Company

5045

EXHIBIT 3

-3092 STATEMENT OF EARL JORDAN 1212 P.M

eezer Rd I EARL JORDAN WAS AT MSU, A RICE DORM-
-ITORY A couple OF DAYS BEFORE THE
STUDENTS LEFT TO GO HOME FOR HOLIDAYS
STEVE EVANS HAD GONE OUT THERE WITH ME
BUT HE HAD GONE TO ANOTHER PART OF
THE DORMITORY. STEVE AND I HAD GONE THERE
TO PLAY SPADES AND TALK TO THE GIRLS.
ONE OF THE GIRLS AT THE DORM THAT
DAY WAS MARGARET JOHNSON, SHE'S FROM
MABEN, HER UNCLE GOT KILLED AT A
SHOOT OUT AT THE CLUB, HIS NAME WAS
GARY BELK. WE WERE TALKING ABOUT
THE STUDENTS THAT HAD GOT KILLED
AND ONE OF THE GIRLS THERE
I'm NOT SURE OF HER NAME BUT
I THINK IT IS "SHELL" AND SHE IS
FROM CHICAGO, ILL. AND SHE IS A
STUDENT. SHELL SAID YOU KNOW THE
GIRL THAT GOT KILLED SHE IS THE
ONE THAT RIDES AROUND WITH THE
GUY THAT'S FRIENDS WITH JUDY LOWERY
AND I ASKED HER IF SHE MEANT
"ANTH" MEANING ANTHONY REED AND SHE
SAID YES. I HAVE SEEN ANTHONY WITH
A WHITE GIRL ON SEVERAL OCCASIONS
IN A SMALL TOYOTA Beige Looking
CAR THAT HAS A Sloping HOOD, THE

SIGNED: Xearl S Jordan WIT: Earl Tillis

30-92
-1/S-2

EARL JORDAN STATEMENT (CONT.) #2

GIRL WOULD ALWAYS BE DRIVING, I GUESS IT WAS HER CAR. IT WAS THE KIND OF CAR THAT THE LIGHTS COME OUT OF THE HOOD AND SQUARE ON THE BACK END. I HAVE SEEN ANTHONY WITH THIS GIRL SEVERAL TIMES AND PEOPLE NOTICE BECAUSE IT WAS A WHITE GIRL WITH A BLACK MAN, PEOPLE THOUGHT SHE WAS A NARCOTICS AGENT. I HAVE LOOKED AT A PICTURE OF PAM MILLER AND I BELIEVE THAT THIS IS THE GIRL THAT I WOULD SEE WITH ANTHONY. MY FRIEND MARGARET JOHNSON MAY KNOW SOME MORE ABOUT THIS SHE'S STAYING AT HER AUNTS HOUSE BEHIND HENDERSON SCHOOL APT #20, I THINK HER AUNT IS JEANETTE BELK. I HAVE READ THIS STATEMENT AND IT IS TRUE AND CORRECT. ////////////

SIGNED: X Earl JS Jordan

WIT: David Lindley

EXHIBIT 4

UNDERLYING FACTS AND CIRCUMSTANCES

On the 10-11 day of December 1992, Tiffany Miller and Jon Steckler were taken from the campus of Mississippi State University and forced to drive Tiffany Miller's car to a location on Pat Station Road where they were robbed and shot by person or persons unknown. Taken from them at the time were several items of jewelry and some money. Also taken were the keys to Tiffany Miller's car and her home.

The above mentioned two students were taken we believe from the parking lot of the Sigma Chi Fraternity House on M.S.U. campus, taken to Pat Station Road, roobbed and murdered. Beside the body of Jon Steckler laying near his head was a token later discovered to have been stolen out of a car at the Sigma Chi that was burglarized that same night. Also stolen from that same car was a brown leather bomber jacket, a silver huggie, some change, U.S. & one restroom token, and a compact disc player (hooks into a cigarette lighter.)

Stolen from the two students at the time of the murder, Cathaderial High School mens ring, Seiko ladies watch, Pulsar mens gold diamond drop necklace, and a .380 cal. pistol was used to murder the two students.

After talking with a confidential informer, I discovered that Steve Evans was in the area of the Sigma Chi Fraternity House that same night said. Informer said that he knew that Evans was a burglar of autos on M.S.U. campus. Also while investigating the murder of the two students, it was discovered that Steve Evans and one of his friends on November 14, 1992 at the Alabama football game did go to the S.A.E. House which is in close proximity to the Sigma Chi House. While talking to some young high school student $20.00 was taken from one of the young boys by Earl Jordan and Earl did a lot of talk about killing people. Some talk was also done by Earl about their car. Where was their car, they told him they didn't have one. Although Earl was doing most of the talking Steve was there. Earl was referring to him as "Babyface" and acting as though Steve was the leader to the point of telling the high school students that they couldn't talk to babyface that they must go through him.

Finally the Earl and "Babyface" Steve Evans and the high school students split up. The students went back to the S.A.E. House and another of their friends came in and told them that the two black guys that were in the S.A.E. House with them had just stopped him and one of them had put a knife to his throat and told him they would kill him.

Today, when Steve Evans and Earl both were confronted with this they both admitted the part about taking they money but Steve said the young boy was not sure that Earl got his $20.00. And Earl said that he did get the $20.00 and the boy was scared to ask him for the money back.

After confronting Steve with the fact that he had become somewhat of a suspect in this student murder case, Steve started saying that he couldn't kill anyone. I asked him if he would cooperate with me and take a polygraph test. He said that he would. I told him to come on and let's go across the street the man was ready to run him. Steve looked suprised and said something about not being sure if he should take the test or not. I said well we are not going to ask you anything except the murder. He then said well OK. A few minutes later I saw Robert Jennings. He told me that Steve Evans had done very poorly on the first test and refused to cooperate any longer and did not want to take any more tests. Usually three test are run for comparison. Earl Jordan also cooperated and took the test-all three and cleared the test very well.

It is also a fact that Steve Evans lives only a short distance from the M.S.U. campus.

EXHIBIT 5

THE STATE OF MISSI

Oktibbeha County

BEFORE ME, the undersigned, a Justice Court Clerk of said County DOLPH BRYAN makes affidavit ~~that~~ ON INFORMATION AND BELIEF THAT WILLIE JEROME MANNING A.K.A. "FLY", A.K.A. "MONTREY", A.K.A. "G"

on or about the 11TH day of DECEMBER, 19 92 in the County aforesaid, did UNLAWFULLY, WILLFULLY, AND FELONIOUSLY WITH OR WITHOUT THE DESIGN TO EFFECT DEATH, KILL, AND MURDER JON STECKLER, A HUMAN BEING, WITHOUT AUTHORITY OF LAW AND NOT IN NECESSARY SELF DEFENSE, WHILE ENGAGED IN THE COMMISSION OF THE CRIME OF ARMED ROBBERY. BY SHOOTING HIM IN THE HEAD WITH A .380 HANDGUN. IN VIOLATION OF SECTION 97-3-19 (2)(E) MCA 1972 AS AMENDED.

79/245

contrary to the form of the statute in such cases made and provided, and against the Peace and Dignity of the State of Mississippi.

Dolph Bryan

Sworn to and subscribed before me this 20 day of May, 19 93

W. Bernard Causey

JUSTICE COURT CLERK

Vaughan Printing Company

FILED
OKTIBBEHA COUNTY
JUL 13 1993
Miriam M. Cook
Circuit Clerk

WARRANT FOR ARREST – JUSTICE COURT

The State Of Mississippi,

To any Lawful Officer of Oktibbeha County:

We command you forthwith to take the body of WILLIE JEROME MANNING A.K.A. "FLY", A.K.A. "MONTREY", A.K.A. "G"

and to bring before him the undersigned, a Justice Court Judge of said County, to answer the State of Mississippi on a charge of CAPITAL MURDER (JON STECKLER)

Witness my hand the 20 day of May, 19 93

W. Bennett Crump

Justice Court Judge

VAUGHAN PRINTING COMPANY

Served D.B. 5/20/93
7:00 P.M.

FILED
OKTIBBEHA COUNTY
JUL 13 1993
Circuit Clerk

EXHIBIT 6

Earl Jordan

5/21/93 Fly had gotten pretty bad anyway I have seen him put guns to people's heads and things just go off. One time at the greasey spoon he put the gun to Bowlegged "Bo" (Doug Bo Milner).

"Fly" told me that he did it! (Kill the two students) I told him that he had better quit playing that these folks were serious. He said I'm serious I did it and you know who was with me. He said it was your daddy "One Wing" Jessie Lawrence. "One Wing" is not my daddy but some people think so.

Fly also told me that he thought police might be turning him up. He got that word from the street boy his mama or something.

Fly was saying that it was "One Wings" idea to kill them. That he just wanted to make them get out of the car and walk, but "One Wing" said they had better get rid of them.

Earl B Jordan

He convenced me that he killed the students alright, But he didn't convince me that Jessie ("one wing") was with him. And me and Jessie have been having Problems. He even told my mama that he was going to kill me.

I think that gun is out there with some of those kids he was running with. Some of that group of boys that run behind "Hot Dog."

They said they went over to Keith Hamilets house after they killed the students and then over to Alabama and that is where he left "one wing" and came back home.

Earl B. Jordan

93-016

5/21/93 9:10 AM

rd Jordan :

Fly told me that he and Jessie Lawrence wound up at MSU some kind of way. They were fixing to go into the car when some students came up. Jessie had told him to watch out, he looked up, and that's when he saw the students. He left the car he was fixing to break into and went over to the car that the students were at. He then called Jessie over. He pulled a gun and made the students get in the car. He and Jessie then got in the car and one of the students drove. He told them where to go, but Jessie was supposed to be telling him what to tell them. When they stopped, he ordered the students to get out of the car. He asked Jessie what they were gonna do and Jessie told him that they had to get rid of them. He suggested just making them walk down the road, but Jessie insisted that they get rid of them. He pulled up the gun and Jessie walked away from the car. He asked Jessie where he was going and Jessie told him just to go ahead and do it. That's when he shot them. He didn't say how they left, but somehow they wound up at Keith Hamilton's house. Jessie was supposed to have been going thru the car getting stuff while they were discussing what to do with them. From Hamilton's house, they were supposed to have gone to Alabama and he left Jessie over there in Birmingham.

EXHIBIT 7

10

151

LOOTING

THE STATE OF MISSISSIPPI — CIRCUIT COURT

OKTIBBEHA COUNTY — NO. 12-674

JULY TERM, 1993

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men and women of said County, duly elected, empanelled, sworn and charged, at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present: that

EARL JORDAN

late of the County aforesaid, did on or about the 29th day of December, 1992, unlawfully, wilfully, feloniously, and knowingly, without authority of law or the authority of Thad Caperton, enter upon a fraternity house, to-wit: The Kappa Alpha Fraternity House on the campus of Mississippi State University, in which normal security of property was not present by virtue of a human agency, to-wit: a Burglary, and obtained and exerted control over and removed the property of the said Thad Caperton, to-wit: a JVC video cassette recorder, model #HRDX64U, serial #10762105, contrary to the form of the statutes in such cases made and provided, and against the peace and dignity of the State of Mississippi;

FILED
OKTIBBEHA COUNTY
JUL 30 1993
Circuit Clerk

A TRUE BILL

DISTRICT ATTORNEY — FOREMAN OF THE GRAND JURY

Filed 30 day of July, 1993, Miriam M. Cook Clerk

Recorded 2nd day of August, 1993

Miriam M Cook Clerk By Angie L McGinnis D.C.

Bk 12
Pg 151

5041

EXHIBIT 8

521

1-35

IN THE CIRCUIT COURT OF Oktibbeha COUNTY, MISSISSIPPI

January TERM, 1995

STATE OF MISSISSIPPI

VS. NO. 12674

Earl Jordan

ORDER

This Cause came on this day for hearing by the Court and the Defendant, Earl Jordan appearing in person and represented by counsel, George McKee, announced to the Court that he wished to withdraw his plea of not guilty entered on a previous day of this term and now enter a plea of guilty to the charge of Looting. Said plea of guilty was accepted by the Court after the Court had satisfied itself by interrogation of the Defendant of the following:

1. That the plea of guilty was voluntary and was made freely on the part of the Defendant without any threats or promises;

2. That the Defendant understood the consequences of his act of pleading guilty to the charge; that he understood he was admitting that he did in fact commit the offense; that he was waiving the right to a trial by jury; that he was waiving the requirement of the State to prove the case against him beyond a reasonable doubt; that he was waiving the right to be confronted by the witnesses against him; and that he was waiving the constitutional right that protects him from compulsory incrimination;

522

3. That the Defendant fully understood the nature of the charge against him and admitted the commission of the offense;

4. That the Defendant understood the maximum penalty that the Court could impose on his plea of guilty;

5. That he understood that under the laws of the State of Mississippi he would have no right to appeal to the Supreme Court after a plea of guilty;

6. That the Defendant's attorney had fully advised the Defendant of all of his constitutional rights;

7. That the Defendant is satisfied with the services of his attorney and believes he has represented his best interest and advised him properly before entering a guilty plea;

8. That the Defendant understood that the Court was not bound by agreements, if any, between the Defendant or his counsel and the State and it's counsel.

The Court finds that the plea of guilty of the Defendant was intelligently and understandingly made. The Court further finds that the plea of guilty was freely and voluntarily made. A pre-sentence investigations has been conducted, a copy of which has been furnished to the Defendant and his counsel, and there was held a hearing in accordance with Supplemental Rule Ten of the Sixteenth Circuit District.

Thereupon, the Defendant was sentenced by the Court to serve a term of 3 (three) years in the Mississippi Department of Corrections and is remanded to the Sheriff to await transportation. The Defendant shall receive credit for time served.

It is further ordered that the interrogation to the Defendant by the Court as above described be transcribed by the Court Reporter and placed in the Court file of this proceeding.

SO ORDERED this the 23rd day of Jan., 1995.

CIRCUIT JUDGE

MB 79
Pages 521-523

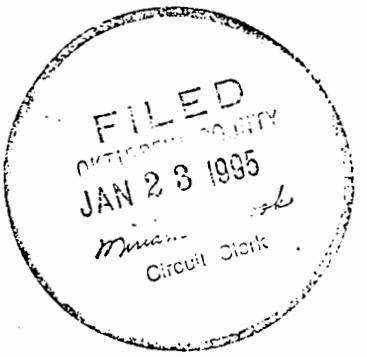


EXHIBIT 9

STATE OF MISSISSIPPI)
)
COUNTY OF OKTIBBEHA)

AFFIDAVIT OF DOUG MILLER

I, Doug Miller, after being duly sworn, depose and state as follows:

1. I am over 18 years of age and am competent to provide this affidavit.

2. I have known Willie Jerome Manning for many years. I knew him as "Fly." Fly and I are friends, but I would not say that we were the closest of friends. We were not the kind of friends who hung out all the time. Any time we ran into each other, though, we'd say hello and bring each other up to date on what we had been doing or on things that had been happening in our community. Sometimes, we would have a beer together.

3. I understand that Earl Jordan gave a statement to the police about a time when Fly supposedly put a gun to my head. That is not true at all. Fly never threatened me with a gun or any other kind of weapon. Generally, Fly has a reputation for not being violent or being someone who got into fights.

4. I remember the night that the Mississippi State students were murdered. I had gone to the 2500 Club that night. I arrived there I think about 9:00 or 9:30. I remember seeing Fly there. He was drinking beer, if I remember. At the time, he was outside. I also saw him at least a couple of other times that night. On these other times, we were inside the Club. From what I could tell, he was drinking a good bit of beer, just like everyone else.

5. I don't remember exactly when it was that I saw Fly for the last time that night. I know for sure that it was after midnight. I'm not sure if it was 12:15 or 12:20 or maybe later. I just don't remember the exact moment that I saw him last.

6. I remember that Fly's lawyer called me to testify about Earl Jordan's statement. For some reason, I was not allowed to give my complete testimony about that. I would have also been willing to testify that I had seen Fly at the Club that night.

FURTHER AFFIANT SAYETH NOT.

Doug Miller
DOUG MILLER

Sworn to and subscribed before me this
23 day of September 2001.

David P. Voisin
NOTARY PUBLIC
My commission expires 4/11/05

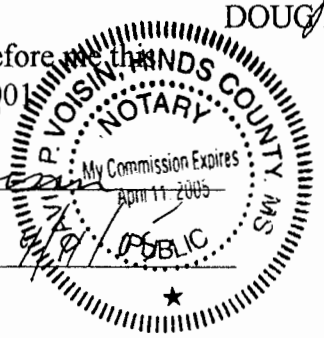


EXHIBIT 10

#92-234

Frank Parker 210-599-8829
512

01/17/72 #245-13-8741

9939 Fortune Ridge San Antonio
Universal City.

I came in on the 12th. of May 1993. I was put in the cell with "fly". on the 14th. of may I heard "fly" & Miami Talking they thought I was asleep and they had the sheet pulled down over the side of the bed. It was Probably about 20 min. until lockdown which is 11:00 P.M.

I heard "fly" tell Miami that he didn't think they could convict him for the crime. then Miami ask him what he did with the gun. "fly" told him that he sold the gun on the street.

Frank Parker

Witt: [signature]

Witt: John Doe
John Doe

EXHIBIT 11

STATE OF ~~TEXAS~~ W. Va.)
COUNTY OF ~~BEXAR~~ Pocahontas)

AFFIDAVIT

I, Chester Blanchard, after being duly sworn, depose and state as follows:

1. I was a law enforcement agent for about 14-15 years.

2. My wife's nephew is Frank Parker. Frank began living with my wife and me after his mother died in an automobile accident. Frank was only eight years old at the time.

3. Frank often stole things from us. In fact, I put locks on two of the doors inside of the house to try to keep Frank from taking things from those rooms.

4. One day when my wife and I were gone, Frank got into our house and pretty much cleaned us out. I had to go to a neighbor's house to use the telephone to report the burglary because Frank had even stolen our telephones.

5. Frank called us up and confessed to the crimes. I tape recorded the conversation and also reported Frank to the Bexar County Sheriff's Department.

6. Some time after I reported Frank, I received a call about two or three o'clock in the morning from a sheriff's department in Mississippi saying that Frank was in custody there. I explained to them about the charges that I had filed against Frank. I was told that Frank was going to be a witness in a murder case in Mississippi. I never learned any details about the Mississippi case.

7. When Frank returned to Texas, he was sent to prison.

8. I have known Frank since he was very young, and he lived in my house for more than ten years. In my opinion, Frank has a reputation for dishonesty. I would not take his word for anything. I have no idea about whether the defendant in Mississippi is guilty or innocent, but I would not let anything that Frank said have any bearing at all on any case.

Further affiant sayeth not.

Chester Blanchard
CHESTER BLANCHARD

Sworn to and subscribed before me
this 2nd day of ~~Sept~~ Oct. 2001

Debra E. Irvine
NOTARY PUBLIC
My commission expires Oct. 9, 2005

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
DEBRA E. IRVINE
RR 63 BOX 15A
ARBOVALE, WV 24915
My Commission Expires October 9, 2005

EXHIBIT 12

8548

EXAR COUNTY SHERIFF'S DEPT.
OFFENSE REPORT (OFFENSE SHEET)

FORM NO. 153) 3/04

(1) WEATHER CONDITIONS AT TIME OF OFFENSE: WARM COOL DRY WET UNK

(2) CASE NO: 93-12623

(3) OFFENSE/EVENT: Theft $750 - $20,000

(4) LOCATION OF OFFENSE: (NUMBER, STREET, APT NO.) 9939 Fortune Ridge

(5) DISTRICT: 32

(6) DATE(S) OF OCCURRENCE: (MM/DD/YY) 3-11-93

(7) HOUR(S) OF OCCURRENCE: 1230 | 1900

(8) REPORTING OFFICER: BADGE 289 NAME R.V. Acosta

FIRM NAME: ADDRESS: PHONE:

(10) APPROVING AUTHORITY BADGE 360 NAME Sgt. Chavarria

CODE: C — COMPLAINANT R — REPORTING PERSON M — MANAGER/OWNER
W — WITNESS G — GUARDIAN/PARENT O — OTHER

B — BOTH D — DAY N — NIGHT

CODE	NAME (LAST, FIRST, M.)	TITLE	RACE — SEX — DOB	BEST ADDRESS	PHONE	
C	Blanchard, Chester		w/m/6-6-44	RES 9939 Fortune Ridge		D
				BUS Post office Perris Buford	657-8339	N
				RES		
				BUS		
				RES		
				BUS		
				RES		
				BUS		

CODE	(12) VICTIM TAKEN TO:	(13) TRANSPORTED BY:	(14) DESCRIBE INJURIES:	(15) CONDITION:

PROPERTY SECTION

CODES: S — STOLEN D — DAMAGED L — LOST F — FOUND R — RECOVERED E — EVIDENCE

CODE	DESCRIPTION BRAND/MAKE	ARTICLE	MODEL/CALIBER/COLOR	SERIAL NO	O A N NO	EST VALUE
S-1	TV - 15 inch		color			300.00
S-2	VCR		Memorex			279.00
S-3	TV.	27 inch	JVC color			1200.00
S-4	Telephone	Phone Mate			6050	10.00
D-1	One Bedroom	Door				

B. C. S. D. BURGLARY DIV.

(16) PROP. TAG NO.:	(17) PROP. RECEIPT MADE? YES NO	(18) PHOTOGRAPHS TAKEN? YES NO	(19) O A N NO IS (TYPE) DL SSN DOB OTHER	(20) TOTAL STOLEN VALUE: 1789.00

(21) E OF PROPERTY TAKEN WAS: (CIRCLE ONE) CONCEALABLE HAND-CARRIED NEEDED ASSISTANCE

(22) OBVIOUS PROPERTY NOT TAKEN: PERSONAL ACCESSORIES JEWELRY MONEY FURS GUNS RADIO TV/STEREO OTHER

(23) ☐ STOLEN ☐ BURG VEH ☐ UNAUTH USE ☐ ACCESSORY THEFT

UC NO	LIC ST/YR/TYP	VEH YEAR	VEH MAKE	VEH MODEL	STYLE	VIN

BICYCLE SERIAL NUMBER	MAKE	MODEL	TYPE FRAME BOYS GIRLS	TYPE OF BRAKE HAND FOOT	WHEEL SIZE	SPEED

(24) COLOR 1 (SOLID) (OR TOP) _____ COLOR 2 _____

1 BEIGE 2 BLACK 3 BLUE/LIGHT 4 BLUE 5 BLUE/DARK 6 BRONZE 7 BROWN 8 COPPER 9 CREAM 10 GOLD 11 GRAY 12 GREEN/LIGHT 13 GREEN 14 GREEN/DARK 15 MAROON 16 ORANGE 17 PINK 18 RED 19 SILVER 20 TAN 21 TURQUOISE 22 WHITE 23 YELLOW 24 OTHER

(25) SPECIAL VEHICLE FEATURES (CIRCLE NUMBERS BELOW)

1 LEVEL ALTERED 2 STICKER/DECAL ON BODY/BUMPER 3 STICKER/DECAL ON WINDOW 4 RUST OR PRIMER 5 DECORATIVE PAINT 6 WINDOW BROKEN 7 MISSING PARTS 8 LOUD MUFFLERS 9 DAMAGE TO FRONT 10 DAMAGE TO REAR 11 DAMAGE TO SIDE 12 PAINTED INSCRIPTION ON BODY 13 VINYL TOP 14 DOOR PANEL(S) REMOVED 15 TORN SEATS/HEADLINER 16 CAMPER TOP 17 SPECIAL WHEELS/TIRES (MAGS WIDE TIRES ETC) 18 EXTRA ANTENNA 19 C B HANDLE 20 OTHER

(26) FURTHER VEHICLE/BICYCLE DESCRIPTION:

(27) HOLD AT: ADDRESS: PHONE: (28) VALUE OF VEHICLE: (29) VEHICLE/PROPERTY RELEASED TO:

5X9

... see other side for instructions and example.

Representative: Complete all shaded areas. Insured ___________ Date of Loss March 11, 1993 SG = ______ HC= ______ BP = ______

Liv. Rm | Kitchen | Bedroom | garage Code ______ ACV ☐ RC ☐ Ded. ______ C/L ______ Cov. B Limit ______ MO= ______ Claim Rep. ______

	TO BE COMPLETED BY INSURED							TO BE COMPLETED BY CLAIM REPRESENTATIVE					
Quantity	2 Description of Property	3 Mfr/Brand Name and Serial/Model Number	4 Purchased or Obtained From	5 Documentation *	6 Date of Purchase or Age (LE)	7 Replacement Repair or Restoration Cost "Y"	8 Today's Value/ Actual Cash Value	9 % Tax	10 R/C (U)	11 Adjustments To R/C ** (OV)	12 Settlement	13 Maximum R/C Benefits (If applicable)	14 Actual R/C Benefits Paid / Date Paid
1	27" Stereo TV/Color w/remote	M-AV27495/S-174 15415 JVC-Cable	McDuffs	B✓	12/89	1,200.00	1,200.						
1	VCR 4hd w/remote	SM450/T1312 3789 MEMOREX	McDuffs	B✓	12/89	400.00	400.						
1	13" Color TV-Cable w/remote	RR1330W101/18301320 MAGNAVOX	McDuffs	B✓	11/92	275.00	275.						
1	Phone & Answering Machine	PhoneMate	Sears	B✓	6/92	90.00	90.00						
1	Boombox/CD-Stereo	PCX95/127R35580 JVC	McDuffs	B✓	11/92	300.00	300.00						
1	VCR 4hd w/remote	SM260/I00A26379 MEMOREX	McDuffs	B✓	4/91	300.00	300.						
85	CD's	Various brands/labels	all over	No	past 3-4 yrs	15.00 x 85 =	1275.00						
2	Black-nylon Luggage/Suitcases	U/K	K-Mart	CR✓	3/92	45.00	45.00						
1	PUSH BUTTON Microwave/large	(bought at garage sale) Signature	[illegible]	NO	5/92	75.00	150.00						
1	Mens Watch (45803 90005?)	Seiko	Wards	CR✓	2/92	100.00	100.00						
1	Knife/folding	(Gerber)	Gun Show	No	'91-92	45.00	45.						
1	Knife/folding IVORY HANDLE W/ TRUST EMBLEM	(CASE)	Gun Show	NO	'91-92	75.00	75.						
1	Knife/folding/BRASS + WOODEN HANDLE	(BUCK)	Gun Show	NO	'91-92	35.00	35.						
[illegible]	FISH. EQUIPMENT Fishing Poles/Reels	ZEBCO & (Garcia [illegible])	Rogers' PX, K-Mart, Academy	NO	92+93	110.00	110.						
	Damaged Door/locks/frame/hinges		w/ [illegible]	—	—	Cannot repair	200 to 250.00 Replace						
					TOTALS	1,525.00	4600.						

*Appraisal B-Paid Bill or Receipt C-Canceled Check
Estimate P-Photo ✓CR-Credit Card Receipt O-Other

DEDUCTIBLE ______ ** Depr./Disc.

SETTLEMENT ______

The above information is true to the best of my knowledge.

Signature [signature] Date 3/15/93 Page 1 of 2 Date completed ___/___/___ By ______

93-12623 [illegible] #635

[illegible] Representative: Complete all shaded areas. Insured CHESTER L. BLANCHARD Date of Loss March 11, 1993 SG = ______ HC= ______ BP = ______

Code ______ ACV ☐ RC ☐ Ded. ______ C/L ______ Cov. B Limit ______ MO= ______ Claim Rep. ______

	TO BE COMPLETED BY INSURED							TO BE COMPLETED BY CLAIM REPRESENTATIVE					
1	2 Description of Property	3 Mfr/Brand Name and Serial/Model Number	4 Purchased or Obtained From	5 Documentation *	6 Date of Purchase or Age (LE)	7 Replacement Repair or Restoration Cost "Y"	8 Today's Value/ Actual Cash Value	9 % Tax	10 R/C (U)	11 Adjustments To R/C ** (OV)	12 Settlement	13 Maximum R/C Benefits (If applicable)	14 Actual R/C Benefits Paid / Date Paid
	[illegible] to rekey - front door locks		All Points Locksmith	B ✓	3/11/93	88.00	88.00						
	[illegible] garage door - entry locks												
	[illegible] was a relative w/ keys												
	[illegible])												
					TOTALS	88.00	88.						

93-12623

[illegible]

4630

[illegible] B-Paid Bill or Receipt C-Canceled Check
[illegible] P-Photo CR-Credit Card Receipt O-Other

[illegible] information is true to the best of my knowledge.

Signature [illegible] Date 3/15/93 Page 2 of 2 Date completed ___/___/___ By ______

DEDUCTIBLE ______

SETTLEMENT ______

** Depr./Disc.

EXHIBIT 13

BEXAR COUNTY SHERIFF'S DEPARTMENT

BEXAR COUNTY, TEXAS

DECLARATION OF COMPLAINANT

THE STATE OF TEXAS : S.O. CASE NO.: 93-12623

COUNTY OF BEXAR :

I, Chester Lee BLANCHARD, the undersigned complaintant do hereby state, that I ~~decline~~ [wish to] prefer charges and/or testify in court as a witness against the following actor, in this cause.

ACTOR'S NAME: FRANKLIN D. PARKER

ACTOR'S ADDRESS: 16310 FALCON HILL

OFFENSE and/or INCIDENT: BURGLARY HABITATION W/INTENT THEFT F1

DATE OF OFFENSE and/or INCIDENT: 3-11-93 TIME:

INVESTIGATING OFFICER: CHRIS BURCHELL BADGE NO.: 635

COMPLAINANT'S NAME: CHESTER BLANCHARD

COMPLAINANT'S ADDRESS: 9939 FORTUNE RIDGE SAN ANTONIO, BEXAR COUNTY, TEXAS

COMPLAINANT'S PHONE NUMBER: 599-8829 WK 657-8561

EMPLOYMENT ADDRESS: U.S. POST OFFICE PERRIN BEITAL

Chester Blanchard
COMPLAINANT'S SIGNATURE

SWORN TO AND SUBSCRIBED BEFORE ME THIS 16th DAY OF March 19 93 , A.D.

CASSANDRA J. LADSON
Notary Public, State of Texas
My Commission Expires 5-17-94

Cassandra J. Ladson
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

SEAL

350-251 CRIM INV APR 89 V12

STATE OF TEXAS
VS.
FRANK D. PARKER

ASE NUMBER: 93-12623

STATE OF TEXAS }
OUNTY OF BEXAR }

STATEMENT TAKEN BY
CHRIS BURCHELL #635
AT 200 N. COMAL THE BEXAR
COUNTY SHERIFF'S DEPARTMENT
ON March 16, 1993 / 1115 HRS.

BEFORE ME, THE UNDERSIGNED AUTHORITY, AND FOR THE STATE AND COUNTY FORESAID, ON THIS DAY PERSONALLY APPEARED:
CHESTER BLANCHARD
WHO BEING BY ME FIRST DULY SWORN UPON HIS OATH, DEPOSES AND SAYS:

MY NAME IS CHESTER BLANCHARD AND I AM 48 YEARS OLD. MY DATE OF BIRTH IS 6-06-44. I LIVE WITH MY WIFE CAROLYN, DAUGHTER STACEY AND SON LANCE AT 9939 FORTUNE RIDGE. I WORK FOR THE U.S. POSTAL SERVICE AND THE TELEPHONE THERE IS 657-8339.

Y HOME PHONE IS 599-8829.

I AM MAKING THE FOLLOWING STATEMENT OF MY OWN FREE WILL AND ACCORD. I HAVE NOT BEEN PROMISED ANYTHING NOR THREATENED TO GIVE A STATEMENT.

ON 03-11-93 OUR HOUSE WAS BURGLARIZED AND SEVERAL ITEMS WERE STOLEN. NOW HAVE FOUND THAT FRANK PARKER HAS DONE THE THEFT.

FRANK PARKER IS MY WIVES NEPHEW. HIS DATE OF BIRTH IS 01-17-72. BURCHELL AS SHOWN ME A PHOTO OF HIM AND I HAVE POSITIVELY IDENTIFIED HIM. WHEN HE WAS OUNG ONE OF HIS PARENTS WERE KILLED IN AN AUTO ACCIDENT IN WILSON, NORTH CAROLINA. MY WIFE AND I TOOK CUSTODY OF HIM AND RAISED HIM. SINCE HE WAS 10 YEARS OLD HE DEVELOPED A HISTORY OF THEFT AND USE OF DRUGS. WE HAVE TRIED VERYTHING POSSIBLE TO HELP HIM AND CORRECT HIM. HE WAS CURRENTLY LIVING WITH E AND MY FAMILY.

ON MARCH 6 TH, AND 7TH, 1993 HE BEGAN TALKING ABOUT GOING TO PORT ISABEL. E WANTED TO USE MY CAR. I TOLD HIM NO. THEN ON MARCH 11, 1993 MY WIFE AND I AME HOME TO FIND OUR HOUSE HAD BEEN BROKEN INTO AND MANY ITEMS TAKEN WHICH WE REPORTED TO THE SHERIFF'S OFFICE. ON THE SAME DAY I FOUND OUT THAT SOMEONE TRIED TO BREAK INTO THE HOUSE NEXT DOOR TO OUR HOUSE AROUND THE SAME TIME RAME. THE TOTAL VALUE OF ITEMS STOLEN WAS $4, 525.00 AND I BROUGHT MANY ECEIPTS TO INVESTIGATOR BURCHELL SHOWING HIM WHAT WAS PAID FOR THEM.

I BELIEVED IT WAS FRANK WHO STOLE FROM US BECAUSE HE HAD A HISTORY OF TEALING FROM US AND KEPT GOING BACK TO STEALING AFTER COUNTLESS MEASURES TO ORRECT HIM. HE IS A ADULT NOW.

THEN ON 03-14-93, JUST BEFORE MIDNIGHT FRANK PARKER CALLED THE HOUSE AND AROLYN MY WIFE ANSWERED THE PHONE AND HE BEGAN CONFESSING TO US ABOUT RIPPING S OFF. I GOT THE CASSETTE RECORDER AND PUT IT ON THE PHONE AND RECORDED MOST OF THE CONVERSATION. CAROLYN TALKED TO HIM AND THEN MY DAUGHTER STACEY.

ONTINUED ON PAGE 2 OF 2.

THIS IS MY SECOND PAGE OF MY SWORN STATEMENT TO INVESTIGATOR BURCHELL.

IMMEDIATELY AFTER THE CONVERSATION I CALLED THE SHERIFF'S DEPARTMENT AND MADE ANOTHER REPORT AND GAVE THE TAPE TO OFFICER J. THOMAS UNDER CASE NUMBER 93-13247 ON 03-14-93. I ALSO GAVE HIM A DETAILED LIST OF THE ITEMS STOLEN FROM MY HOUSE ON 03-11-93 UNDER CASE NUMBER 93-12623.

TODAY BURCHELL AND I REVIEWED THE TAPE AT THE SHERIFF'S OFFICE AND I POSITIVELY IDENTIFIED THE VOICE OF FRANK PARKER TALKING TO MY WIFE ON 03-14-93 THEN HE SPOKE WITH MY DAUGHTER STACEY. HE TOLD US THAT HE BROKE INT THE ROOMS IN THE HOUSE. HE DESCRIBED HOW HE BACKED UP HIS FRIEND BLACK TRUCK, COREY DAILEY (640 TERRELL RD, 824-4706), INTO THE GARAGE AND LOADED IT UP. I THINK HES WITH HIM NOW. SEE WE HAD DEAD BOLTS ON THE DOORS SINCE HE WOULD STEAL FROM EVERYONE WE HAD TO LOCK OUR ROOMS. HE TOLD US HE PAWNED THE ITEMS AT VARIOUS PAWN SHOPS AND HE SPECIFIED ON THE TAPE WHICH ITEMS WERE AT WHICH PAWN SHOP. I WENT TO THE PAWN SHOPS AND NONE OF THEM WOULD TELL ME ANYTHING. THE EZ PAWN SHOP ON 13904 NACODOGES GOT HOSTILE WITH ME ABOUT THE ISSUE. I SPOKE WITH RACHEL WESTBROOK. EZ'S CALLED THE POLICE THERE AND OFFICER S. APPELT #1058 RESPONDED AND HE TOLD ME HE COULD NOT DO ANYTHING. HE MADE A REPORT UNDER SAPD CASE NUMBER 93-30515, ON 03-12-93.

CAROLYN AND STACEY WILL GIVE STATEMENTS.

I TALKED TO HIS GIRLFRIEND KELLY SNELL WHO LIVES AT 16310 FALCON HILL AND HER PHONE NUMBER IS 655-9095 AND SHE TOLD ME THAT ON 03-11-93 AROUND 5:00 PM FRANK HAD GONE OVER AND GIVEN HER $100.00 CASH. WHICH IS STRANGE BECAUSE HE IS NOT WORKING AND I KNOW HE ONLY HAD $20.00 HIM.

I FOUND OUT AFTER THE OFFICER LEFT ON 03-14-93, WHEN FRANK CALLED, THE PLACE HE CALLED FROM WAS THE SUN CHASE RESORT IN PORT ISABEL, TEXAS. THE PHONE NUMBER IS 761-5521. I FOUND OUT FROM THE OPERATOR WHERE THE CALL CAME FROM. SO HE IS OUT OF TOWN AND ON THE ROAD.

I WISH TO FILE CRIMINAL CHARGES ON FRANK PARKER AND ALL ACCOMPLICES FOR THE BURGLARY AND THEFT OF MY HOME.

I HAVE READ THE ABOVE STATEMENT AND FIND IT TRUE AND CORRECT TO BEST OF MY BELIEF AND KNOWLEDGE.

[redacted]RY DIV.

WITNESS: _____

SIGNATURE: Wanda Black

SWORN TO AND SUBSCRIBED BEFORE ME THIS 11 DAY OF March A.D. 1993.

Cassandra J. Ladson

S E A L

NOTARY PUBLIC IN AND FOR BEXAR COUNTY, TEXAS

CASSANDRA J. LADSON
Notary Public, State of Texas
My Commission Expires 8-12-94

SX 11

EXHIBIT 14

16 March 1993

TO: Det. C. Burchell
Bexar County Sheriff's Dept.

REFERENCE: Franklin D. Parker
DOB: January 17, 1972

CASE #: 93-13247
93-12623

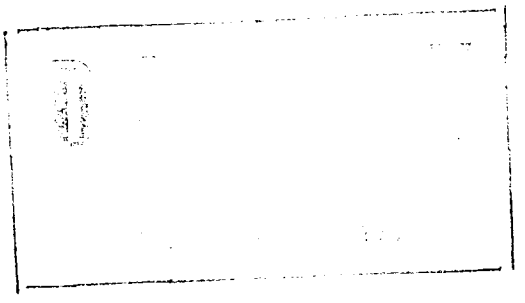
On the 14th of March, 1993 at approximately 11:30 p.m., Franklin Parker called our house (9939 Fortune Ridge, Converse TX 78109, phone #599-8829) and talked with me, Carolyn L. Blanchard (DOB: April 5, 1947) and to my daughter, Stacey L. Blanchard (DOB: August 30, 1968). He confessed that he had stolen two (2) TV sets, two (2) VCR's, a telephone answering machine, radio boom box CD-player, and quite a few CD's and other items from our residence at above address.

Franklin stated he had pawned/hocked these items at three (3) different pawn shops in San Antonio. A tape was made of some of the conversation and original tape given to Officer J. Thomas, #256, Bexar County Sheriff's Dept.

Myself and my daughter positively identified the voices on the tape as ours and that of Franklin D. Parker.

Carolyn L. Blanchard
Carolyn L. Blanchard

Stacey L. Blanchard
Stacey L. Blanchard



6

5X16

EXHIBIT 15

INVESTIGATION BUREAU

SUPPLEMENTARY/FOLLOW UP REPORT CASE # 93-12623

LAST NAME OF COMPLAINANT - FIRST - MI	PHONE NUMBER
BLANCHARD, CHESTER	599-8829 WK. 657-8561
ADDRESS OF COMPLAINANT	DATE OF INCIDENT
9939 FORTUNE RIDGE, BEXAR COUNTY, TX	03-11-93
SUBJECT OF/OR INCIDENT INTERSTATE FLIGHT/AVOID PROSECUTION & BURGLARY HABITATION W/INTENT THEFT F1	( ) UNFOUNDED ( ) CLOSED ( ) PENDING (X) FILED
DATE OF THIS REPORT	M/O {HOW DONE, FORCE USED, OTHER ACTS.}
05-24-93	FORCED ENTRY/ITEMS STOLEN/PAWNED SAME DAY

DEFENDANT: PARKER, FRANKLIN DOUGLAS W/M DOB 01-17-72
SID #481957 BCSO 186212

WITNESSES: CHESTER BLANCHARD/ COMP. & UNCLE TO DEFENDANT.
CAROLYN BLANCHARD/ AUNT TO DEFENDANT.
STACY BLANCHARD/ COUSIN TO DEFENDANT.
PATROLMAN R.V. ACOSTA #289/INITIAL REPORT
PATROLMAN J. THOMAS #256/SUPPLEMANTAL RPT

COREY DAILEY 826-4702 W/M / FRIEND OF DEFENDANT
640 TERREL RD

DARLA JEAN HILTON W/F DOB 04-03-67 / LINE UP
3222 MORNING CREEK (HM.) 490-9525
AUSTIN HWY PAWN AND GUNS 655-8266
3222 AUSTIN HWY

MARVIN MORGAN /MEDICAL EXAMINERS OFFICE
EXPERT WITNESS ON SIGNATURE COMPARISON

SYNOPSIS:

ON OR ABOUT 03-11-93 DEFENDANT WAS LIVING WITH HIS UNCLE AND AUNT IN A GIVEN AREA OF THE RESIDENCE. THEY HAD CERTAIN ROOMS DEAD BOLTED SHUT TO PREVENT HIM FROM ENTERING BECAUSE OF DEFENDANTS HISTORY OF CONSISTENT THEFTS FROM THE FAMILY MEMBERS. AROUND MARCH 6, 1993 DEFENDANT ASKED COMPLAINT TO USE HIS CAR TO GO TO PORT ISABEL, TEXAS FOR SPRING BREAK. COMPLAINANT DENIED HIM THE VEHICLE.

INVESTIGATOR MAKING REPORT, BDG NO	APPROVING AUTHORITY
CHRIS BURCHELL #635 BURGLARY	SGT RAY TREVINO

BEXAR COUNTY SHERIFF'S DEPARTMENT
SAN ANTONIO, TX 78207
RALPH LOPEZ, SHERIFF

page 1 of 4

BEXAR COUNTY SHERIFF'S DEPARTMENT
CRIMINAL INVESTIGATIONS BUREAU
SUPPLEMENTARY / FOLLOW UP
CONTINUATION

CASE NUM : 93-12623
DATE:05-24-93

SYNOPSIS CONT:

THEN DURING SPRING BREAK, 03-11-93, COMPLAINT CAME HOME TO FIND THEIR HOME BURGLARIZED AND THE DEAD BOLTED ROOMS FORCED OPEN. THESE WERE NOT ROOMS DEFENDANT WAS AUTHORIZED TO ENTER. ON 03-14-93 DEFENDANT CALLED HOME AND CONFESSED TO COMPLAINT AND HIS WIFE AS THEY TAPE RECORDED THE CONVERSATION AND DEFENDANT ADMITTED TO BURGLARIZING THEIR HOME AND SELLING THE ITEMS TO VARIOUS PAWN SHOPS FOR MONEY FOR HIS TRIP TO THE COAST. I WENT TO SEVERAL PAWN SHOPS AND RECOVERED MOST OF THE STOLEN ITEMS, PHOTO GRAPHED THEM AND RETURNED THEM TO THE COMPLAINANT WHICH HE POSITIVELY IDENTIFIED HIS PROPERTY. I THEN GATHERED THE PAWN TICKETS MADE THE SAME DAY OF THE BURGLARY AND SUBMITTED THE SIGNATURES FOR EXPERT COMPARISON. NOTICE THEY ARE VERY SIMILAR. I OBTAINED A JP WARRANT SINCE I BELIEVED HE WAS LOCATED IN A ROOM IN PORT ISABEL, TX AND TRIED TO HAVE HIM ARRESTED AT THE COAST ON THE WARRANT. HOWEVER DEFENDANT WAS NOT ARRESTED THERE HE FLED THE STATE OF TEXAS TO MISSISSIPPI TO AVOID PROSECUTION WHERE HE WAS ARRESTED AND IS IN CUSTODY. DEFENDANT HAD A HISTORY OF HANDLING GUNS AND HAD EVEN PAWN SOME IN THE PAST AND TAKEN THEM OUT. I FEARED DUE TO HIS UNPREDICTABLE BEHAVIOR POSSIBLE INCIDENT FROM ANY ARRESTING OFFICER SO "POSSIBLE ARMED" WAS NOTED ON THE WARRANT.

03-11-93
INITIAL REPORT 93-12633

03-14-93
COMPLAINT RECEIVED AND TAPED CALL FROM DEFENDANT FROM OUT OF TOWN AND LEADING TO RECOVERY OF THE STOLEN PROPERTY.

COMPLAINT CALLED SHERIFF'S OFFICE AND SUBMITTED THE TAPE FOR EVIDENCE AND MADE SUPPLEMENTAL REPORT.

COMPLAINANT CALLED OPERATOR AND GOT LOCATION DEFENDANT WHICH WAS THE SUNCHASE RESORT IN PORT ISABEL, TEXAS.

03-16-93

COMPLAINANT CAME TO SHERIFF'S OFFICE, GAVE DETAILED STATEMENT OF ACCOUNTS AS THEY HAVE OCCURRED AND BROUGHT SEVERAL RECEIPTS TO VERIFY THE VALUES. MYSELF AND COMP. REVIEWED THE TAPE AND HE POSITIVELY IDENTIFIED DEFENDANT ON THE TAPE CONFESSING TO THE BURGLARY AND GENERAL LOCATIONS OF THE PROPERTY. COMP. ALSO GAVE ME THE NAME OF COREY DAILEY WHOSE TRUCK DEFENDANT POSSIBLY USED.

VERIFIED THE PROPERTY AT THE PAWN SHOPS UNDER DEFENDANTS NAME

DRAFTED AFFIDAVIT OF PROBABLE CAUSE FOR WARRANT OF DEFENDANTS ARREST. OBTAINED WARRANT AND CONTACTED PORT ISABEL LAW ENFORCEMENT AUTHORITIES.

BEXAR COUNTY SHERIFF'S DEPARTMENT
CRIMINAL INVESTIGATIONS BUREAU
SUPPLEMENTARY / FOLLOW UP
CONTINUATION

CASE NUM : 93-12623
DATE:05-24-93

03-18-93
R COVERED STOLEN PROPERTY FROM PAWN SHOPS BY ADMINISTRATIVE SEARCH IN SAME G OGRAPHIC AREAS DESCRIBED ON DEFENDANTS CONFESSION TO COMPLAINT. ITEMS STOLEN/RECOVERED WERE VALUED OVER $3000.00 VERIFIED BY RECEIPTS ATTACHED TO T IS REPORT.

I TOOK PHOTOS OF STOLEN/RECOVERED PROPERTY.

I OBTAINED PAWN TICKETS WITH DEFENDANT HANDWRITING ON THE TICKETS FOR OMPARISON BY EXPERT. I NOTICED THEY WERE VERY SIMILAR.

I NOTICED A CONSISTENT HISTORY OF USING PAWN SHOPS IN THIS AREA IN THE PAST MANY ITEMS FITTING DESCRIPTIONS OF ITEMS COMMONLY STOLEN IN HOME BURGLARIES.

 RLA HILTON PICKED DEFENDANT OUT OF A PHOTO LINEUP AND TOLD ME SHE REMEMBERED HIM. I TOLD HER I WOULD GET A STATEMENT LATER.

 -14-93
 CEIVED INFORMATION THAT DEFENDANT WAS IN CUSTODY IN MISSISSIPPI AWAITING APPROVAL FOR EXTRADITION.

 -18-93
PRESENTED FACTS TO DISTRICT ATTORNEYS OFFICE OF CASE TO BE FILED.

 -19-93
DARLA HILTON WAS INFLUENCED BY HER FATHER WHO OWNED THE PAWN SHOP NOT TO SIGN THE STANDARD PHOTO ID FORM AND THAT I HAD TO TALK TO HIS ATTORNEY BEFORE EY WOULD COOPERATE WITH ME. I CONTACTED ATTORNEY JESSE GAMEZ AND TOLD THEM AT I WAS DOING AND THAT SHE WAS A WITNESS. HE TOLD ME HE WOULD COOPERATE ITH ME IN ANY WAY ON THE INVESTIGATION HOWEVER HE FELT HIS DARLA DID NOT VE MUCH TO OFFER. HE TOLD ME SHE WAS NOT POSITIVE AFTER ALL ON THE PHOTO E PICKED OUT. SHE FELT IT COULD HAVE BEEN ONE OF TWO OF THE 6 PHOTO SPREAD SHOWN. HE TOLD ME IF I STILL NEEDED HER FOR A STATEMENT TO JUST CALL HIM AND E WOULD BRING HER DOWN TO THE SHERIFF'S OFFICE.

 COLLECTED THE DEFENDANTS SIGNATURE SAMPLES FOR COMPARISON.

 SPOKE WITH FATHER OF COREY DAILEY WHO INFORMED ME HIS SON WAS WITH FENDANT WHEN HE PAWNED THE ITEMS AND WENT TO THE COAST WITH DEFENDANT. OREY FOUND OUT LATER WAS GOING ON AND TRIED TO GET DEFENDANT HELP THROUGH S CHURCH COUNSELOR. DEFENDANT FLED SAN ANTONIO, TX.

OREY DAILEY IS CURRENTLY IN ARMY BOOT CAMP AND WILL RETURN ON 05-28-93 AND E WOULD CONTACT ME AND COOPERATE FULLY IN ANY WAY.

[illegible]

BEXAR COUNTY SHERIFF'S DEPARTMENT
CRIMINAL INVESTIGATIONS BUREAU
SUPPLEMENTARY / FOLLOW UP
CONTINUATION

CASE NUM : 93-12623
DATE:05-24-93

05-19-93
AT THIS TIME OF REPORT I AM AWAITING:

RESULTS OF SIGNATURE COMPARISON FROM MEDICAL EXAMINERS.

WITNESS STATEMENT FROM COREY DAILEY.

05-24-93
CONTACTED DEPARTMENT OF PUBLIC SAFETY FOR ID, DRIVERS LICENSE AND APPLICATIONS WITH SIGNATURES FOR MORE EXAMPLES. I WAS ADVISED BY DPS IT WOULD BE 7-10 DAYS FOR ARRIVAL TO MY OFFICE..

CHRIS BURCHELL #635 CID-BURGLARY 270-6075

SX8

EXHIBIT 16

NAME: PARKER, FRANKLIN

ADDRESS: 9939 FORTU RIDGE

CHARGE: THEFT $750/$20,000
THEFT (STOLEN PROPERTY-FELONY)

G.J. NO.: 264476

COMP.: CHESTER BLANCHARD

CAUSE NO.: 93-CR-5281

P-H Court:

DATE: 6-30-93

SID NO.: 481957

OFFENSE CODE: 230063

DC: 1445

JN NO.: 590475

WITNESS: STATE'S ATTORNEY 4k630

FILED
9:00 O'CLOCK A M
AUG 11 1993
DAVID J. GARCIA
Clerk District Courts
Bexar County, Texas

TRUE BILL OF INDICTMENT

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS, the Grand Jury of Bexar County, State of Texas, duly organized, empaneled and sworn as such at the JULY term, A.D., 1993, of the 227TH Judicial District Court of said County, in said Court, at said term, do present in and to said Court that in the County and State aforesaid, and anterior to the presentment of this indictment, and on or about the

COUNT I
Paragraph A

11TH day of MARCH, A. D., 1993, FRANKLIN D. PARKER, hereinafter referred to as defendant, with intent to deprive the owner, namely: CHESTER BLANCHARD, of property, namely: TWO (2) TELEVISION SETS, ONE (1) ANSWERING MACHINE, ONE (1) VIDEO CASSETTE RECORDER, ONE (1) BOOM BOX WITH COMPACT DISC PLAYER, AND EIGHTY-THREE (83) COMPACT DISCS, did unlawfully appropriate said property by acquiring and otherwise exercising control over said property, said property being other than real property which had AN AGGREGATE VALUE of SEVEN HUNDRED FIFTY DOLLARS ($750.00) OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS ($20,000.00), without the effective consent of the owner;

Paragraph B

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present in and to said Court that on or about the 11TH day of MARCH, A. D., 1993, and anterior to the presentment of this indictment, in the County of Bexar and State of Texas, FRANKLIN D. PARKER, hereinafter referred to as defendant, with intent to deprive the owner of property, did then and there unlawfully appropriate stolen property, to-wit: TWO (2) TELEVISION SETS, ONE (1) ANSWERING MACHINE, ONE (1) VIDEO CASSETTE RECORDER, ONE (1) BOOM BOX WITH COMPACT DISC PLAYER, AND EIGHTY-THREE (83) COMPACT DISCS, by acquiring and otherwise exercising control over said property, said property being other than real property which had AN AGGREGATE VALUE of SEVEN HUNDRED FIFTY DOLLARS ($750.00) OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS ($20,000.00), the said property having been stolen from CHESTER BLANCHARD, its lawful owner; and the said defendant acquired said property from A PERSON OR PERSONS UNKNOWN TO THE GRAND JURY knowing that it was stolen by another;

against the peace and dignity of the State.

Foreman of the Grand Jury

EXHIBIT 17

A

NO. 93 CR 5281

THE STATE OF TEXAS § IN THE DISTRICT COURT
§
VS. § 144th JUDICIAL DISTRICT
Franklin D. Parker §
§ BEXAR COUNTY, TEXAS

COURT'S ADMONISHMENT AND
DEFENDANT'S WAIVERS AND AFFIDAVIT OF ADMONITIONS

COURT'S ADMONISHMENTS:

Offense: Theft 750-20,000 DEGREE F-3 PENAL
CODE SEC. 31.03 (Repeater) (Habitual)

You are admonished that if convicted of a Felony the following applies:

1. RANGE OF PUNISHMENT

All time is served in Texas Department of Criminal Justice.
_____ 5 years to 99 years or Life: Possible fine up to $10,000
_____ 2 years to 20 years: Possible fine up to $10,000
_____ 2 years to 10 years: Possible fine up to $10,000 if the offense occurred on or after September 1, 1994
SOR X 2 years to 10 years: Possible fine up to $10,000 or up to 1 year in a Community Correction facility (for offenses committed after August 31, 1989 but before September 1, 1994)
_____ 25 years to 99 years or Life

_____ Other _____

2. PLEA BARGAINING

A recommendation of the prosecuting attorney as to punishment is not binding on the Court. The Court may accept or reject any plea bargaining agreement made between the State and the Defendant. If the Court rejects the plea agreement, the Defendant shall be permitted to withdraw the plea of guilty/nolo contendere and no statement or other evidence received during such hearing on the plea of guilty/nolo contendere may be admitted against the Defendant on the issue of guilt or punishment in any subsequent criminal proceeding.

If the punishment assessed does not exceed the punishment recommended by the prosecuting attorney (plea bargain), the trial court must give its permission to appeal any matter in the case except for those matters raised by written motion filed prior to trial and ruled upon by the Court. If a plea bargain is followed, this Court will not give permission to appeal.

3. TRIAL RIGHTS

You have a right to trial by jury, cross examination of witnesses and the right to remain silent.

CAUSE NO. 93-CR-5281

4. CITIZENSHIP

If you are not a U.S. citizen, a plea of guilty or nolo contendere may result in deportation, exclusion from admission to this country or denial of naturalization under federal law.

5. DEFERRED ADJUDICATION

If the Court defers adjudicating your guilt and places you under community supervision, on violation of any condition you may be arrested and detained as provided by law. You are then entitled to a hearing limited to a determination by the Court of whether to proceed with an adjudication of guilt on the original charge. No appeal may be taken from this determination. After adjudication of guilt, all proceedings including the assessment of punishment and your right to appeal continue as if adjudication of guilt had not been deferred.

DEFENDANT'S WAIVERS AND AFFIDAVIT OF ADMONITIONS:

TO THE HONORABLE JUDGE OF SAID COURT:

I, Franklin D. Parker, the Defendant in this cause, having this day appeared in open court with my counsel and having been duly sworn, represent to the Court that I have received a copy of the indictment or information in this cause, that I fully understand its contents; that I know that I am charged with the felony offense of Theft 750-20,000 _____, and that I waive formal arraignment and the reading of the charging instrument.

I, the Defendant, hereby enter a plea of GUILTY/NOLO CONTENDERE to this charge.

1. I have had my Constitutional and legal rights explained to me by my attorney, and have decided to waive my Constitutional right of trial by jury and enter this plea before the judge. I hereby request the consent and approval of the State's Attorney and of the Court to my waiver of trial by jury. I further represent to the Court as follows:

2. I am mentally competent now and was legally sane at the time that this offense was committed.

3. I have not been threatened, coerced or placed in fear by any person to induce me to enter my plea.

4. If I have a plea bargain agreement with the prosecutor, its terms are fully set forth in the attached document. I have received no promise from the prosecutor, my attorney or the Court which are not set forth in that document, and I realize that no one else would be empowered to make me any promises.

CAUSE NO. 93-CR-5281

5. If I am pleading GUILTY, it is because I am guilty, and for no other reason. If my plea is one of NOLO CONTENDERE, it is because I have considered all aspects of my legal situation and discussed them with my attorney and have determined that the entry of such plea is in my own best interest.

6. I understand the Courts admonishments as contained in this waiver.

7. I am satisfied with the advice and representation of my attorney in this case.

x Frankie D. Parker
DEFENDANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ day of APR 10 1995.

Donna Stein
DEPUTY DISTRICT CLERK

I have counseled with the Defendant in this cause and have concluded that the Defendant has a rational, as well as a factual understanding of both the charge(s) pending and this proceeding. I have explained the law regarding all waivers set forth in this document and am satisfied that in each instance the defendant has voluntarily relinquished a known right. I join in the Defendant's waiver of the right of trial by jury.

ATTORNEY FOR DEFENDANT

I consent to and approve the jury waiver in this case.

ASST. CRIM. DISTRICT ATTORNEY

EXHIBIT 18

MISSISSIPPI OFFICE OF
CAPITAL POST-CONVICTION COUNSEL

121 N. STATE ST. SUITE 200
JACKSON, MS 39201

POST OFFICE DRAWER 23786
JACKSON, MS 39225-3786

(601) 354-6066

August 8, 2001

Frio County Clerk of Court
VIA Fax: 830-334-0021

Re: Records Request

Dear Sir or Madam:

I am writing to request criminal records pertaining to Franklin Parker. His social security number is 245-13-8741, and his date of birth is January 17, 1972. Please advise me if you have any records pertaining to Mr. Parker.

If you have any questions or require additional information, please do not hesitate to contact me.

Yours sincerely,

David Voisin

David Voisin

AUGUST 8, 2001

NO INFORMATION FOUND IN OUR RECORDS ON THE ABOVE SAID INDIVIDUAL.

THANK-YOU

EXHIBIT 19

To. MR. AllGood, MAR. 24th, 94

This letter is about My Attorney MR. Charles Merkel. I have know Idea if he has contracted you concerning the trial and being paid not for damages but for the jail stay and for not being able to support my daughter and wife to be, so please write me a letter concerning your decision about my situation.

I Thank-You!

Or stop by and say)ti, I haven't ~~spoken~~ spoken with MR. Bryan in a while but he told me 8 months ago that I would not ~~be~~ be entitled to the reward and that all I would get out of this is a "bus" ticket.

That's not right!

Signed
FRANK PARKER
"Wittness"

P.S.
I need some of that money and would gladdly ~~Accept~~ Accept it and spend it with my daughter and fiance'.

eigth to Ten Grand will nicely do.

All because your waisting my time and Future; plus tax payers money. I know that what I'm doing is right but I also should be rewarded for my servies rendered and Three-Hundred days away from my daughter. Damages have taken it's toll on me and my fiance' ~~and~~ I would like for the "Justice" system to work in my favor now.

This letter is in no way threating to you or any-one else, It's just the way I feel about this hole ordeal! And it "sucks", that I will not recieve any of that reward but I will get a "bus" ticket out of it all. "Wow"
What about my rights?

Frank Parker III

(Write Back "PLEASE")

P.S.
I need some shampoo "SIR" and this jail has none plus the soap makes us itch, Other then that things are great. Plus a hair-cut would be nice ~~and~~ before the trial. Some Good looking clothes or suit would

EXHIBIT 20

To: MR. LEE HOWARD & FORREST ALLGOOD,

My name is FRANKLIN D. PARKER and I am a Matereal Witness for the State of Mississippi. To testify against William J. Manning. I recently read the News paper (WED.) the 24th. And to my under-standing, I'm at a loss. The trial will be moved and my Question is to where, and when, so. I can contact my parents and fiance' to let them know. I recently asked the Jailer to run NCIC on my name and it came back with a "thieft" Charge. Since I am a Witness, I am wondering about all the time that I have served here. Will this time go towards that charge? Also I under-stand that there is a reward offered My Question is why am I not entitled to a porportion of the reward, let's say for Damages and services rendered. I've been locke up since MAY OR June and have served two hundred an Ninty days in jail. My fiance' has had a really hard time raiseing my four yr. Old daughter and is haveing ~~finance~~ trouble paying bills, Plus going too college at the same time. I know that it's rough on ~~her~~ her, but I don't need to be released and have a hole ~~lot~~ of bills to pay and no place to live at. What I'm getting at

me to recieve some of that reward, I promis that the money would be used responsibly. Plus I could put some in the bank for My draughters future. The reason I ask for the money is because when I do get released and find a job, it will take two weeks to recieve a check plus I will have know where to live and believe me I do not want to live with my future mother-in-law I'd rather have a place of my own so my fiance and draughter can move in, I've missed a hole year of my draughters life and that's time that can never be made up. "(It's Gone Sir") And that's why I ask you for assitance. My future plans are to join the Coast Guard and go to college for Electrical Engneering, I've had plenty of time to think it over. And it's been my goal for along time. Now back to the reward, the "Sheriff" MR. Bryan has told me that all I'll get out of this is a "bus" ticket home. IF you ask me thats not right. I've always work hard to acieve my goals and to take care of my family. I know that in the past I miss up, but no one is perfect and we all fall short of the Glory of God. All I want is to put all this behind and get back to my draughter

The jail stay has not been all that bad, but I have been locked down and have not been out-side in three months. I'm white as a ghost and will more then likely scare your "Jury members". Also I ~~don't~~ do not have a suit and need a hair-cut and a "Tan". Besire all of that, my mind is ~~making~~ set on the reward Now and the "theift" charge in Texas. I know that if it was any other citizen, he or she would be entitled to the reward. Yes I face a charg but have not been proven "Guilty" and probably will not. All I did was recieve ~~Stealen~~ stolen merchandise and I pawned it for the guy and now face a "Theift" Charge. I'm sure that it will be retired to my record but I have always wanted to get into the Coast Guard. So please if you would see if ~~thier~~ their is any-thing that can be done. I would gladly appreciate it. I thank-you for reading this letter and Please under-stand where I ~~come from~~ I'm coming from "Sir" I just would like to get back to supporting my daughter and enjoying her laughter and her smile that just seems to be so far away. If money is ~~e~~involed then great but my freedom is worth ~~alot~~ hoole lot more. Even

month or so. I know that I have taken up enough of your time, but this jail does need shampoo and soap that doesn't make you itch. MR. HOWARD & MR. All Good I thank you for the stay but isn't it time to get this case closed. Three hundred days is enough for me. You've got to under-stand how much my family means to me, Plus the money if any will help me get on my feet again and pay off most of those bills. I'm only twenty-two and face about $15,000 thousand in debts. Most of it is my fiance's but I've always told here that it's our debt. I'd like to recieve about $8,000 thousand of the reward and that's for a car to drive back home in, that's 3 grand and $2,000 thousand to my daughters bank account. And two more for an ~~apartment~~ Apartment for 2 yrs and a grand to pay some bills. Ten thousand would be better. But that decision is up to you MR. HOWARD. Please contact me and let me know what your decision is.

Yours Truely
Frank Parker

000033

Oktibbeha County Jail
100 Jefferson St.
Starkville, MS 39759
Inmate Mail

COLUMBUS, MS 397
PM
25 MAR
1994

TO JUDGE LEE HOWARD &
MR. FORREST ALLGOOD OF THE
CIRCUIT COURT HOUSE
109 W MAIN
STARKVILLE, MISS. 39759

FILED
OKTIBBEHA COUNTY
MAR23 1994
Circuit Clerk

EXHIBIT 21

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

AFFIDAVIT OF KRISTEN MURRAY

I, Kristen Murray, after being duly sworn, depose and state as follows:

1. I am over eighteen years of age and am competent to provide this affidavit.

2. I am a third year law student at the University of Texas School of Law. On August 17, 2001, at the request of attorneys for Willie Manning, I went to visit Frank Parker at his home in San Antonio. I arrived at Mr. Parker's home at approximately 10:00 a.m. A friend of mine, Deena Kalai, accompanied me.

3. We identified ourselves to Mr. Parker as students who were assisting Willie Manning. Mr. Parker was very resistant to talking to us. He repeatedly referred me to his attorney, but at the same time refused to provide me with his attorney's name. He eventually decided to answer a few questions about his involvement with Mr. Manning's case.

4. According to Mr. Parker, he and a friend, whose parents lived in Starkville, went to Mississippi. At the time, Mr. Parker had charges pending against him in Texas. Mr. Parker stated that he turned himself in to the authorities there because he wanted to stop running.

5. Mr. Parker further stated that he was placed in a cell with Mr. Manning. It was there that he said he overheard the conversation about which he testified at Mr. Manning's trial.

6. I asked Mr. Parker about the circumstances surrounding his testimony. He mentioned that he was told that he was not going to get any reward money. ~~He thought that he should have been entitled to something for his testimony~~. He also said that he thought that testifying was the right thing to do after seeing the crime scene pictures. According to Mr. Parker, the sheriff showed him photographs of the victims at the crime scene. The sheriff informed Mr. Parker that the male victim had been run over and that the female victim had been almost raped.

7. Mr. Parker said that he heard details about the crime from the sheriff, from others in the jail, and from newspapers.

8. Mr. Parker stated that when he was in jail in Mississippi, he was facing charges for theft in Bexar County (which is San Antonio and surrounding communities) and that he never had any charges from Frio County, and he did not have any

Mississippi charges. I asked Mr. Parker whether he received any offers of assistance from the sheriff. Mr. Parker stated that after he testified against Mr. Manning, the sheriff promised to try to help get the Bexar County charges dismissed. I asked for clarification on this point, but Mr. Parker became upset. It seemed, however, that prior to his testimony, the sheriff had not made any explicit promises to assist him prior to his testimony.

9. After this brief interview, it was clear that Mr. Parker would not have wanted to discuss the matter with anyone any further.

FURTHER AFFIANT SAYETH NOT.

Kristen Murray
KRISTEN MURRAY

Sworn to and subscribed before me
This 1ST day of OCTOBER, 2001.

Dee A. Welborn
NOTARY PUBLIC
My commission expires: 9-24-03

NOTARY PUBLIC STATE OF TEXAS
DEE A. WELBORN
Notary Public, State of Texas
My Commission Expires
SEPTEMBER 24, 2003

EXHIBIT 22

STATE OF TEXAS)
)
COUNTY OF TRAVIS)

AFFIDAVIT OF DEENA KALAI

I, Deena Kalai, after being duly sworn, depose and state as follows:

1. I am over eighteen years of age and am competent to provide this affidavit.

2. I am a third year law student at the University of Texas School of Law. On August 17, 2001, I accompanied Kristen Murray to San Antonio to interview Frank Parker.

3. Ms. Murray identified us to Mr. Parker as students who were assisting Willie Manning. Mr. Parker did not seem to want to talk to us. He stated several time that we should talk to his attorney, but when Ms. Murray asked for the name of his attorney, Mr. Parker would not provide it. Ultimately, he answered a few questions about Mr. Manning's case.

4. According to Mr. Parker, he and a friend (whose name, I believe, was Chris), whose parents lived in Starkville, went to Mississippi. At the time, Mr. Parker had charges pending against him in Texas. Mr. Parker stated that he turned himself in to the authorities there because he wanted to stop running. Mr. Parker denied ever having charges pending against him in Mississippi.

5. Mr. Parker stated that he was placed in a cell with Mr. Manning and overheard the comments about which he testified.

6. Ms. Murray asked Mr. Parker about the circumstances surrounding his testimony. ~~Mr. Parker denied receiving any reward money, although it seemed that he thought that he should have been compensated for his testimony.~~ He also said that he thought that testifying was the right thing to do after seeing the crime scene pictures. According to Mr. Parker, the sheriff showed him photographs of the victims at the crime scene. The sheriff informed Mr. Parker that the male victim had been run over and that the female victim had been almost raped. DK

7. Mr. Parker said that he heard details about the crime from the sheriff, from others in the jail, and from newspapers.

8. Mr. Parker stated that when he was in jail in Mississippi, he was facing charges for theft in Bexar County (which is San Antonio and surrounding communities) and that he never had any charges from Frio County. Mr. Parker stated that after he testified against Mr. Manning, the sheriff in Mississippi promised to try to help

get the Bexar County charges dismissed. When Ms. Murray wanted to ask follow up questions on this point, Mr. Parker again became upset. I had the impression that the sheriff did not come right out and promise Mr. Parker prior to his testimony that he would provide assistance. Because it seemed obvious that Mr. Parker did not want to discuss the matter further, we wrapped up the interview

FURTHER AFFIANT SAYETH NOT.

DEENA KALAI

Sworn to and subscribed before me
This 1ST day of OCTOBER 2001.

Dee A. Welborn
NOTARY PUBLIC
My commission expires: 9-24-03

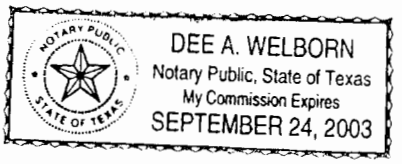


EXHIBIT 23

REPORTER'S RECORD

VOLUME 1 OF 1 VOLUME

TRIAL COURT NO. 93-CR-5281

STATE OF TEXAS	*	IN THE DISTRICT COURT
VS.	*	144TH JUDICIAL DISTRICT
FRANK PARKER	*	BEXAR COUNTY, TEXAS

PLEA OF GUILT AND SENTENCING

On the 10th day of April, 1995, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Susan D. Reed, Judge Presiding, held in Brownwood, Brown County, Texas:

Proceedings reported by COMPUTERIZED STENOTYPE MACHINE; Reporter's Record produced BY COMPUTER-ASSISTED TRANSCRIPTION.

NANNELL S. MOONEY, CSR #2477
Deputy Official Court Reporter - 35th Judicial District Court
P. O. Box 592, Brownwood, Texas 76804
915-643-1837

Appearances:

Ms. Mary Beth Welsh
Offices of the District Attorney
State Bar No. 00785215
300 Dolorosa
San Antonio, Texas 78205
Telephone: 210-335-2311
Facsimile: 210-220-2014
Appearing for the State,

Ms. Diana Cruz
Offices of the District Attorney
State Bar No. 5196800
300 Dolorosa
San Antonio, Texas 78205
Telephone: 210-335-2311
Facsimile: 210-220-2014
Appearing for the State,

Law Offices of Joseph Appelt
State Bar No. 00789809
1955 Babcock Road
San Antonio, Texas 78229
Telephone: 210-681-9009
Facsimile: 210-681-0100
Appearing for the Defendant.

* -- * -- * -- * -- * -- * -- *

P R O C E E D I N G S

THE COURT: It is 93-CR-5281, State of Texas versus Frank D. Parker. The offense is theft $750 to $20,000. It has an offense date of March 11th of 1993. Are you Franklin -- is it Frank or Franklin?

THE DEFENDANT: Franklin.

THE COURT: Okay. That is what the indictment says. Are you Franklin Parker who is charged in this cause?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you understand the allegations against you in this indictment --

THE DEFENDANT: Yes, ma'am.

THE COURT: -- saying you deprived Chester Blanchard of property. It lists television sets, an answering machine, video cassette recorder, boom box and 83 compact disks. Do you understand that allegation?

THE DEFENDANT: Yes, Your Honor.

THE COURT: You have signed a jury waiver. It explains to you the appropriate range of punishment for this offense. It is the two to ten years. It has a little "X" by it. I'm going to put my initials right there. Also the effects of plea bargaining, your rights. Have you read this document?

THE DEFENDANT: Yes, ma'am.

THE COURT: Did you understand it?

THE DEFENDANT: Yes, ma'am.

THE COURT: Do you have any questions about anything that is explained to you in it?

THE DEFENDANT: No, Your Honor.

THE COURT: Has anyone forced you to waive any of these rights that you are waiving?

THE DEFENDANT: No, Your Honor.

THE COURT: The paperwork tells me you have a plea bargain, the terms of which are for three years, a thousand dollar fine. The State is recommending probation. They are silent -- well, are you applying for deferred -- I presume they are silent on it, is that right? It is not checked off one way.

MS. WELSH: I would think so.

THE COURT: Yeah, it says silent on here, which means only probation is guaranteed under the plea bargain, not the deferred adjudication. You are waiving appeal. I will set the terms and conditions of probation, so if you are unhappy with the terms or conditions, you can't withdraw your plea. The only way you can withdraw your plea is if I were to assess longer than a three-year term. Do you understand that?

(Attorney and Defendant conferring.)

THE COURT: Do you understand?

THE DEFENDANT: Yes, Your Honor.

THE COURT: Any questions?

THE DEFENDANT: No, Your Honor.

THE COURT: Do you want me to follow this plea bargain?

THE DEFENDANT: Yes, Your Honor.

THE COURT: How do you plead to the offense of theft as alleged?

THE DEFENDANT: Guilty.

THE COURT: You are pleading guilty because you are guilty?

THE DEFENDANT: Yes, ma'am.

THE COURT: Anybody forcing you to do this against your will?

THE DEFENDANT: No, Your Honor.

THE COURT: Is anyone to coercing you into doing this?

THE DEFENDANT: No, Your Honor.

THE COURT: Is anyone making you any kind of promises in order get you to do this?

THE DEFENDANT: No, Your Honor.

THE COURT: You are competent? He is competent under our standards?

MR. APPELT: Yes, Your Honor.

THE COURT: I will accept the plea.

MS. WELSH: State offers State's Exhibit Number 1 and all of its attachments.

THE COURT: Any objection?

MR. APPELT: No, Your Honor.

THE COURT: It is admitted.

MS. WELSH: State rests and close.

THE COURT: I will find the evidence sufficient. I am sorry. Both sides close?

MS. WELSH: Yes, Your Honor.

MR. APPELT: Yes, your Honor.

THE COURT: I'm going to find the evidence sufficient, order a presentence investigation. The hearing date is May 10th. I want a TAPP evaluation attached to the PSI. You are excused.

MR. APPELT: Thank you, Your Honor.

(Cause recessed until May 10, 1995, at which time the following was had.)

THE COURT: Parker, Frank Parker.

You know what? I'm going to reject this plea bargain because it calls for probation. I think he needs to go to boot camp. That's where I want to send him, and I can't do it under this plea bargain, and I don't like it. I don't like people who steal from their relatives so that they can go to the beach for Spring Break or whatever it is. You can work out -- you can withdraw your plea. You can proceed without the plea or whatever. You can talk to your attorney about it.

(Cause reset to May 16th, 1995, at which time

the following was had.)

THE COURT: Parker.

MS. WELSH: This is the one last week where you did not agree to the plea bargain. I approached you later with Ms. Cruz to try to explain the plea bargain.

After he committed this offense, he became a material witness in this case. He was waiting extradition, and he was a material witness in a capital murder case while he was in jail. As a result of that, he spent pretty close to a year-and-a-half day-for-day in the Mississippi jail.

THE COURT: When was that period of time?

MR. APPELT: According to the records that they faxed to me, he was first arrested in May of 1993.

THE COURT: In Mississippi?

MR. APPELT: Yes, Your Honor.

THE COURT: Because there is nothing that shows up on the PSI about Mississippi.

MR. APPELT: Let's see. He was released on December 3, 1993. No, he was arrested again on the material witness bond from December 12th, 1990 -- December 3, 1993, and was released November 4th, 1994. Both of these I have given copies to the District Attorney here, if you would like to look over them, Your Honor.

Also before agreeing to this, Ms. Cruz did contact one of the complainants and asked her if it was okay,

and she approved of it.

THE COURT: Is there any restitution?

MS. CRUZ: To the pawn shop, I believe.

MR. APPELT: Yes, Your Honor. Again, the facts were that the very next day after he did this, he called his aunt and uncle who were the complainants in this case and told them exactly where they could go to retrieve their items.

THE COURT: My PSI shows no restitution.

MS. CRUZ: No restitution?

THE COURT: We just have a Chester Blanchard as complainant.

MS. CRUZ: I don't know if they got all of their property, but I got from the PSI report that he went --

MR. APPELT: He is perfectly agreeable to that, Your Honor, if there is restitution to the pawn shops.

THE COURT: All right. I will place him on probation for a term of three years, enter judgment finding him guilty of the offense as alleged, assess a fine of $1,000 to be paid at the rate of $50 a month, plus supervisory fees will be $25. You have a child that is coming?

THE WITNESS: Yes, ma'am.

THE COURT: And, are you living with the mother?

THE WITNESS: Yes, ma'am.

THE COURT: Because I expect you to provide for the child. If you are not married at the time of the child's

birth, I want something to indicate that you have done something to legitimize the child.

THE WITNESS: Yes, ma'am.

THE COURT: You are to receive some sort of drug counseling. You will receive your conditions today. I expect you to abide by them. Go have a seat.

MR. APPELT: Thank you, Your Honor. May I be excused?

THE COURT: Yes.

(END OF PROCEEDINGS.)

* -- * -- * -- * -- * -- * -- *

STATE OF TEXAS)

COUNTY OF BEXAR)

I, NANNELL S. MOONEY, Official Court Reporter in and for the 144th District Court of Bexar County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

I further certify that the total cost for the preparation of the Reporter's Record is 55.00 and was paid by the the Mississippi Office of Capital Post-Conviction Counsel.

WITNESS MY HAND this the 20th day of September, A.D., 2001.

Nannell S. Mooney

NANNELL S. MOONEY, CSR 2477
Date of Expiration: Dec. 31, 2002
Brown County Court Reporting
P. O. Box 592
Brownwood, Texas 76804
(915) 643-1837

EXHIBIT 24

JUDGMENT REVOKING SUPERVISION
SENTENCED TO INSTITUTIONAL DIVISION

THE STATE OF TEXAS NO. **93CR5281** IN THE **144TH** DISTRICT COURT

VS OF

FRANK D PARKER BEXAR COUNTY, TEXAS

JUDGE PRESIDING: JUDGE **SUSAN D. REED** DATE OF JUDGMENT: OCT 21 1995

APPEARANCES
FOR STATE: **BERT RICHARDSON**

APPEARANCES
FOR DEFENDANT: **JEFFREY WILLIAMS**

OFFENSE CONVICTED OF: **THEFT-$750-20000-OTHERS 31.03(.) PC**

DATE OF CONVICTION: **05-16-95**

DEGREE OF OFFENSE: **3RD**

DATE OFFENSE COMMITTED: **03-11-93**

DATE OF SUPERVISION ORDER: **05-16-95**

PLEA TO MOTION TO REVOKE: **N/A**

FINDING OF COURT: **TRUE**

TERMS OF PLEA AGREEMENT: **NO PLEA AGREEMENT**

CONDITIONS VIOLATED:
 # 1 AS SET OUT IN THE STATE'S MOTION TO REVOKE.

DATE SENTENCE IMPOSED: **10-24-95**

DATE TO COMMENCE: **10-24-95**

SENTENCE OF IMPRISONMENT
(INSTITUTIONAL DIVISION):
3 YRS TDCJ-ID AND A FINE OF $ 1,000.00

CONCURRENT UNLESS OTHERWISE SPECIFIED: **95CR4249B IN BEXAR COUNTY, TEXAS**

TIME CREDITED: **145 DAYS**

COSTS: $ **399.50**

TOTAL AMOUNT OF
RESTITUTION/REPARATION: $ **0.00**

RESTITUTION TO BE PAID TO:
NAME:
ADDRESS:

On the date stated above, the Defendant was duly and legally convicted of the offense stated above, in the above numbered and entitled cause and punishment was assessed and the imposition of the sentence was suspended and the defendant placed on community supervision as stated above, subject to the conditions of supervision set out in the order in this cause. Thereafter, and during the period of supervision, the State filed a Motion to Revoke Community Supervision in this cause, alleging that the Defendant had violated conditions of supervision set out in said order.

On the **24TH OF October, 1995**, both parties announced ready for trial, and the Defendant waived the reading of the motion in open court and upon being asked by the Court as to how the Defendant pleaded, entered a plea of **N/A** to the allegations in the Motion. Thereupon, the Court admonished the Defendant of the consequences of said plea and, it appearing to the Court that the Defendant is competent and that the Defendant is not influenced in making said plea by any consideration of fear, or by any persuasion prompting said plea, the said plea of **N/A** is by the Court received and is here and now entered of record in the Minutes of the Court as the plea of the Defendant. The Court, after hearing all of the evidence for the State and the Defendant and argument of counsel, is of the opinion and finds that the Defendant violated the conditions of the Defendant's community supervision as stated above.

NO. 93CR5281 STATE OF TEXAS VS. FRA J PARKER

It is, therefore, ORDERED, ADJUDGED AND DECREED by the Court that the order suspending the imposition of the sentence and placing the Defendant on community supervision, heretofore entered in this case, is hereby revoked on the date stated above. The Defendant having previously been found guilty of the offense charged as set out in the finding of guilty, punishment is hereby fixed as stated above, and it is ORDERED that this punishment be carried into execution in the manner prescribed by law and the State of Texas do have and recover of said defendant all court costs in this prosecution expended for which execution will issue.

CLERKS FEES	40.00	CRIME VICTIM FEE	20.00	APPOINTED INVESTIGATOR	0.00
LEOEF	1.50	JCPTF	1.00	CRIMINAL JUSTICE FEE	20.00
JURY FEE	0.00	CRIME STOPPERS FEE	2.00	FINE	1,000.00
APPOINTED ATTY	300.00	RECORDS MGT FEE	10.00	CRT HSE SEC FEE	5.00
VIDEO	0.00				
		GRAND TOTAL	1,399.50		

And thereupon on the 24TH OF October, 1995 the Court asked the Defendant whether the Defendant had anything to say why said sentence should not be pronounced upon said Defendant, and the Defendant answered nothing in bar thereof. Whereupon the Court proceeded, in the presence of said Defendant and the Defendant's attorney, to pronounce sentence upon said Defendant as follows:

It is ORDERED by the Court that the Defendant, who has been adjudged guilty of the offense stated above, be and is hereby sentenced to the punishment stated above. The Defendant shall be taken by the authorized agent of the State of Texas or by the Sheriff of Bexar County, Texas, and by him safely delivered to the Director of the Institutional Division of the Texas Department of Criminal Justice, there to be imprisoned in the manner and for the period aforesaid. The defendant is hereby remanded to the custody of the Sheriff, until such time as the Sheriff can obey the directions of this sentence.

The Court finds that as of the date of sentencing, the defendant has been in custody on this charge for a period of 145 DYS .

The Court thereupon fully advised the defendant as to the law regarding the filing of Motions for New Trial, Motions in Arrest of Judgment, and Notice of Appeal.

SAID SENTENCE TO RUN CONCURRENT WITH 95CR4249B IN BEXAR COUNTY, TEXAS

SIGNED and ENTERED of Record this 31st day of Oct 1995.

Notice of Appeal:_____

JUDGE

Prepared by 09171

SUSAN D. REED
144TH DISTRICT COURT
BEXAR COUNTY, TEXAS

(JSD40B)

EXHIBIT 25

(1)

Paula Hathorne 6/05/67
428-53-7050

I did NOT actually see Mae's fly" shoot the Tree iN ~~Mays~~ yard but I heard him shooting and I looked out the window and saw "fly" with the gun pointed at the tree. When I saw what he was shooting at I went on about my business then I heard some more shooting.

There is another bullet hole in that house in Mae's room near the fire place when I ask fly why he shot in the house. He told me he had a hot on his mind. He used to talk about that all the time. And that was why he would have to get away and go to Jackson.

Buddy Bradford knows that "fly" having that gun. Buddy let "fly" shoot his rifle. Buddy "Mae" or ~~B~~ Shon got some bullets for fly for that gun.

PORTN

Jackie Hathorne

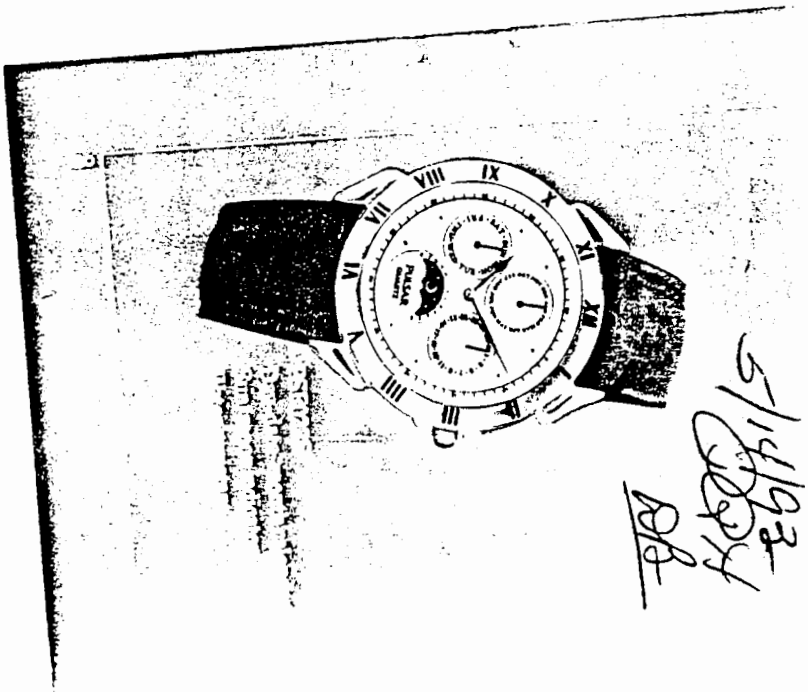
Fly told me to tell Buddy NOT to say anything about "Fly" him("Fly") having that gun because that was a felony for him to have a gun.

Mae knows that he had the gun he shot it that night that Girth came to get the phone. (Karen Hawks)

I am NOT sure where "Fly" got the gun but I know he came home from Jackson with the gun.

Fly had a watch like the one in this picture I know for sure it had the moon on it and these other little circles but I am not sure about the No's

Q.H



5/14/92

EXHIBIT 26

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 4/28/93

THEO JASPER, co-owner, Sound Reasoning, Inc., 110 Willow Road, Starkville, Mississippi, was interviewed at his place of business. JASPER is a white male, Date of Birth July 4, 1965, Social Security Number 427-33-0074. He was advised of the identities of Special Agent JAMES A. LA RUE, Federal Bureau of Investigation; Captain DAVID LINDLEY, Starkville Police Department; and Lieutenant WAYNE MILLER, Mississippi State University Security Police Department.

JASPER initially denied that anyone had brought in a portable stereo CD player and offerred it to him for sale. Upon being advised of the severity of the matter under investigation, he then admitted that a black male who used the name DEMARCO had come in with another black male who had a slender build and had asked him if he wanted to buy a nice portable CD player. JASPER said that he turned the man down as he had no use for such a player. He did admit to having bought a Motorola portable cellular telephone from DEMARCO for forty dollars. He did not have the money to pay for it in cash at the time and DEMARCO came back later in the day for his money. JASPER was asked when this occurred. He said that he thought that it was after Christmas of 1992, but could not be certain. He was then asked how he had met DEMARCO and replied that he had initially been brought in by a black male who JASPER knows as DOUG WEAVER. After reflecting more on the approximate date he said that it was perhaps about a week after a murder-suicide took place at a local Starkville restaurant on December 10, 1992. Jasper said that he never looked at the CD player so he had no idea as to the make. He did surrender the cellular telephone to Captain LINDLEY.

JASPER was displayed a photographic lineup consisting of the following individuals:

STEVE EVANS
MARION LINDSAY
WILLIE JEROME MANNING
ANTHONY REED
KEITH ROBERTS

Investigation on 4/27/93 at Starkville, Mississippi File # 26A-JN-20369

by SA JAMES A. LA RUE Date dictated 4/28/93

JAMES LEE JIMERSON

JASPER selected without hesitation the photograph of WILLIE JEROME MANNING as being identical to the person he knows as DEMARCO. He recalled that whenever this person came in to attempt to sell something he always appeared to be high on drugs or alcohol as he would slur his words when he spoke.

EXHIBIT 27

FALSE PRETENSE

THE STATE OF MISSISSIPPI, CIRCUIT COURT

OKTIBBEHA COUNTY NO. 12-183 / Gj# 72

JANUARY TERM, 1991

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men and women of said County, duly elected, empanelled, sworn and charged, at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present: That

PAULA HATHORN

late of the County aforesaid, on or about the 21st day of November, 1989, in the County aforesaid unlawfully, wilfully & feloniously did, then and there devising and intended by unlawful means to cheat, wrong and defraud Wal-Mart Stores, Inc., of the sum of $120.92, or of property the equivalent thereof in value, and the said **PAULA HATHORN** then and there having no account in Unifirst Bank For Savings, Inc., a banking corporation, with which a check drawn by the said **PAULA HATHORN** on said Bank for the sum of $120.92, may be paid, she, the said **PAULA HATHORN** did then and there wilfully, unlawfully, feloniously and fraudulently issue, sign and deliver unto Wal-Mart Stores, Inc. for value, a certain check on the said Bank, well knowing at the time of issuing, signing and delivering said check, that she did not have an account in said Bank with which to pay said check and which said check consisted of the following words and figures, to-wit:

SEE COPY OF CHECK ATTACHED

and the said check was afterwards endorsed by the said payee named in said check and was by her or her assignees, presented to the said Bank for payment and the said check was not paid by the said Bank upon presentation for the reason that the said **PAULA HATHORN** did not have an account in said Bank with which to pay said check in full upon presentation, and by means and color of making, issuing and delivering the said check to the said payee named herein, she, the said **PAULA HATHORN** did then and there unlawfully, feloniously and fraudulently obtain and receive of and from the said payee named in the said check, the following thing of value to-wit:

merchandise;

all of which was at the time of said making an issuing of said check then and there sold and delivered by the said payee named in said check, to the said **PAULA HATHORN** and said check was then and there given for the purchase of the same, contrary to the statute in such case made and provided and against the Peace and Dignity of the State of Mississippi.

FEB 14 1991 Miriam M. Cook Circuit Clerk

A True Bill

Forrest Allgood
District Attorney

David S. Wilson
Foreman of the Grand Jury

Filed 30th day of January, 1991 Miriam M. Cook Clerk

Recorded 8th day of February, 1991

Miriam M. Cook Clerk By /s/ Estelle S. White D. C. 2636

Book 11 Page 288-289

PAULA R. HATHORN
SSN# 428-53-7050
RT 2 BOX 81E
LOUISVILLE, MS 39339

ACCOUNT CLOSED
DO NOT RE-DEPOSIT

138

85-7104
2653

Pay To The Order Of

Dollars

Unifirst BANK

For

:265371040: 30"04342037" 0138 "0000001209 2"

WalMart Store #01-0112
Address
Phone 323-4537
DR. LIC. #
Other I.D.
OK'ed By
FOR DEPOSIT ONLY

FILED
FEB 11 1991
CHOCTAW COUNTY
Circuit Clerk

0683
00279
NO 89, 22 1

2637

THE STATE OF MISSISSIPPI

Oktibbeha County.

#12183

TO THE SHERIFF OF SAID COUNTY — GREETING

We Command You, to take the body of Paula Hathorn

_____ if to be found in your County, and him safely keep, so that you have his body before the Honorable, the Circuit Court of Oktibbeha County, in said State, to be holden at the Court House thereof in the City of Starkville, INSTANTA and then and there to answer unto the State of Mississippi of a charge of _____

False Pretense

_____

_____

_____

_____ by indictment in said Court, at the January

Term A. D. 1991, thereof.

Herein fail not, and have there this writ, with the manner you have executed the same.

Given Under My Hand and Seal, and issued the 30th day of January 19 91.

FILED
OKTIBBEHA COUNTY
JAN 30 1991
CIRCUIT CLERK

Miriam M. Cook

Miriam M. Cook, Circuit Clerk

_____ D. C.

2638

THE STATE OF MISSISSIPPI
MUNICIPAL COURT
CITY OF STARKVILLE
COUNTY OF OKTIBBEHA

COPY OF THE RECORD

Proceedings of the Municipal Court of the City of Starkville, Mississippi, in the following case:

City Court Docket
Book No. 39
Page No. 82

THE STATE OF MISSISSIPPI

vs.

Paula Hathorn

OFFENSE CHARGED

Bad Check (Felony)

LIST OF WITNESSES AND ATTORNEYS

For State	For Defendant
Roy Carpenter	No Attorney (waived)
Prosecuting Attorney	Attorney for Defendant

JUDGMENT AND SENTENCE

Affidavit made July 17, , 19 90 and warrant issued same date for the accused, Paula Hathorn , who was brought before me and an examination of said charge of ~~Bad Check (Felony)~~ was had. waived

I, the undersigned Municipal Judge, found said accused should be held over to await the action of the Grand Jury and his bond fixed at $ 1,500.00 .

Committed to the County Jail.

Witness my hand, this 29 day of November , 19 90 .

William D Estes Sr.
Municipal Judge

I, the undersigned officer of the aforesaid municipal court, hereby certify that the foregoing is a true and correct copy of the record of the case stated thereon, as appears on the Docket of the said municipal court.

This the 14 day of December , 19 90.

CITY OF STARKVILLE MUNICIPAL COURT MISSISSIPPI (SEAL)

Margaret Wade
Municipal Judge/Court Clerk

FILED this the 14 day of December , 19 90.

(SEAL)

Miriam M. Cook
Clerk of the Circuit Court

By Regina Evans

White Original — Appellate Court
Canary Copy — Municipal Court
Pink Copy — Defendant

2641

MA#72

THE STATE OF MISSISSIPPI
MUNICIPAL COURT
CITY OF STARKVILLE
COUNTY OF OKTIBBEHA

COMPLAINT

Personally appeared before me, the undersigned officer of said court, Tony Cooper

on information and belief who states under oath

that Paula R. Hathorn

did, on or about the 21 day of November, 1989, unlawfully and willfully and feloniously with xxxxxxxxx Fraudulent intent deliver a check for the payment of money in the amount of $120.92 Unifirst BAnk Louisville ,MS for the purpose of containing Merchandise from Wal-Mart at a time when she knew she did not have sufficient funds on deposit with such bank, knowing such account had been closed, at Wal-Mart on Highway 12 in the City of Starkville, MS.

97 19-55

FILED
OKTIBBEHA COUNTY
DEC 14 1990
Miriam M. Cook
Circuit Clerk

against the peace and dignity of the state and within the corporate limits of said city.

Sworn to and subscribed before me this 17 day of July, 1990.

Margaret Wade

Municipal Judge/Court Clerk/Deputy Clerk

White Original — Court
Canary Copy — Defendant
Pink Copy — Complaining Witness

2642

MC FORM 1

Vaughan Printing Co.

STATE OF MISSISSIPPI
MUNICIPAL COURT
CITY OF STARKVILLE
COUNTY OF OKTIBBEHA

WAIVER OF PRELIMINARY HEARING

I, Paula Hathorn, having been charged with the commission of the felony/felonies of bad check (2 felonies), ~~upon the advice of counsel,~~ hereby knowingly, intelligently and with full and complete knowledge and understanding that I have a right to demand and have a preliminary hearing upon the said above charge(s) waive a preliminary hearing on the above charge(s).

Waiver requested this the 29 day of Nov., 1990.

Paula Hathorn
Defendant

Waived counsel
Counsel for Defendant

Waiver approved this the 29th day of Nov., 1990.

William D. Bliss, Jr.
Municipal Judge

NOTE: Defendant's case has been set numerous times & defendant nor her attorney appeared. Defendant is also charged with jumping bond. This case, in addition has been set numerous times with some being continued for non-appearances. Bondsman has surrendered her person this date.

FILED
OKTIBBEHA COUNTY
DEC 14 1990
M. Cook
Circuit Clerk

White Original — Circuit Clerk
Canary Copy — Municipal Court Clerk
Pink Copy — Defendant

MC Form 7.5

2643

Vaughan Printing Co.

STATE OF MISSISSIPPI

VERSUS

Paula Hathorne DEFENDANT

SHERIFF'S ORDER SETTING BAIL BOND
(TEMPORARY BAIL BOND)

THE BAIL BOND ON THE DEFENDANT Paula Hathorne CHARGED WITH 2 Counts False Pretence WILL BE SET AT $3,000.00 AND THE BAIL BOND WILL BE RETURNABLE TO THE NEXT TERM OF THE Circuit COURT, IN THE CONDITION AND FORM REQUIRED BY LAW.

SO ORDERED THIS ~~30~~ 14 DAY OF Jan. 19 91.

FILED
DKTIBBEHA COUNTY
DEC 11 1990
Miriam M. Cook
Circuit Clerk

Jerry H. Edens
~~SHERIFF~~/ SUPERVISOR

~~not bail~~ DJ #12 72, 73

2644

THE STATE OF MISSISSIPPI
JUSTICE COURT
COUNTY OF OKTIBBEHA

COPY OF THE RECORD

Proceedings of the Justice Court of Oktibbeha County, in the following case:

THE STATE OF MISSISSIPPI
vs.
PAULA HATHORN

County Court Docket
Book No. 56
Page No. 110

OFFENSE CHARGED

FALSE PRETENSE 97-19-55

LIST OF WITNESSES AND ATTORNEYS

For State	For Defendant
Roy Carpenter	NILES MCNEAL
Prosecuting Attorney	Attorney for Defendant

JUDGMENT AND SENTENCE

PRELIMINARY HEARING WAIVED JUNE 18, 1991. DEFENDANT BOUND OVER TO THE ACTION OF THE GRAND JURY. BOND IS SET AT $1000.00.

I, the undersigned officer of the aforesaid Justice Court, hereby certify that the foregoing is a true and correct copy of the record of the case stated therein, as appears on the Docket of the said Justice Court.

This the 1 day of July, 19 91.

(SEAL)

Vox Hudson
Judge/Court Clerk

FILED this the _____ day of _____, 19____.

(SEAL)

Clerk of the Circuit Court

By _____

White Original — Appellate Court
Canary Copy — Municipal Court
Pink Copy — Defendant

2563

form cya3105

IN THE Justice COURT OF Kolbeda County Mississippi

STATE

VS.

Paula Hathorn

WAIVER OF PRELIMINARY HEARING

Comes now Paula Hathorn, who has been charged with the felony of False Pretense, and waives his rights to a preliminary hearing on said charge. Paula Hathorn would show unto the Court that he is represented by an attorney, Mark H. Williamson, and that his attorney has fully informed him of his rights, including:

(1) That he has a right, under the laws of Mississippi and Rule 1.07 of the Uniform Criminal Rules of Circuit Court Practice, to a preliminary hearing before a judicial officer.

(2) That he shall not be required to enter a plea at the preliminary hearing.

(3) That witnesses produced at the preliminary hearing shall be examined on oath, and in the presence of the Defendant.

(4) That the Defendant may subpoena witnesses and cross-examine the witnesses against him.

(5) That the Defendant may offer evidence in his own behalf but shall not be required to testify personally.

(6) That the Defendant does not have to offer any evidence but that the burden is on the State to establish that there is probable cause to believe that an offense has been committed, and that the Defendant committed it.

The Defendant understands that by waiving his right to a preliminary hearing he is giving up those rights listed above.

The Defendant also understands that his waiving the preliminary hearing will result in his being bound over to the next Grand Jury.

The Defendant would further state to the Court that this Waiver is his own decision for his own reasons and that no one has threatened him or promised him anything in order to make him sign this waiver.

I do, therefore, waive my right to a preliminary hearing on the charge of False Pretense, this the 18th day of June, 199 1.

Mark H. Williamson
WITNESS

Paula R. Hathorn
DEFENDANT

WITNESS

SWORN TO AND SUBSCRIBED BEFORE ME, this the 18 day of June, 199 1.

William A. Boyd
NOTARY PUBLIC

(SEAL)

My commission expires 1/1/1992.

IN THE JUSTICE COURT OF OKTIBBEHA COUNTY , MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS

Paula Hurtbern

NO. _____

DEFENDANT

ORDER SETTING BAIL BOND

THIS CAUSE CAME ON FOR HEARING THIS DAY FOR BAIL BOND TO BE SET IN THE ABOVE CAPTIONED CAUSE.

THE COURT FINDS THAT THE BAIL BOND SHOULD BE SET IN THE AMOUNT OF $3500.00 AND RETURNABLE TO THE NEXT TERM OF THE Circuit COURT IN THE FORM REQUIRED BY LAW.

IT IS THEREFORE ORDERED THAT BAIL BOND IN THE AMOUNT OF _____ 3500.00 , RETURNABLE TO THE NEXT REGULAR TERM OF THE Circuit COURT, CONDITIONED AND IN THE FORM REQUIRED BY LAW, BE ALLOWED.

SO ORDERED ON THIS THE 18th DAY OF June 1971.

William A. Gage

JUSTICE COURT JUDGE

COUNTY PROSECUTOR

THE STATE OF MISSISSIPPI
JUSTICE COURT
COUNTY OF OKTIBBEHA

COPY OF THE RECORD

Proceedings of the Justice Court of Oktibbeha County, in the following case:

County Court Docket
Book No. 60
Page No. 586

THE STATE OF MISSISSIPPI

vs.

PAULA HATHORN

OFFENSE CHARGED

FALSE PRETENSE 97-19-55

LIST OF WITNESSES AND ATTORNEYS

For State	For Defendant
ROY CARPENTER	NILES MCNEAL
Prosecuting Attorney	Attorney for Defendant

JUDGMENT AND SENTENCE

PRELIMINARY HEARING WAIVED JUNE 18, 1991. DEFENDANT BOUND OVER TO THE ACTION OF THE GRAND JURY. BOND IS SET AT $1000.00.

I, the undersigned officer of the aforesaid Justice Court, hereby certify that the foregoing is a true and correct copy of the record of the case stated therein, as appears on the Docket of the said Justice Court.

This the 1 day of JULY, 19 91.

(SEAL)

Judge/Court Clerk

FILED this the 2 day of July, 19 91.

(SEAL)

Clerk of the Circuit Court

By [illegible] 2566

White Original — Appellate Court
Canary Copy — Municipal Court
Pink Copy — Defendant

IN THE C[illegible]UIT COURT OF OKTIBBEHA COUN[illegible], MISSISSIPPI

VACATION TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO: 12-183

PAULA HATHORN

O R D E R

This day this cause came on to be heard in Open Court upon the petition of HONORABLE PATRICIA SPROAT, ASSISTANT DISTRICT Attorney of the Sixteenth Circuit Court District of Mississippi, petitioning the Court to revoke the suspension of sentence heretofore imposed upon PAULA HATHORN, by this Court in the above styled and numbered cause for the crime of FALSE PRETENSE and wherein the said Defendant was sentenced to serve a term of 3 years, in the Mississippi Department of Corrections at Parchman, Mississippi and ATTEND RESTITUTION CENTER IN PASCAGOULA, MS & SUCCESSFULLY COMPLETE THE PROGRAM & MAKE FULL & COMPLETE, and which sentence was suspended, and the Defendant RESTITUTION, PAY A $500.00 FINE & ALL COSTS, having been notified by summons served by the Sheriff of said county of the day, time and place of hearing at least five days before this date, and Defendant having appeared in Open Court and the Court having been fully advised in the premises is of the opinion and finds that the Defendant PAULA HATHORN, has violated the terms and conditions of his aforesaid suspension of sentence and that the Defendant is not a fit subject to be rehabilitated, and that the aforesaid sentence heretofore imposed upon him and which was then suspended should now be revoked, and that the Defendant should now be required to serve 3 years in the Mississippi Department of Corrections at Parchman, Mississippi, and ~~\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\~~, for the commission of said crime as such sentence was originally imposed by the

Court.

It is therefore and accordingly by the Court Ordered and Adjudged that the suspension of sentence heretofore granted to PAULA HATHORN for the crime of FALSE PRETENSE in the above styled cause is hereby revoked and terminated and that the Defendant serve Three (3) years in the Mississippi Department of Corrections at Parchman, Mississippi, ~~and~~ ~~[illegible]~~, and the Sheriff of Oktibbeha County, Mississippi is hereby Ordered and directed to take the said Defendant PAULA HATHORN into custody, if he is not already in custody of such Sheriff, and to turn said Defendant over to the proper authorities at the Mississippi Department of Corrections at Parchman, Mississippi, to serve such sentence. The defendant's medical records are to be furnished to the MDOC reception center to facilitate their immediate admission and proper placement.

SO ORDERED AND ADJUDGED, this the 2nd day of Dec. 1991.

CIRCUIT JUDGE

FILED
OKTIBBEHA COUNTY
DEC 03 1991
Miriam M. Cook
Circuit Clerk

3-11

State of Mississippi

VS No. 12-183

OKTIBBEHA COUNTY

PAULA HATHORN

This day into open Court came the Assistant District Attorney who prosecutes for the State of Mississippi and came also Paula Hathorn in his own proper person and represented by counsel and was lawfully arraigned upon an indictment lawfully returned by the Grand Jury of Oktibbeha County, said State, charging the said defendant with the crime of False Pretense - Bad Check. And being duly advised of all his legal and constitutional rights in the premises and being further advised of the consequences of such a plea the defendant did then and there enter his plea of guilty to said indictment.

Therefore, for said offense and on said plea of guilty, it is by the Court ordered and ADJUDGED that the said Paula Hathorn be and he is hereby sentenced to serve a term of 3 years in an institution under the control and supervision of the Department of Corrections, and he is remanded into the custody of the Sheriff to await transportation.

Provided however, it having been made known to the court that the defendant has not been heretofore convicted of a felony, and that the ends of justice and the best interest of the public and defendent will be best served, the court hereby suspends the execution of the above sentence for a period of 3 years and the defendant is hereby placed under the supervision of the State Probation and Parole Board, and the defendant is placed on probation for a period of 3 years or until the court in term time, or the Judge in vacation, shall alter, extend, terminate or direct the enforcement of the above sentence, and the suspension of said sentence is based upon the following conditions:

(a) Defendent shall hereafter commit no offense against the laws of this or any state of the United States, or of the United States;

(b) Avoid injurious or vicious habits;

(c) Avoid persons or places of disreputable or harmful character;

(d) Report to the Department of Corrections, as directed by it;

(e) Permit the Field Supervisor to visit him at home, or elsewhere;

(f) Work faithfully at suitable employment so far as possible;

(g) Remain within a specified area to wit:
Defendant to report daily to Proabtion Office until transferred to restitution center

(h) Remain with the State of Mississippi unless authorized to leave on proper application therefore;

(i) Support his dependents and pay all cost herein;

(j) That I do hereby waive extradition to the State of MISSISSIPPI from any jurisdiction in or outside the United States where I may be found and also agree that I will not contest any effort by any jurisdiction to return me to the State of MISSISSIPPI;

(k) Submit, as provided in Section 1 of House Bill 354, 1983 Regular Session, to any type of breath, saliva or urine chemical analysis test;

(l) Pay ~~$15.00~~ $2400 per month supervision fee to the Department of Corrections as provided by statute;

(m) And, further, that he does not use beer or alcohol to excess at any time and will not use any type of illegal drugs at any time.

(n) Defendant ordered to attend the Restitution Center in Pascagoula, MS and successfully complete the program and *

So ordered, and adjudged, in open court this the 24th day of July, 1991.

*make full & complete restitution on all outstanding checks, an itemized list of those checks will be furnished to the Clerk of this Court by 8/2/91.

L. Howard
Circuit Judge

(o) Defendant to pay a $500.00 fine and costs, which shall be paid first out of monies received from the restitution center.

I hereby accept the above probation.

Probationer

FILED
OKTIBBEHA COUNTY
JUL 24 1991

A certified copy of this order has been delivered to Probationer, who has been instructed regarding same.

JULY 30, 1991

CLAY COUNTY JUSTICE COURT
P.O. BOX 674
WEST POINT MS. 39773

IN RE: PAULA HAWTHORNE, BAD CHECK FINE AND RESTITION $211.11

HARRIETT BRAGG JCC

#12-183

This amt. is included in Victims Impact Statement -

FILED
OKTIBBEHA COUNTY
AUG 2 1991
Miriam M. Cook
Circuit Clerk

State of Mississippi

FORREST ALLGOOD
DISTRICT ATTORNEY
TELEPHONE 601/329-5912

SIXTEENTH CIRCUIT COURT DISTRICT
Clay, Lowndes
Oktibbeha and Noxubee Counties

Office of the District Attorney

Worthless Check Unit
Lowndes County Courthouse Annex
P.O. Drawer 1463
Columbus, Ms 39703

July 26, 1991

A LISTING OF WHAT PAULA HATHORN OWES THE DISTRICT ATTORNEY'S WORTHLESS CHECK UNIT:

NAME BRAND SHOES	$116.26
NATIONAL BANK OF COMMERCE	440.00
NATIONAL BANK OF COMMERCE	300.00
KROGER #325	140.92
WAL-MART #495	67.80
FACTORY CONNECTION	95.55
	$1,160.53

MISSISSIPPI LICENSE NO. 8504969 86 002

1737

APPEARANCE BOND

Court. Circuit Bond $ 3000.00

FILED
OKTIBBEHA COUNTY
DEC 21 1990
Circuit Clerk

THE STATE OF MISSISSIPPI

Oktibbeha County.

We, Paula Hawthorne, principal, and Robert Earl Smith, PROFESSIONAL BONDSMAN surety, agree to pay the State of Mississippi.

$3000.00 Dollars, unless the said Paula Hawthorne shall appear before the Circuit Court on the 14 day of January 19 90 at 9:00 o'clock am in, and from day to day and term to term until discharged by law to answer a charge of 2 counts of False Pretense

Robert Earl Smith

(Signed) Paula B. Hawthorne Principal

By Gary L. Marshall DCPT Dispatch Supv

By Jerry A. Edmond

APPROVED:

This 01 day of Dec 19 90

2645

8-5

695

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

January TERM, 1991

STATE OF MISSISSIPPI

VERSUS NO: 12-183

Paula Haltom

JUDGMENT NISI

This cause came on this day for arraignment and the Defendant Paula Haltom, being called, came not, judgment is therefore given against ~~him~~ her and Robert Earl Smith, professional bondsman ~~and~~ by Gary Marshall, agent, Sureties on his appearance bond for ~~$3,000.00~~ $3,000.00/xx

Dollars to be made final unless they show cause against it according to law; and the same day Scire Facias to Paula Haltom, Principal and Robert Earl Smith, professional bondsman ~~and~~ by Gary Marshall, agent, Sureties, and returnable on the 15th day of April, 1991. And the Clerk shall issue Alias Capias for the Defendant Instanta, and upon arrest bail is fixed at $ ~~6,000.00~~ 6,000.00/xx Dollars.

SO ORDERED AND ADJUDGED, this the 5th day of Feb., 1991.

FILED
OKTIBBEHA COUNTY
FEB 05 1991
Miriam M Cook
Circuit Clerk

CIRCUIT JUDGE

MB 65
Page 695

THE STATE OF MISSISSIPPI

Oktibbeha County.

12-183

TO THE SHERIFF OF SAID COUNTY — GREETING

We Command You, to take the body of Paula Hathorn

if to be found in your County, and him safely keep, so that you have his body before the Honorable, the Circuit Court of Oktibbeha County, in said State, to be holden at the Court House thereof in the City of Starkville, INSTANTA and then and there to answer unto the State of Mississippi of a charge of False Pretense

by indictment in said Court, at the January Term A. D. 19 91, thereof.

Herein fail not, and have there this writ, with the manner you have executed the same.

Given Under My Hand and Seal, and issued the 5th day of February 19____.

Miriam M. Cook

Miriam M. Cook, Circuit Clerk

copy

Angie L. McGinnis D. C.

12-183

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:

Whereas, PAULA HATHORN principal, and ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties, by their BOND entered into before WILLIAM D. ESHEE, JR. MUNICIPAL JUDGE on the 1ST day of DECEMBER A.D. 1990, agreed to pay the State of Mississippi THREE THOUSAND AND NO/100 ($3,000.00)---------- Dollars, unless the said PAULA HATHORN Principal, should appear at the JANUARY Term, A. D. 1991, of the Circuit Court of OKTIBBEHA COUNTY County, STARKVILLE, MS and therein remain from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE

and, whereas, on the 5TH day of FEBRUARY, A. D. 1991, at the JANUARY Term, A. D. 1991, of said Court, the said PAULA HATHORN having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL, ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties as aforesaid, having been duly called to come in to Court and bring with them the bodY of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT PAULA HATHORN, PRINCIPAL, ROBERT EARL SMITH,/ the sum of THREE THOUSAND AND NO/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable APRIL 15, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL; ROBERT EARL SMITH, PROFESSIONAL BONDMAN AND GARY L. MARSHALL, AGENT that unless, on the 15TH day of APRIL A. D. 1991, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 5TH day of FEBRUARY, A. D. 1991

Miriam M Cook

Circuit Clerk, OKTIBBEHA County, Mississippi

By Angie L McGinnis, D. C.

copy

2648

STATE OF MISSISSIPPI

VERSUS

Paula Hathorne DEFENDANT

SHERIFF'S ORDER SETTING BAIL BOND
(TEMPORARY BAIL BOND)

THE BAIL BOND ON THE DEFENDANT Paula Hathorne CHARGED WITH 2 Counts False Pretence WILL BE SET AT $3,000.00 AND THE BAIL BOND WILL BE RETURNABLE TO THE NEXT TERM OF THE Circuit COURT, IN THE CONDITION AND FORM REQUIRED BY LAW.

SO ORDERED THIS 14 DAY OF Jan. 19 91.

FILED
DKTIBBEHA COUNTY
DEC 11 1990
Miriam M. Cook
Circuit Clerk

Jerry H. Eden
~~SHERIFF~~/ SUPERVISOR

~~add bail~~ DJ #'s 72, 73

2649

MISSISSIPPI LICENSE NO. 8504969 86 002

1737

APPEARANCE BOND

Court. Circuit Bond $ 3000.00

FILED
OKTIBBEHA COUNTY
DEC 11 1990
CIRCUIT CLERK

THE STATE OF MISSISSIPPI

Oktibbeha County.

We, Paula Hawthorne, principal, and

Robert Earl Smith, PROFESSIONAL BONDSMAN surety, agree to pay the State of Mississippi.

$3000.00 Dollars, unless the said

Paula Hawthorne shall appear before the

Circuit Court on the 14 day of January

19 90 at 9:00 o'clock 9am - in, and from day to day and term to term until

discharged by law to answer a charge of 2 Counts of False Pretense

Robert Earl Smith

(Signed) Paula B. Hathorn Principal

By Gary L. Marshall

DCPH Deputy Sheriff

By Jerry H. Edmond

APPROVED:

This 01 day of Dec. 19 90

2650

12-18-90 Paid $75.00 Cash

12-183

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:

Whereas, PAULA HATHORN principal , and ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties, by their BOND entered into before WILLIAM D. ESHEE, JR. MUNICIPAL JUDGE on the 1ST day of DECEMBER A.D. 1990, agreed to pay the State of Mississippi THREE THOUSAND AND NO/100 ($3,000.00)---------- Dollars, unless the said PAULA HATHORN Principal , should appear at the JANUARY Term, A. D. 1991, of the Circuit Court of OKTIBBEHA COUNTY County, STARKVILLE, MS and therein remain from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE and, whereas, on the 5TH day of FEBRUARY, A. D. 1991, at the JANUARY Term, A. D. 1991, of said Court, the said PAULA HATHORN having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL, ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties as aforesaid, having been duly called to come in to Court and bring with them the bod Y of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said PAULA HATHORN, PRINCIPAL, ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT the sum of THREE THOUSAND AND NO/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable APRIL 15, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL; ROBERT EARL SMITH, PROFESSIONAL BONDMAN AND GARY L. MARSHALL, AGENT that unless, on the 15TH day of APRIL A. D. 1991, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 5TH day of FEBRUARY, A. D. 1991.

FILED
OKTIBBEHA COUNTY
FEB 12 1991
Circuit Clerk

Miriam M Cook
Circuit Clerk, OKTIBBEHA County, Mississippi

By Angie L McGinnis, D. C.

11/26-28

2651

THE STATE OF MISSISSIPPI

12-183

Oktibbeha County.

TO THE SHERIFF OF SAID COUNTY — GREETING

We Command You, to take the body of Paula Hathorn

if to be found in your County, and him safely keep, so that you have his body before the Honorable, the Circuit Court of Oktibbeha County, in said State, to be holden at the Court House thereof in the City of Starkville, INSTANTA and then and there to answer unto the State of Mississippi of a charge of

False Pretense

by indictment in said Court, at the January Term A. D. 19 91, thereof.

Herein fail not, and have there this writ, with the manner you have executed the same.

Given Under My Hand and Seal, and issued the 5th day of February 19____.

FEB 14 1991

Miriam M. Cook

Miriam M. Cook, Circuit Clerk

Angie L. McGinnis D. C.

-21
-31-32

FEE B[illegible] L, CRIMINAL CASES, CIRC[illegible] T COURT

STATE OF MISSISSIPPI
OKTIBBEHA COUNTY

STATE OF MISSISSIPPI
VS.
Paula Hathorn

№ 1397

CASE NO. 12-183
12-184

HEDERMAN BROTHERS—JACKSON

Jury Tax	$ 3.00
Court Reporter's Fee	10.00
County Attorney	3.00
Law Library	2.50
State Court Education Fund	2.00
Clerk's Fee	25.00
Sub-Total	45.50
Sheriff's Fee	
Law Enforcement Officers and Training	
Federal State Alcohol Program	
Mississippi Alcohol Safety Education Program	
Emergency Medical Services	
Correctional Facility Construction	
Driver Education and Training	
Hunter's Safety Education Program	
Fees of other Sheriff's	
Other 20% Bond Fee (Due to county if guilty; refund if not guilty)	240.00
Other	
Other	
Fine	
TOTAL	
Partial Payment	

How Paid: ☐ Cash ☑ Check ☐ Money Order

Payment received from Dolph Bryan

this the 18th day of Feb. A.D., 19 91 Dollars $ 240.00

By Angie L McGinnis D.C. Miriam M. Cook Circuit Clerk

2653

2654

MISSISSIPPI LICENSE NO. 8001738

APPEARANCE BOND Circuit **Court** **Bond No.** Nc 4842

THE STATE OF MISSISSIPPI

Okd. County.

We, Paula Hathorn, principal, and

KENNETH L. MONTGOMERY D/B/A NATIONAL BAIL BONDS surety, agree to pay the State of Mississippi Six Thousand Dollars & no/100 ($6,000.00) Dollars, unless the said Paula Hathorn shall appear before the Circuit Court on the 15 day of April 19 91 at 9:00 o'clock A m., and from day to day and term to term until discharged by law to answer a charge of False Pretense

NATIONAL BAIL BONDS

by L. Sanders

APPROVED:

This 12 day of Feb. 19 91

(Signed) Paula A. Hathorn Principal

X [illegible] Crosby

Dolph Bryan Shoop

By Jessi Rolen Dy

FILED
OKTIBBEHA COUNTY
FEB 13 1991
Circuit Clerk

2654

RE STATE OF MISSISSIPPI

IS THIS A NEW ASSESSMENT OF DAMAGES? _____

VERSUS # 12-183
Paula Hudson

I. **VICTIM'S IMPACT STATEMENT**

VICTIM'S NAME: Wal-Mart DATE OF BIRTH: _____

ADDRESS: 782 Hwy 82 West, Starkville MS 39759

PLACE OF EMPLOYMENT: _____ HOURS OF EMPLOYMENT: _____

HOME PHONE NUMBER: _____ WORK PHONE NUMBER: 323-0488

II. PROPERTY DAMAGE OR LOSS

LOSS SUSTAINED: (list dollar amount here) $120.92

DESCRIPTION OF LOSS OR DAMAGE: wrote check for $120.92 to Wal-Mart knowing that the account was closed

ESTIMATE TO REPAIR OR REPLACE: (dollar amount) $120.92

Amount of Deductible: $ _____

INSURANCE COVERAGE? _____ WHAT COMPANY: _____

III. OWNERSHIP OF PROPERTY

WHO ACTUALLY HOLDS TITLE TO THE PROPERTY, AND IF YOU LEASE, WHO IS RESPONSIBLE FOR REPAIRS OF DAMAGES: _____

IV. PERSONAL INJURY

DESCRIPTION OF INJURY: _____

LIST ANY MEDICAL BILLS AND SHOW TO WHOM OWED: _____

NAME OF TREATING PHYSICIAN: _____

NAME OF HOSPITAL, IF REQUIRED: _____

DO YOU HAVE MEDICAL INSURANCE: _____ AMOUNT OF DEDUCTABLE: $ _____

TOTAL AMOUNT OF OUT OF POCKET EXPENSES: $ _____

*PLEASE ATTACH COPIES OF ALL MEDICAL BILLS (INCLUDING AMBULANCE BILLS)

DO YOU ANTICIPATE ANY FUTURE BILLS? _____

V. AS THE VICTIM OF A CRIME, YOU ARE ENTITLED TO TELL THE COURT OF THE EMOTIONAL AND PHYSICAL IMPACT OF THE CRIME UPON YOU AND YOUR FAMILY. YOU MAY ALSO HAVE ADDITIONAL FINANCIAL IMPACT THAT YOU WISH TO TELL THE COURT ABOUT. PLEASE WRITE IN THE SPACE BELOW AND ON A SEPARATE SHEET OF PAPER, IF NEEDED, YOUR FEELINGS ABOUT THE CRIME's IMPACT. PLEASE ALSO INDICATE YOUR FEELINGS REGARDING A PROPER SENTENCE IN THIS CASE.

FILED
OKTIBBEHA COUNTY
MAR 06 1991
Miriam M Cook
Circuit Clerk

Teresa Nixon 3-6-91
SIGNATURE

1-34

49

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

April TERM, 1991

STATE OF MISSISSIPPI

VERSUS

NO: 12-183

Paula Hathorn

JUDGMENT NISI

This cause came on this day for ~~trial~~ arraignment and the Defendant Paula Hathorn, being called, came not, judgment is therefore given against him and Kenneth L. Montgomery d.b.a. National Bail Bonds ~~and~~ by L. Sanders, Sureties on his appearance bond for $4000.00 Dollars to be made final unless they show cause against it according to law; and the same day Scire Facias to Paula Hathorn, Principal and Kenneth L. Montgomery d.b.a. National Bail Bonds ~~and~~ by L. Sanders, Sureties, and returnable on the 22nd day of July, 1991. And the Clerk shall issue Alias Capias for the Defendant Instanta, and upon arrest bail is fixed at $20,000.00 Dollars.

SO ORDERED AND ADJUDGED, this the 15th day of April, 1991.

FILED
OKTIBBEHA COUNTY
APR 15 1991
Miriam M. Cook
Circuit Clerk

CIRCUIT JUDGE

MB 66
Page 499

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:
NO: 12-183

Whereas, PAULA HATHORN principal , and ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties, by their BOND entered into before WILLIAM D. ESHEE, JR., MUNICIPAL JUDGE on the 1ST day of DECEMBER A.D. 1990, agreed to pay the State of Mississippi THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, unless the said PAULA HATHORN Principal , should appear at the APRIL Term, A. D. 1991, of the Circuit Court of OKTIBBEHA County, STARKVILLE, MISSISSIPPI and therein remain from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE

and, whereas, on the 15TH day of APRIL, A. D. 1991, at the APRIL Term, A. D. 1991, of said Court, the said PAULA HATHORN having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL, AND ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties as aforesaid, having been duly called to come in to Court and bring with them the bod Y of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said PAULA HATHORN, PRINCIPAL; ROBERT EARL SMITH, / PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT the sum of THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable JULY 22, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL, AND ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT that unless, on the 22ND day of JULY A. D. 1991, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 16TH day of APRIL, A. D. 1991.

Circuit Clerk, OKTIBBEHA
County, Mississippi

By _____, D. C.

2657

STATE OF MISSISSIPPI

COUNTY OF OKTIBBEHA

12-183
12-184

AFFIDAVIT AND MOTION

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID COUNTY AND STATE, Paula Hathorn WHO BEING BY ME FIRST DULY AND LEGALLY SWORN ON HIS/HER OATH, STATED THAT HE/SHE HAS BEEN ARRESTED AND CHARGED ON THE CHARGE OF False Pretense AND THAT BECAUSE OF HIS/HER POVERTY HE/SHE IS NOT FINANCIALLY ABLE TO EMPLOY COUNSEL OF HIS/HER CHOICE.

SAID Paula Hathorn THEREFORE REQUESTS THAT THE COURT SELECT AND APPOINT COUNSEL TO REPRESENT HIM/HER.

Paula Hathorn
DEFENDANT

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 16 DAY OF April, 19 91.

William A. Gayle
JUSTICE COURT JUDGE

(SEAL)

MY COMMISSION EXPIRES:
1/11/1992

FILED
OKTIBBEHA COUNTY
APR 17 1991
Miriam M. Cook
Circuit Clerk

STATE OF MISSISS

COUNTY OF OKTIBBEHA

STATEMENT OF INDIGENCY

I, Paula Hathorn, DO MAKE THIS STATEMENT OF INDIGENCY UNDER OATH.

ALL ASSETS AVAILABLE TO ME FOR THE PAYMENT OF AN ATTORNEY'S FEE ARE AS FOLLOWS:

REAL PROPERTY: Ca. 98 Chevette.

PERSONAL PROPERTY: Diamonds - $1000

MY EMPLOYMENT STATUS AND SALARY IS AS FOLLOWS: N/A.

I HAVE 1 NUMBER OF DEPENDENTS.

I HAVE THE FOLLOWING SOURCES OF INCOME, IN ADDITION TO MY EMPLOYMENT LISTED ABOVE: N/A.

MY PARENTS AND/OR SPOUSE HAVE THE FOLLOWING ABILITY TO PROVIDE AN ATTORNEY'S FEE: N/A.

I HAVE THE FOLLOWING FURTHER INFORMATION WHICH MIGHT BE HELPFUL TO THE COURT IN DETERMINING MY STATUS AS AN INDIGENT: N/A

Paula Hathorn

AFFIANT

FILED
OKTIBBEHA COUNTY
APR 17 1991
Circuit Clerk

STATE OF MISSISSI

COUNTY OF OKTIBBEHA

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID COUNTY AND STATE, THE WITHIN NAMED Paula Hathorn, WHO BEING BY ME FIRST DULY AND LEGALLY SWORN STATED ON OATH THAT THE MATTERS AND FACTS SET FORTH IN THE FOREGOING STATEMENT OF INDIGENCY ARE TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

Paula Hathorn
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 16 DAY OF April, 1991.

William A. Boyd
JUSTICE COURT JUDGE

SEAL

FILED
OKTIBBEHA COUNTY
APR 17 1991
Susan M. Cook
Circuit Clerk

MY COMMISSION EXPIRES: 1/11/1992

WITNESS: Walter Abel

540

3-12

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS NO. 12-183

Paula Hathorn

Order Appointing Counsel For Defendant

The defendant, Paula Hathorn, having been arrested and imprisoned on a charge of False Pretense, and it appearing that he is without legal counsel to represent and defend him and he is financially unable to employ counsel of his own choice, and it further appearing that he has requested that counsel be appointed by the court; the court therefore appoints Honorable Mark Williamson, to represent and defend said defendant.

IT IS THEREFORE, ordered and adjudged that Honorable Mark Williamson be and hereby is selected and oppointed to defend said defendant on said charge.

So ordered this the 17th day of April, 1991.

CIRCUIT JUDGE

FILED
OKTIBBEHA COUNTY
APR 18 1991
Circuit Clerk

VAUGHAN PRINTING COMPANY

MB 66
Page 540

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

April TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO. 12-83

Paula Hathorn

WAIVER OF ARRAIGNMENT AND ENTRY OF PLEA

COMES NOW THE DEFENDENT, Paula Hathorn, IN OPEN COURT AND ACKNOWLEDGES SERVICE OF A COPY OF THE INDICTMENT ON A CHARGE OF False Pretense, AND FOR PLEA TO SAID CHARGE SAID DEFENDANT SAYS THAT (HE, SHE) OFFERS A PLEA OF NOT GUILTY.

WITNESS MY SIGNATURE THIS THE 17th DAY OF April, 19 91.

Paula Hathorn
DEFENDANT

Mark H. Williamson
ATTORNEY FOR DEFENDANT

BOND RECOMMENDATION: $ 20,000.00

FILED
OKTIBBEHA COUNTY
APR 18 1991
Miriam M Clark
Circuit Clerk

SUBMITTED BY:

Guice

OFFICER

4 91

DATE

PRE/POST SENTENCE INVESTIGATION

OF

Paula Hathorn

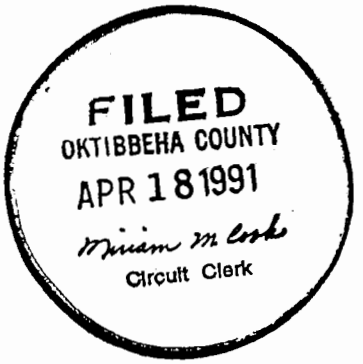
NAME

12-183

CAUSE #

Oktibbeha

COUNTY



DISPOSITION OF COURT: _____

RESTITUTION AMOUNT: _____ COURT COSTS AND FINES AMOUNT: _____

SENTENCING DATE: _____ COUNTY OF SENTENCE: Oktibbeha

Name: Paula Hatton

PRE/POST SENTENCE INVESTIGATION

SUMMARY SHEET

PERSONAL DATA

NAME: Paula Hatton ALIAS: _____

ADDRESS: _____

RACE: B SEX: F HEIGHT: _____ WEIGHT: _____

HAIR: BLK EYES: BRN DATE OF BIRTH: _____ AGE: ___

SCARS/MARKS/TATOOS: _____

SOCIAL SECURITY NUMBER: _____ D.L. NUMBER: _____

MARITAL STATUS: _____ DEPENDENTS: _____ EDUCATION: _____

HISTORY OF ALCOHOL/DRUG ABUSE? _____

CURRENT OFFENSE DATA

OFFENSE: 12-183 False Pretense 12-184 - False Pretense

DOCKET NUMBERS: 12-183 ; 12-184 PLEA & DATE: _____

MINIMUM PENALTY: _____ MAXIMUM PENALTY: _____

CODEFENDANTS AND DISPOSITION: _____

SENTENCING JUDGE: John M. Montgomery

DISTRICT ATTORNEY: Forrest Allgood DEFENSE ATTORNEY: Mark W. Hamson

DISTRICT ATTORNEY'S RECOMMENDATION: _____

PRIOR CRIMINAL HISTORY

FBI NUMBER: 0 NUMBER PRIOR FELONY CONVICTIONS: 0

NUMBER TIMES ON PROBATION: 0 NUMBER TIMES ON PAROLE: 0

NUMBER TIMES PROBATION OR PAROLE REVOKED: 0

NUMBER TIMES INCARCERATED FOR FELONY CONVICTIONS: 0

DETAINERS OR CHARGES PENDING: 0

2664

Name:_____

DETAILS OF CRIME

OFFICIAL VERSION

PAULA HATHORN

late of the County aforesaid, on or about the 21st day of November, 1989, in the County aforesaid unlawfully, wilfully & feloniously did, then and there devising and intended by unlawful means to cheat, wrong and defraud Wal-Mart Stores, Inc., of the sum of $120.92, or of property the equivalent thereof in value, and the said PAULA HATHORN then and there having no account in Unifirst Bank For Savings, Inc., a banking corporation, with which a check drawn by the said PAULA HATHORN on said Bank for the sum of $120.92, may be paid, she, the said PAULA HATHORN did then and there wilfully, unlawfully, feloniously and fraudulently issue, sign and deliver unto Wal-Mart Stores, Inc. for value, a certain check on the said Bank, well knowing at the time of issuing, signing and delivering said check, that she did not have an account in said Bank with which to pay said check and which said check consisted of the following words and figures, to-wit:

SEE COPY OF CHECK ATTACHED

and the said check was afterwards endorsed by the said payee named in said check and was by her or her assignees, presented to the said Bank for payment and the said check was not paid by the said Bank upon presentation for the reason that the said PAULA HATHORN did not have an account in said Bank with which to pay said check in full upon presentation, and by means and color of making, issuing and delivering the said check to the said payee named herein, she, the said PAULA HATHORN did then and there unlawfully, feloniously and fraudulently obtain and receive of and from the said payee named in the said check, the following thing of value to-wit:

merchandise;

all of which was at the time of said making an issuing of said check then and there sold and delivered by the said payee named in said check, to the said PAULA HATHORN and said check was then and there given for the purchase of the same, contrary to the statute in such case made and provided and against the Peace and Dignity of the State of Mississippi.

Name: Paula Hathorn

DEFENDANT'S VERSION:

No Statement.

Name: Paula Hathorn

VICTIM/RESTITUTION INFORMATION (to include name, address, and telephone)

Wal Mart Inc
Starkville MS 39759
323-0488

$120.92

PRIOR CRIMINAL RECORD

SOURCES CHECKED: Oktibbeha S.O.
Columbus P.D.
Louisville P.D.

FELONIES

OFFENSE	JURISDICTION	DISPOSITION	DATE

MISDEMEANORS

OFFENSE	JURISDICTION	DISPOSITION	DATE
Contempt Of Court	Starkville Mune Court	Raised Bond	1985-90

2667

Name: Paula Hathorn

JUVENILE

OFFENSE	JURISDICTION	DISPOSITION	DATE
None			

JAIL BEHAVIOR/PROBLEMS ENCOUNTERED DURING INCARCERATION FOR CURRENT OFFENSE

PERSONAL HISTORY

FAMILY

Mother - Ella M. Prince
Father - Leroy Prince

EMPLOYMENT

T.R.W. - Factory Work - 12 Months
Subject Has About 4 Years In Past Factory Type Employment.

2668

Name: Paula Hathorn

EDUCATION

- Subject went to the 11th grade in Louisville, Ms. Has her G.E.D.

PHYSICAL/MENTAL HANDICAPS

ALCOHOL/DRUG ABUSE HISTORY

None - Subject claims no alcohol or drug abuse.

MILITARY RECORD

None

FINANCIAL SITUATION

Subject owns no real property & has no money in the bank.

Name: Paula Hathorn

OFFICER'S COMMENTS

PRE-SENTENCE AFFIDAVIT OF PRIOR OFFENSES

STATE OF MISSISSIPPI
COUNTY OF OKTIBBEHA

Personally appeared before me, the undersigned authority in and for said county and state, Paula Horton who by me having been first duly sworn on oath deposes and states as follows:

I am now charged with a felony. I realize that this affidavit is a part of the investigation prior to sentencing.

I have never been convicted of any felony except:

NONE

I have never been convicted of any misdemeaner except as follows:

Contempt Of Court

FILED
OKTIBBEHA COUNTY
APR 18 1991
Miriam M Cook
Circuit Clerk

Signed: Paula Horton

Sworn to and subscribed before me this the 18th of April, 19 91.

Miriam M. Cook

Circuit Clerk

Witness:
Barbara Mayes

2671

4-4

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

April TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO. 12-183

Paula Hathorn

ORDER

COMES THE DISTRICT ATTORNEY WHO PROSECUTES THE PLEAS FOR THE STATE OF MISSISSIPPI, AND COMES ALSO THE DEFENDANT, Paula Hathorn, IN THE PRESENCE OF ~~HIS~~ HER ATTORNEY, Mark Williamson, WHO WAS BROUGHT BEFORE THIS COURT AND WHO WAIVED FORMAL READING OF THE INDICTMENT PREFERRED AGAINST ~~HIM~~ HER OF False Pretense, AND FOR PLEA TO SAID CHARGE SAID DEFENDANT SAYS THAT ~~HE~~/SHE (IS) (IS NOT) GUILTY.

IT IS ORDERED BY THE COURT THAT SAID DEFENDANT, Paula Hathorn, REMAIN IN THE CUSTODY OF THE SHERIFF UNLESS RELEASED ON BOND IN THE SUM OF $10,000.00, CONDITIONED ACCORDING TO LAW, TO BE APPROVED BY THE SHERIFF OF THIS COUNTY, PROVIDING FOR HIS APPEARANCE HEREIN.

IF DISCOVERY IS REQUESTED BY THE DEFENDANT, THE REQUEST SHALL BE MADE ON OR BEFORE April 25 1991. ALL DISCOVERY SHALL BE COMPLETED PURSUANT TO RULE 4.06 OF THE UNIFORM CRIMINAL RULES 30 DAYS FROM THE DATE OF THIS ORDER.

ALL PRELIMINARY MOTIONS SHALL BE BROUGHT FORWARD BY THE MOVING ATTORNEY ON July 1, 1991. FAILURE TO BRING MOTIONS AS DIRECTED BY THIS ORDER SHALL BE CONSIDERED AN ABANDONMENT OF SUCH MOTION PURSUANT TO RULE 2.06 OF THE MS RULES OF COURT.

IF PLEA NEGOTIATIONS ARE ENTERED INTO, ANY FINAL AGREEMENT MUST BE REDUCED TO WRITING AND SIGNED BY THE STATE AND THE DEFENSE ATTORNEY FIVE DAYS PRIOR TO THE NEXT TERM OF COURT; OTHERWISE, ALL PLEAS WILL BE OPEN PLEAS. THIS CASE IS SET FOR A PLEA ON July 22, 1991 AT SUCH TIME AND PLACE AS DETERMINED BY THE COURT. FAILURE OF THE DEFENDANT TO ENTER HIS NEGOTIATED PLEA ON THE DATE SET FORTH ABOVE WITHOUT PERMISSION OF THE COURT WILL CANCEL ANY PLEA AGREEMENT ENTERED INTO, AND ANY PLEA AFTER SAID PLEA DAY WILL BE CONSIDERED AN OPEN PLEA.

IT IS FURTHER ORDERED THAT THIS CAUSE BE AND THE SAME IS HEREBY CONTINUED FOR THE TERM AT THE REQUEST OF Defendant AND IS SET FOR TRIAL ON July 25, 1991.

SO ORDERED, THIS THE 18th DAY OF April, 1991.

John Montgomery
CIRCUIT JUDGE

AGREED: James K. Allgood DISTRICT ATTORNEY

Mark H. Williamson DEFENDANT'S ATTORNEY

FILED
OKTIBBEHA COUNTY
APR 18 1991
Miriam M. Cook
Circuit Clerk
2672

MB 66
Page 547

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI — PLAINTIFF

VERSUS — CRIMINAL ACTION FILE NUMBER: 12-183

PAULA HATHORN — DEFENDANT

MOTION FOR DISCOVERY

COMES NOW, the Defendant in the above entitled cause and moves the Court to require the State to produce, at a time sufficiently prior to trial to facilitate preparation of this matter for trial.

1. Copies of any statements allegedly made by the Defendant whether oral, written, taped, recorded or in whatever form that the prosecution either intends to introduce into evidence or rely upon at trial of the cause.

2. Copy of criminal record of the Defendant, if proposed to be used to impeach.

3. That a complete list of all persons interviewed in the entire investigation, the name of the person or persons conducting such interview together with a copy of the interview or correct account of same.

4. Meaningful address as to all persons interviewed by the authorities in this case so that the Defendant might have the opportunity to determine what exculpatory beneficial evidence each witness might have.

5. Names and addresses of all State's witnesses whether the State intends to call these witnesses at trial or not.

6. Copies of any statements made by any and all State's witnesses, whether oral, written, taped or in whatever form, whether the State intends to call these witnesses a trial or not.

7. Complete and detailed list of criminal records for all State's witnesses whether the State intends to call these witnesses at trial or not including any and all charges which may now be pending against them which they have not yet been officially disposed of by plea, trial or otherwise.

8. Any and all written reports, documents or physical evidence that is in the possession of the State or the prosecution relative to this case or the investigation thereof.

9. Any photographs or other documents which the prosecution intends to offer into evidence.

10. Results of all reports of any scientific tests or experiments or studies made in connection with the above styled case and all copies of such reports.

11. A list and complete description of all physical evidence in possession of the State as a result of its complete investigation; and movant and his counsel should be permitted to physically inspect any and all of such evidence.

12. A list of all items of physical evidence submitted to any laboratory for any type of tests, together with all of the findings and conclusions of said laboratory.

13. There may be other items and matters of evidence, information and data in existance that are not enumerated aforesaid of which movant is unaware due to the secrecy surrounding the investigation, but in any event, movant now requests and demands that he be furnished with any and all evidence and information, whether specifically delineated or listed herein or not, that may be materially favorable to movant in either a directory or impeaching manner irrelevant to punishment which falls within the context of Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d. 215 (1968). See also United States v. Gigelio, 405 U.S. 150; Moore v. Illinois, 408 U.S. 786.

Respectfully submitted, this, the 18th day of April, 1991.

Mark G. Williamson - Attorney for Defendant

WARD AND WILLIAMSON
Mark G. Williamson
Post Office Drawer 1216
Starkville, MS 39759
(601) 323-1187

Certificate of Service

I, Mark G. Williamson, do hereby certify that I have this date mailed postage prepaid, a true and correct copy of the foregoing Motion to Hon. Forrset Allgoood, Post Office Box 1044, Columbus, Mississippi 39703.

Witness my signature, this, the 18th day of April, 1991.

Mark G. Williamson

FILED
OKTIBBEHA COUNTY
APR 19 1991
Circuit Clerk

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:
NO: 12-183

Whereas, PAULA HATHORN principal , and ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT

sureties, by their BOND entered into before WILLIAM D. ESHEE, JR., MUNICIPAL JUDGE

on the 1ST day of DECEMBER A.D. 1990, agreed to pay the State of Mississippi THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, unless the said PAULA HATHORN

Principal , should appear at the APRIL Term, A. D. 1991, of the Circuit Court of OKTIBBEHA County, STARKVILLE, MISSISSIPPI and therein remain from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE

and, whereas, on the 15TH day of APRIL, A. D. 1991, at the APRIL Term, A. D. 1991, of said Court, the said PAULA HATHORN having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL, AND ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties as aforesaid, having been duly called to come in to Court and bring with them the bod Y of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said PAULA HATHORN, PRINCIPAL; ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT the sum of THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable JULY 22, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL, AND ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT that unless, on the 22ND day of JULY A. D. 1991, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 16TH day of APRIL, A. D. 1991.

FILED
OKTIBBEHA COUNTY
APR 19 1991
Miriam M. Cook
Circuit Clerk

Miriam M. Cook

Circuit Clerk, OKTIBBEHA County, Mississippi

By _____, D. C.

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:
NO: 12-183

Whereas, PAULA HATHORN principal , and ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT

sureties, by their BOND entered into before WILLIAM D. ESHEE, JR., MUNICIPAL JUDGE

on the 1ST day of DECEMBER A.D. 1990, agreed to pay the State of Mississippi THREE THOUSAND AND 00/100. ($3,000.00)---------- Dollars, unless the said PAULA HATHORN

Principal , should appear at the APRIL Term, A. D. 1991, of the Circuit Court of OKTIBBEHA County, STARKVILLE, MISSISSIPPI and therein remain from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE

and, whereas, on the 15TH day of APRIL, A. D. 1991, at the APRIL Term, A. D. 1991, of said Court, the said PAULA HATHORN having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL, AND ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT sureties as aforesaid, having been duly called to come in to Court and bring with them the bod Y of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT PAULA HATHORN, PRINCIPAL; ROBERT EARL SMITH,/ the sum of THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable JULY 22, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL, AND ROBERT EARL SMITH, PROFESSIONAL BONDSMAN AND GARY L. MARSHALL, AGENT that unless, on the 22ND day of JULY A. D. 1991, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 16TH day of APRIL, A. D. 1991.

FILED
OKTIBBEHA COUNTY
APR 19 1991
Circuit Clerk

Miriam M. Cook

Circuit Clerk, OKTIBBEHA County, Mississippi

By _____, D. C.

THE STATE OF MISSISSIPPI alias Capias #12-183

Oktibbeha County.

TO THE SHERIFF OF SAID COUNTY — GREETING

We Command You, to take the body of Paula Hathorn

_____ if to be found in your County, and him safely keep, so that you have his body before the Honorable, the Circuit Court of Oktibbeha County, in said State, to be holden at the Court House thereof in the City of Starkville, INSTANTA and then and there to answer unto the State of Mississippi of a charge of _____

False Pretense

_____

_____

_____ by indictment in said Court, at the January

Term A. D. 1991, thereof.

Herein fail not, and have there this writ, with the manner you have executed the same.

Given Under My Hand and Seal, and issued the 16th day of April 1991.

FILED
OKTIBBEHA COUNTY
APR 19 1991
Miriam M. Cook
Circuit Clerk

Miriam M. Cook

Miriam M. Cook, Circuit Clerk

_____ D. C.

MISSISSIPPI LICENSE NO. 8001738

APPEARANCE BOND Circuit **Court** **Bond No.** Nº 4842

THE STATE OF MISSISSIPPI

Okd. County.

We, Paula Hathorn, principal, and

KENNETH L. MONTGOMERY D/B/A NATIONAL BAIL BONDS surety, agree to pay the State of Mississippi Six Thousand Dollars & no/100 (6,000.00) Dollars, unless the said Paula Hathorn shall appear before the Circuit Court on the 15 day of April 19 91 at 9:00 o'clock A. m., and from day to day and term to term until discharged by law to answer a charge of False Pretense

NATIONAL BAIL BONDS

by L. Shipes

APPROVED:

This 12 day of Feb. 19 91

(Signed) Paula D. Hathorn Principal

X W. D. Crosby

Dolph Bryan Sheriff

By Jessi Dolan Dep

FILED
OKTIBBEHA COUNTY
FEB 13 1991
Circuit Clerk

2679
12-183 Bond no Good 1 Judgment

DOROTHY LANGFORD
COURT ADMINISTRATOR
SIXTEENTH CIRCUIT COURT DISTRICT
P.O. BOX 1387
COLUMBUS, MISSISSIPPI 39703
(601) 329-5919

LEE J. HOWARD
CIRCUIT JUDGE

JOHN M. "MICKEY" MONTGOMERY
CIRCUIT JUDGE

May 2, 1991

NOTICE:

TO: Mark Williamson, Defendant's Attorney

RE: State of Mississippi
versus # 12-183+12-184, Oktibbeha Circuit Court
Bothern

Please take notice that the above styled and numbered cause has been set for trial at the next regular term of Circuit Court in Oktibbeha County on July 29, 1991.

A complete trial docket will be available from the Circuit Clerk's office prior to the start of the term.

Sincerely,
Dorothy Langford
Dorothy Langford,
Court Administrator

FILED
OKTIBBEHA COUNTY
MAY 03 1991
Miriam M. Cook
Circuit Clerk

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

July TERM, 1991

STATE OF MISSISSIPPI

VERSUS NO: 12-183

Paula Hathorn

PETITION TO ENTER PLEA OF GUILTY

The Defendant, after having been first duly sworn, on his/her oath represents and states unto the Court the following:

1. My full name is: Paula Rennee Hathorn, and I am also known as: "Day", and I request that all proceedings against me be had in my true name. This petition has been read and explained to me by my lawyer and I understand the contents herein.

2. I am represented by a lawyer; his name is Mark H. Williamson.

3. I wish to plead GUILTY to the charge(s) of False Pretense.

4. I told my lawyer all the facts and circumstances known to me about the charges against me. I believe that my lawyer is fully informed on all such matters. My lawyer has counselled and advised me on the nature of each charge; on any and all lesser included charges; and on all possible defenses that I might have in this case.

5. My lawyer has advised me as to the probabilities of my conviction on the charges with which I am charged and thoroughly discussed all aspects of my case with me. My lawyer has made no threats or promises of any type or kind to induce me to enter this plea of guilty, however; and the decision to seek the entry of this plea was my own and mine alone, based on my own reasons and free from any outside coercive influences.

6. I understand that I may plead "Not Guilty" to any offense charged against me. If I choose to plead "Not Guilty" the Constitution guarantees me:

a) the right to a speedy and public trial by jury,
b) the right to see, hear and face in open court all witnesses called to testify against me; and the right to cross-examine those witnesses,
c) the right to use the power and process of the Court to compel the production of any evidence, including the attendahce of any witnesses in my favor,
d) the right to have the assistance of a lawyer at all stages of the proceedings,
e) the presumption of innocence, i.e. the State must prove beyond a reasonable doubt that I am guilty, and,
f) also the right to take the witness stand at my sole option; and, if I do not take the witness stand, I understand, at my option, the jury may be told that this shall not be held against me,
g) I would have a right to appeal any conviction and sentence to the Supreme Court of Mississippi.

Knowing and understanding the Constitutional guaranties set forth in this paragraph, I hereby waive them and renew my desire to enter a plea of Guilty.

7. I also understand that if I plead "Guilty", the Court may impose the same punishment as if I had plead "Not Guilty", stood trial and been convicted.

8. I know that if I plead "Guilty" to this charge (these charges), the possible sentence is 0 (minimum) to 3 years (maximum) years imprisonment and/or a fine of $ #100.00 (minimum) to #1,000.00 (maximum). I know also that the sentence is up to the Court; that the Court is not required to carry out any understanding made by me and my attorney with the District Attorney; and further, that the Court is not required to follow the recommendation of the District Attorney, if any. The District Attorney will take no part other than providing to the Court, Police Reports and other factual information as requested by the Court; and the District Attorney shall make no recommendations to the Courts concerning my sentence except as follows: 3 years, suspended, 3 years probation - Restitution Center, Retire 12-184 to file and retire all other pending charges to file.

9. (a) I have been convicted of no felonies in this or any other state or of the United States, except as follows: N/A

(b) I have been convicted of no misdemeanors in any court of any state except as follows: 1 speeding ticket.

10. I am ____ am not ✓ presently on probation or parole. I understand that by pleading guilty in this case this may cause revocation of my probation or parole, and that this could result in a sentence of N/A years in that case. I further understand that if my parole or probation is revoked, any sentence in that case may be consecutive to or in addition to any sentence in this case.

11. I am 24 years of age. I have gone to school up to and including 10th grade; my physical and mental health is presently satisfactory. At this time I am not under the influence of any drugs or intoxicants (nor was I at the time the crime was committed), except: N/A

12. I declare that no officer or agent of any branch of government (Federal, State or local) has made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence, or probation, or any other form of leniency if I plead "GUILTY" except: N/A

13. I believe that my lawyer has done all that anyone could do to counsel and assist me. I AM SATISFIED WITH THE ADVICE AND HELP HE HAS GIVEN ME: I recognize that if I have been told by my lawyer that I might receive probation or a light sentence,

this is merely his prediction and is not binding on the Court.

14. I plead "GUILTY" and request the Court to accept my plea of "GUILTY" and to have entered my plea of "GUILTY" on the basis of (state involvement in crime) I wrote a bad check to Wal-Mart for $ 120.92.

15. I OFFER MY PLEA OF "GUILTY" FREELY AND VOLUNTARILY AND OF MY OWN ACCORD AND WITH FULL UNDERSTANDING OF ALL THE MATTERS SET FORTH IN THE INDICTMENT AND IN THIS PETITION, AND IN THE CERTIFICATE OF MY LAWYER WHICH FOLLOWS.

16. I further state that I wish to waive the reading of the indictment or information in open Court. I request the Court to enter my plea of "GUILTY" as set forth in Paragraph 14. If not applicable, _____. (check)

17. Habitual Criminal Paragraph. If not applicable, ✓ (check) (Set forth the language of the appropriate Statute including punishment.)

Signed and sworn to be me on this 24th day of July, 19 91, with the full knowledge that every person who shall wilfully and corruptly swear, testify, or affirm falsely to any material matter under any oath, affirmation, or declaration legally administered in any matter, cause, or proceeding pending in any court of law or equity shall upon conviction be punished by imprisonment in the penitentiary not exceeding Ten (10) years.

Paula R. Harmon
DEFENDANT

WITNESS:

Mary H. Williamson
DEFENDANT'S ATTORNEY

FILED
OKTIBBEHA COUNTY
JUL 24 1991
Miriam M. Cook
Circuit Clerk

STATE OF MISSISSIPPI

COUNTY OF OKTIBBEHA

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 24th DAY OF July, 19 91.

FILED
OKTIBBEHA COUNTY
JUL 24 1991
Miriam M. Cook
Circuit Clerk

Miriam M. Cook
Miriam M. Cook, Circuit Clerk

by: Barbara S Mayes
Deputy Clerk

CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counsellor for the above Defendant hereby certifies:

1. I have read and fully explained to the Defendant the allegations contained in the indictment in this case.

2. To the best of my knowledge and belief the statements, representations and declarations made by the Defendant in the foregoing petition are in all respects accurate and true.

3. I have explained the maximum and minimum penalties for each count to the Defendant, and consider him/her competent to understand the charges against him/her and the effect of his/her petition to enter a plea of guilty.

4. The plea of "GUILTY" offered by the Defendant in this Petition accords with my understanding of the facts he/she related to me and is consistent with my advice to the Defendant.

5. In my opinion the plea of "GUILTY" as offered by the Defendant in this Petition is voluntarily and understandingly made. I recommend that the Court accept the plea of "GUILTY".

6. Having discussed this matter carefully with the Defendant, I am satisfied, and I hereby certify, in my opinion, that he/she is mentally and physically competent; there is no mental or physical condition which would affect his/her understanding of these proceedings; further, I state that I have no reason to believe that he/she is presently operating under the influence of drugs or intoxicants. (Any exceptions to this should be stated by counsel on the record.)

Signed by me in the presence of the Defendant above named and after full discussion of the contents of this certificate with the Defendant, this 22 day of July, 1991.

Mary B. Wiedamann
ATTORNEY FOR THE DEFENDANT

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3-11

State of Mississippi

VS No. 12-183

OKTIBBEHA COUNTY

PAULA HATHORN

This day into open Court came the Assistant District Attorney who prosecutes for the State of Mississippi and came also Paula Hathorn in his own proper person and represented by counsel and was lawfully arraigned upon an indictment lawfully returned by the Grand Jury of Oktibbeha County, said State, charging the said defendant with the crime of False Pretense - Bad Check. And being duly advised of all his legal and constitutional rights in the premises and being further advised of the consequences of such a plea the defendant did then and there enter his plea of guilty to said indictment.

Therefore, for said offense and on said plea of guilty, it is by the Court ordered and ADJUDGED that the said Paula Hathorn be and he is hereby sentenced to serve a term of 3 years in an institution under the control and supervision of the Department of Corrections, and he is remanded into the custody of the Sheriff to await transportation.

Provided however, it having been made known to the court that the defendant has not been heretofore convicted of a felony, and that the ends of justice and the best interest of the public and defendent will be best served, the court hereby suspends the execution of the above sentence for a period of 3 years and the defendant is hereby placed under the supervision of the State Probation and Parole Board, and the defendant is placed on probation for a period of 3 years or until the court in term time, or the Judge in vacation, shall alter, extend, terminate or direct the enforcement of the above sentence, and the suspension of said sentence is based upon the following conditions:

(a) Defendent shall hereafter commit no offense against the laws of this or any state of the United States, or of the United States;

(b) Avoid injurious or vicious habits;

(c) Avoid persons or places of disreputable or harmful character;

(d) Report to the Department of Corrections, as directed by it;

(e) Permit the Field Supervisor to visit him at home, or elsewhere;

(f) Work faithfully at suitable employment so far as possible;

(g) Remain within a specified area to wit:
Defendant to report daily to Proabtion Office until transferred to restitution center

(h) Remain with the State of Mississippi unless authorized to leave on proper application therefore;

(i) Support his dependents and pay all cost herein;

(j) That I do hereby waive extradition to the State of MISSISSIPPI from any jurisdiction in or outside the United States where I may be found and also agree that I will not contest any effort by any jurisdiction to return me to the State of MISSISSIPPI;

(k) Submit, as provided in Section 1 of House Bill 354, 1983 Regular Session, to any type of breath, saliva or urine chemical analysis test;

(l) Pay ~~$15.00~~ $20.00 per month supervision fee to the Department of Corrections as provided by statute;

(m) And, further, that he does not use beer or alcohol to excess at any time and will not use any type of illegal drugs at any time.

(n) Defendant ordered to attend the Restitution Center in Pascagoula, MS and successfully complete the program and *

So ordered, and adjudged, in open court this the 24th day of July, 1991.

*make full & complete restitution on all outstanding checks, an itemized list of those checks will be furnished to the Clerk of this Court by 8/2/91.

D. Howard
Circuit Judge

(o) Defendant to pay a $500.00 fine and costs, which shall be paid first out of monies received from the restitution center.

I hereby accept the above probation.

Probationer

FILED
OKTIBBEHA COUNTY
JUL 24 1991
Miriam M. Cook
Circuit Clerk

A certified copy of this order has been delivered to Probationer, who has been instructed regarding same.

This the _____ day of _____, 19____.

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Page 315

5-6

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IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

JULY TERM, 1991

STATE OF MISSISSIPPI

VERSUS NO. 12-183

PAULA HATHORN

ORDER

Came on to be heard this day the matter of reimbursing Oktibbeha County Sheriff's Deputy, Frank Benci, for travel expenses in transporting the above defendant to the restitution center in Pascagoula as previously ordered by the Court.

The Court, after considering same, is of the opinion that said travel expenses were necessary and reasonable as set forth in the attached bills. It is therefore ordered that Oktibbeha County issue a warrant in the amount of $36.00 to Deputy Frank Benci, as the constitution places the burden of bearing the costs of prosecution upon the county.

So ordered, this the 26th day of July, 1991.

L. J. Howard
CIRCUIT JUDGE

MB 67
Page 375-376

FILED
OKTIBBEHA
JUL 26 1991
Miriam M. Cook
Circuit Clerk

376

5/01

6011017000899675 BATCH 00010189
STORE # 0001

SUPER MART
GULFPORT, MS 39505

DATE 07/25/91 TIME 11:28 A.M.

ACCT # 5410580310032930 EXP 0392
MC M0 REF 006 APPROVAL 025128

PURCHASE
AMOUNT $20.26

I AGREE TO PAY ABOVE TOTAL AMOUNT
ACCORDING TO CARD ISSUER AGREEMENT
(MERCHANT AGREEMENT IF CREDIT VOUCHER)

SIGN X L J Bena

RETAIN THIS COPY FOR YOUR RECORDS

Date	No. Persons	Amount	Check No.
			100829

Receipt

Baricevs

633 Fred Haise Blvd. — Biloxi, MS 39530
(601) 435-3626

*15.74 CA

mB 67
Page 375-376

FORREST ALLGOOD
District Attorney

THAD BUCK
Assistant District Attorney

PATRICIA SPROAT
Assistant District Attorney

State of Mississippi

SIXTEENTH CIRCUIT COURT DISTRICT
Clay, Lowndes
Oktibbeha and Noxubee Counties

TELEPHONE 601/329-5911 - 327-3649

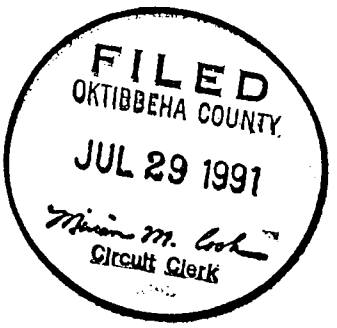
Office of the District Attorney

Post Office Box 1044
Columbus, Mississippi 39703

July 29, 1991

RESTITUTION OWED BY PAULA HATHORN:

1.	Oktibbeha County Justice Court	$3,773.33
2.	Lowndes County Justice Court	1,901.60
3.	Clay County Justice Court	211.11
4.	District Attorney's Check Unit	1,160.53
5.	Raymar's Jewelery Store	265.00
6.	Wal-Mart (Starkville)	120.92
	Total	$7,432.49



OKTIBBEHA COUNTY JUSTICE COURT

509 Hospital Drive
Starkville, Mississippi 39759
Phone: (601) 324-3032

JUDGES:
William A. (Tony) Boykin
W. Bernard Crump
Alton Gillis

Von Graham, Clerk
Gwen Perkins, Deputy Clerk

JULY 29,1991

TO WHOM IT MAY CONCERN:

PAULA HATHORN HAS AN OUTSTANDING BALANCE OF $3773.33 IN JUSTICE COURT FOR RETURNED CHECKS. THIS FIGURE INCLUDES RESTITUTION AND COURT COSTS.

William A. Boykin
JUSTICE COURT JUDGE

FILED
OKTIBBEHA COUNTY
JUL 29 1991
Miriam M Cook
Circuit Clerk

LOWNDES COUNTY
JUSTICE COURT
11 AIRLINE ROAD
COLUMBUS, MS 39702
(601) 327-0326

July 26, 1991

TO WHOM IT MAY CONCERN:

Listed below are the checks written by Paula R. Hathorn :

Total Amount Due: 1,901.60

Check No.	Amount	Affiant
139	$285.95	Wal-Mart
142	$ 84.47	Goody's
143	$ 66.20	K-Mart
209	$ 89.04	J.C. Penny's
155	$ 40.25	Peperment Records
212	$ 91.16	Delchamps

The above and foregoing is a true and correct statement.

So certified on this the 26th day of July, 1991.

Linder D. Erby

LINDER D. ERBY, JUSTICE COURT CLERK

Miriam M. Cook
OKTIBBEHA COUNTY
Circuit Clerk
STARKVILLE, MISSISSIPPI 39759

TELEPHONE 323-1356

July 31, 1991

Pascagoula Restitution Center
Attn: Millie Shelton
P. O. Box 427
Pascagoula, Ms. 39567

RE: State of Mississippi
vs.
Paula Hathorn
No: 12-183

Dear Millie:

Enclosed are certified copies of Order of Sentence, Indictment, Pre/Post Sentence Investigation, and Costs Bill as recorded in the above styled and numbered cause.

If further information is needed, please feel free to call or write me.

With kindest personal regards, I remain

Sincerely,

Miriam Cook

Miriam M. Cook

enclosures

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI
SIXTEENTH CIRCUIT COURT DISTRICT
JULY TERM, 1991

PROBATION ORDER OF PAULA HATHORN NO: 12-183

TO THE MISSISSIPPI DEPARTMENT OF CORRECTIONS:

YOU ARE HEREBY NOTIFIED THAT AT THE JULY TERM, 19 91, OF THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI, JUDGE LEE J. HOWARD PRESIDING, THE FOLLOWING NAMED PERSON PLEAD GUILTY TO THE BELOW NAMED CHARGE AND WAS SENTENCED TO A TERM IN THE MISSISSIPPI DEPARTMENT OF CORRECTIONS. THE SENTENCE WAS SUSPENDED AND THE PERSON WAS PLACED ON PROBATION.

NAME PAULA HATHORN ALIAS

DATE OF SENTENCE JULY 24, 1991 CRIME FALSE PRETENSE-BAD CHECK

TERM OF SENTENCE 3 YEARS SEX FEMALE

RACE BLACK APPEALED

REMARKS: Give a brief summary of crime committed: SEE CERTIFIED COPY OF INDICTMENT ATTACHED

Given under my hand and official seal of office, this the 5TH day of AUGUST, 19 91.

Miriam M Cook
Miriam M. Cook, Circuit Clerk

SEAL

By: Angie L. McGinnis D.C.

MAIL TO:

DATA OPERATIONS
DEPARTMENT OF CORRECTIONS
723 NORTH PRESIDENT STREET
JACKSON, MISSISSIPPI 39202

STATE OF MISSISSIPPI IN THE CIRCUIT COURT

COUNTY OF Oktibbeha October 19 91

The State of Mississippi

Vs. No. 12-183

Paula Hathorn

PETITION TO REVOKE SUSPENSION OF SENTENCE

Comes now Patricia Spruce, the duly elected, qualified and acting Asst. District Attorney of the 16th Circuit Court District of Mississippi and files this his petition against the defendant Paula Hathorn, to revoke the suspension of the sentence heretofore imposed on him, with respect would show unto the court the following facts, towit:

That Paula Hathorn, defendant was at the July 1991 term of Circuit Court of Oktibbeha County, Mississippi, after pleading guilty to the charge of False Pretense - Bad Checks then and there sentenced to serve a term of 3 years in the Department of Corrections at Parchman, Mississippi. However, said defendant's sentence was suspended upon good behavior; and he was placed on probation for a period of 3 years under the direction and supervision of the Mississippi Probation and Parole Board; that since said suspension the said defendant has violated the terms of his suspension and probation in that

1. Condition N - Failed to complete the program at the Pascagoula Restitution Center and failed to make full and complete restitution on all outstanding checks by absconding from said restitution center

2. Condition O - Failed to pay fine & costs (To have been paid by working at said restitution center)

and that due to his previous record and continuous violation of the conditions of this suspension, his suspension should now be terminated and that he should now be required to serve 3 years in the Mississippi Department of Corrections at Parchman, Mississippi, as such sentence was originally imposed by the court.

Wherefore, premises considered your petitioner prays the court to fix a day, time and place to hear this petition and the Clerk of this Court issue an alias warrant directed to the Sheriff or any other lawful officer of said County for the immediate arrest of said defendant and that process issue to the defendant commanding him be at such place on said date and time fixed

by the Court to show cause if any he can why the suspension of sentence heretofore granted to ~~him~~ her at the July 1991 term of Circuit Court of Oktibbeha County, Mississippi for said crime of False Pretense - Bad Checks should not be revoked and why he should not now be required to serve 3 years in the Mississippi Department of Corrections at Parchman, Mississippi for the crime of False Pretense - Bad Checks as such sentence was originally imposed by the court, or for such other period of time as to the court may seem meet and proper in the premises, and that the court will terminate and revoke the suspension of such sentence and require and sentence the defendant to serve 3 yrs years in the Mississippi Department of Correction at Parchman, Mississippi for the commission of said crime, or such other term of imprisonment therefore as to the court may seem meet and proper in the premises.

FILED
OKTIBBEHA COUNTY
OCT 31 1991
Miriam M. Cook
Circuit Clerk

Patricia Sprout

STATE OF MISSISSIPPI
COUNTY OF Oktibbeha

Personally came and appeared before me, the undersigned authority in and for said County and State, the within named Patricia Sprout, Asst District Attorney of the 16th Circuit Court District of Mississippi who by me first having been duly sworn, stated on oath that the matters and things set forth in the forgoing Petition are true and correct as therein state, and those allegations made on information and belief the affiant verily believes to be true.

Patricia Sprout

Sworn to and subscribed before me on this the 31st day of October, 1991.

Miriam M. Cook, Circuit Clerk
By: Angie L McGinnis, DC

My commission expires 1-6-92

(Seal)

FILED
OKTIBBEHA COUNTY
NOV 05 1991
Miriam M. Cook
Circuit Clerk

FILED
OKTIBBEHA COUNTY
OCT 31 1991
Miriam M. Cook
Circuit Clerk

340
11-13

STATE OF MISSISSIPPI
COUNTY OF Oktibbeha

IN THE CIRCUIT COURT
October Term 19 91

The State of Mississippi

Vs. No. 12183

Paula Hathorn

ORDER SETTING TIME, DATE AND PLACE FOR HEARING

A petition having been filed in the above styled cause by the District Attorney of the 16th Circuit Court District of Mississippi praying for the revocation of a suspended sentence of the above named defendant and further praying that a date, time and place be fixed by this court to hear said petition; that an alias warrant be issued for the arrest of the defendant and for process on said petition.

It is therefore and accordingly by the court ordered and adjudged that the 19th day of Nov., 19 91 at 1:30 o'clock p .M. at Columbus, MS be and the same is hereby fixed as the date, time and place for the hearing of said petition be heard at such time, date and place; that an alias warrant directed to the Sheriff or any lawful officer of said County be issued for the immediate arrest of said defendant and that process issue to the defendant commanding him to be at such place on said date and time to show cause, if any he can, why the suspension of sentence here-to-fore granted to him at the July, 19 91 term of Circuit Court of Oktibbeha County, Mississippi, for the crime of False Pretense should not be revoked and why he should not now be required to serve 3yrs. years in the Mississippi Department of Corrections at Parchman, Mississippi, for the crime of False Pretense as such sentence was originally imposed by the court, or for such other period of time as to the court may seem meet and proper in the premises.

The Clerk will forthwith give notice of this hearing to all counsel and parties including the District Attorney and the Probation Officer of the Department of Corrections.

So ordered this the 1st day of Nov., 19 91.

FILED
COUNTY
NOV 01 1991
Circuit Clerk

FILED ___ DAY OF ___ 19 91

CIRCUIT CLERK

John M. Montgomery
Circuit Judge

FILED
COUNTY
NOV 01 1991
Circuit Clerk

MB 68
Page 340

2697

12-183

ALIAS WARRANT

THE STATE OF MISSISSIPPI

TO THE SHERIFF OR ANY OTHER LAWFUL OFFICER OF

OKTIBBEHA COUNTY,

GREETING:

WE COMMAND YOU, as we have done heretofore, to take the body of PAULA HATHORN, if to be found in your county, and him safely keep, so that you have his body before the Judge of our Circuit Court for the County of OKTIBBEHA, at the County Courthouse in the city of COLUMBUS, OKTIBBEHA County, Mississippi, on the 19TH day of NOVEMBER, 19 91 at 1:30 o'clock P. M., then and there to answer the petition of the HON. PATRICIA SPROAT, ASST. District Attorney of the Sixteenth Judicial District of Mississippi, which includes OKTIBBEHA County for the revocation of the suspension of a sentence for FALSE PRETENSE imposed upon him by the Circuit Court of said county at its JULY, 1991 term.

Herein fail not and have then and there this writ.

Witness my hand and official seal this 5TH day of NOVEMBER, 19 91.

Miriam M. Cook
Clerk

By: Angie L. McGinnis, D.C

FILED
OKTIBBEHA COUNTY
NOV 05 1991
Miriam M. Cook
Circuit Clerk

12-183

THE STATE OF MISSISSIPPI

TO THE SHERIFF OF OKTIBBEHA COUNTY, GREETING:

We command you to summons PAULA HATHORN if to be found in your county, to be and appear before the Judge of our Circuit Court at the County Courthouse in COLUMBUS, LOWNDES County, Mississippi on the 19TH day of NOVEMBER, 19 91 at 1:30 o'clock P. M., then and there to show cause, if any he can, why the suspension of sentence heretofore granted him at the JULY, 1991 term of Circuit Court of OKTIBBEHA County, Mississippi, for the crime of FALSE PRETENSE. _____ should not be revoked and why he should not be required to serve 3 years with the Mississippi Department of Corrections for said crime, or such other period of time as to the court may seem meet and proper in the premises, and to answer the petition of the HONORABLE PATRICIA SPROAT, ASST./DISTRICT Attorney for such revocation.

Herein fail not and have you then and there this writ with your proceedings thereon.

Witness MIRIAM M. COOK, Clerk of the Circuit Court of said county.

With the seal of said court on the margin thereof, this the 5TH day of NOVEMBER, 19 91 being the date of issuance.

FILED
OKTIBBEHA COUNTY
NOV 05 1991
Miriam M. Cook
Circuit Clerk

Miriam M. Cook
Clerk
By: Angie L. McGinnis, D.C.

408

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS CRIMINAL CAUSE NO. 12-183

PAULA HATHORN

ORDER

This day this cause came on to be heard on the Defendant's, Paula Hathorn's, Motion for Continuance and the Court being advised in the premises is of the opinion that said Motion is well taken and that the same be and is hereby sustained.

Further, came on to be heard on Defendant's, Paula Hathorn's, Motion to Set Bond and the Court being advised in the premises is of the opinion that said Motion is not well taken and that the same be and is hereby overruled.

IT IS THEREFORE ORDERED AND ADJUDGED, that this cause be and the same is hereby continued until December 3, 1991 at 1:30 p.m. in the Lowndes County Courthouse, Columbus, Mississippi, and that bond is denied.

SO ORDERED AND ADJUDGED this the 20th day of November, 1991.

CIRCUIT JUDGE

FILED
OKTIBBEHA COUNTY
NOV 20 1991
Circuit Clerk

MB:68
PG:408

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

VACATION TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO: 12-183

PAULA HATHORN

ORDER

This day this cause came on to be heard in Open Court upon the petition of HONORABLE PATRICIA SPROAT, ASSISTANT DISTRICT Attorney of the Sixteenth Circuit Court District of Mississippi, petitioning the Court to revoke the suspension of sentence heretofore imposed upon PAULA HATHORN, by this Court in the above styled and numbered cause for the crime of FALSE PRETENSE and wherein the said Defendant was sentenced to serve a term of 3 years, in the Mississippi Department of Corrections at Parchman, Mississippi and ATTEND RESTITUTION CENTER IN PASCAGOULA, MS & SUCCESSFULLY COMPLETE THE PROGRAM & MAKE FULL & COMPLETE RESTITUTION, PAY A $500.00 FINE & ALL COSTS, and which sentence was suspended, and the Defendant having been notified by summons served by the Sheriff of said county of the day, time and place of hearing at least five days before this date, and Defendant having appeared in Open Court and the Court having been fully advised in the premises is of the opinion and finds that the Defendant PAULA HATHORN, has violated the terms and conditions of his aforesaid suspension of sentence and that the Defendant is not a fit subject to be rehabilitated, and that the aforesaid sentence heretofore imposed upon him and which was then suspended should now be revoked, and that the Defendant should now be required to serve 3 years in the Mississippi Department of Corrections at Parchman, Mississippi, ~~and~~ ______, for the commission of said crime as such sentence was originally imposed by the

448

Court.

It is therefore and accordingly by the Court Ordered and Adjudged that the suspension of sentence heretofore granted to PAULA HATHORN for the crime of FALSE PRETENSE in the above styled cause is hereby revoked and terminated and that the Defendant serve Three (3) years in the Mississippi Department of Corrections at Parchman, Mississippi, ~~and~~ ~~[redacted]~~, and the Sheriff of Oktibbeha County, Mississippi is hereby Ordered and directed to take the said Defendant PAULA HATHORN into custody, if he is not already in custody of such Sheriff, and to turn said Defendant over to the proper authorities at the Mississippi Department of Corrections at Parchman, Mississippi, to serve such sentence. The defendant's medical records are to be furnished to the MDOC reception center to facilitate their immediate admission and proper placement.

SO ORDERED AND ADJUDGED, this the 2nd day of Dec. 1991.

CIRCUIT JUDGE

FILED
OKTIBBEHA COUNTY
DEC 03 1991
Circuit Clerk

2702

MB68
pp: 447 & 448

COMMITMENT OF PRISONER
TO THE
MISSISSIPPI DEPARTMENT OF CORRECTIONS

NO: 12-183

COUNTY OKTIBBEHA PLEAD GUILTY X

JUDICIAL DISTRICT SIXTEENTH WAS TRIED

COURT TERM JULY, 1991
VACATION-DECEMBER 3, 1991

JUDGE LEE J. HOWARD

PRISONER'S NAME PAULA HATHORN ALIAS

SS# 428-53-7050 DOB 6-5-67 RACE B SEX F

CRIME FALSE PRETENSE MS CODE SECTION

DESCRIPTION OF CRIME That on or about the 21st day of November, 1989, in the County aforesaid, unlawfully, wilfully & feloniously did, then and there devising and intended by unlawful means to cheat, wrong and defraud Wal-Mart Stores, Inc., sign and deliver unto Wal-Mart Stores, having no account., (see copy of check attached) against the peace and dignity of the State of Mississippi.

DATE OF SENTENCE JULY 24, 1991
DECEMBER 3, 1991 CAUSE # 12-183

LENGTH 3 YEARS SUSPENDED TO SERVE PROBATION TO FOLLOW

CONCURRENT TO# , , ,

CONSECUTIVE TO# , , ,

HABITUAL MANDATORY X PROBATION REVOCATION

RID SHOCK PROBATION ALCOHOL/DRUG TREATMENT

DATE APPEALED DATE AFFIRMED

RELEASED ON BOND TO

TO

TO

CONFINED IN JAIL SEPT. 11, 1990 TO DEC. 1, 1990 (BOND)
FEB. 12, 1991 FEB. 12, 1991 (BOND)
APRIL 15, 1991 TO JULY 24, 1991 (BOND)
JULY 25, 1991 OCT. 26, 1991 (REST. CENTER)
OCT. 29, 1991 TO

PRESENTLY HOUSED IN OKTIBBEHA COUNTY JAIL

JAIL TIME CREDIT DAYS

LESS PAYMENT $273.53

FINE $500.00 CRT. COST $396.28 RESTITUTION $7,432.49/ INDIGENT FEE

(BALANCE DUE---$8,055.24)

CONDITIONS OF PAYMENT

NOTE: THIS DEFENDANT'S RECORDS ARE TO BE FURNISHED TO MDOC RECEPTION CENTER TO FACILITATE HER IMMEDIATE ADMISSION AND PROPER PLACEMENT.

AFFIX SEAL HERE

MIRIAM M. COOK, CIRCUIT CLERK

BY: D.C.

DATE:

RETURN TO: DIRECTOR OF RECORDS
MS DEPT. OF CORRECTIONS
RANKIN CO. CORRECTIONAL FACILITY
P. O. BOX 88550
PEARL, MISSISSIPPI 39208

INCLUDE COPY OF THE JUDGMENT, INDICTMENT, APPEAL, BOND, OR WAIVER AND PRE-SENTENCE

2703 Copy

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY
IN AND FOR THE COUNTY OF OKTIBBEHA

PAULA R. HATHORN — PETITIONER

VS. — NO. 12-183

STATE OF MISSISSIPPI — RESPONDENT

PETITION FOR PRODUCTION OF RECORDS

Into the Court now comes, PAULA R. HATHORN, the Petitioner, in the above styled and number cause and without the benefit of Counsel. The Petitioner respectfully prays that this Court issue an order, directed to the respondent, to prepare, certify and forward to the Petitioner a true and correct copy of any and all pertinent information as recorded and made a part of the record in the case of the STATE OF MISSISSIPPI VS. PAULA R. HATHORN.

I

That on/or about 5th day of OCT, 1991; the Petitioner was arrested in the city of STARKSVILLE, and charged with the offense(s) of FALSE PRETENSE, _____ and _____.

II

That the Petitioner sincerely desires to test the legality of such imposition and conviction in an application for redresss, by filing into the court(s) of proper jurisdiction. But prior to any such attack testing the validity of said imprisonment, it is necessary that this Court issue, an order that the said Respondent, prepare, certify and forward to the said Petitioner, information as recorded and made apart of the record, in the case of the STATE OF MISSISSIPPI VS. PAULA R. HATHORN.

III

That the Petitioner is indigent within the means of law and is wholly unable because of poverty, to defray the costs an/or give security therefore. Whereas; the Petitioner would unto this Honorable Court,

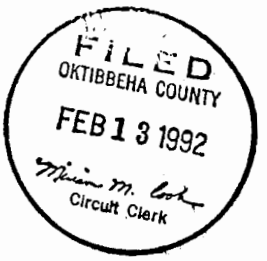
that it would be prejudice that she be denied such relief because of her poverty.

Wherefore, the petitioner respectfully prays this Honorable Court will grant unto her the relief sought and grant other such relief that this court may deen just and proper.

Respectfully Submitted

Paula R. Hathorn

PAULA R. HATHORN



STATE OF MISSISSIPPI

COUNTY OF RANKIN

AFFIDAVIT OF POVERTY

Personally appeared before me the undersigned in and for the aforesaid jurisdiction, PAULA R. HATHORN, who being duly sworn on her oath does depose and sayeth:

I, PAULA R. HATHORN, do solemnly swear that I am a citizen of the State of Mississippi, and that because of my poverty I am unable to pay the cost or give security for the same in the suit Petition for Production of Records ~~Complaint for Divorce~~ which I am about to commence, and that to the best of my belief I am entitled to the relief which I seek by such suit.

Paula R. Hathorn
PAULA HATHORN

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 18th DAY OF February, 1992.

Leanetta Jordan
NOTARY PUBLIC

My Commission Expires April 14, 1995

My commission expires:

FILED
OKTIBBEHA COUNTY
FEB 13 1992
Miriam M. Cook
Circuit Clerk

Miriam M. Cook
OKTIBBEHA COUNTY
Circuit Clerk
STARKVILLE, MISSISSIPPI 39759

TELEPHONE 323-1356

JOHN M. MONTGOMERY
Circuit Judge

LEE J. HOWARD
Circuit Judge

FORREST ALLGOOD
District Attorney

THAD BUCK
Assistant District Attorney

PATRICIA SPROAT
Assistant District Attorney

February 13, 1992

Honorable Kathleen Burnett
Court Reporter
258 Tanglewood Trail
Columbus, MS 39701

Re: State of Mississippi vs. Paula Hathorn
Cause #: 12-183

Dear Kathleen:

I have a Petition For Production of Records as recorded in the above styled and numbered cause this date. I need you to transcribe the guilty plea taken July 24, 1991, as well as the revocation proceedings taken December 3, 1991, and mail same to me at your earliest convenience so I can comploy with the request made.

Thank you so much for your assistance in this matter. If you have questions, please call.

Sincerely,

Angie

Angie L. McGinnis
Deputy Clerk

KATHLEEN H. BURNETT
OFFICIAL COURT REPORTER
16TH CIRCUIT COURT DISTRICT

ROUTE 7 BOX 2304
COLUMBUS, MISSISSIPPI 39701

OFFICE 601 327-7880
EXT. 45
HOME 601 328-8097

February 18, 1992

Mrs. Angie McGinnis
Deputy Circuit Clerk
Oktibbeha County Courthouse
Starkville, Mississippi 39759

RE: State of Mississippi
versus
Paula Hathorn
Cause No. 12,183

Dear Angie:

I enclose herewith transcript of guilty plea entered by Paula Hathorn on July 24, 1991.

As stated to you by phone, I do not type any revocation hearings unless ordered to do so by the Court.

I also enclose order for transcribing guilty pleas filed at various times and not billed for previously.

Sincerely,

Kathleen H. Burnett

Kathleen H. Burnett, CSR
Official Court Reporter

Enclosures

FILED
OKTIBBEHA COUNTY
FEB 18 1992
Miriam M. Cook
Circuit Clerk

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

JULY TERM, 1991

STATE OF MISSISSIPPI

VERSUS NO. 12,183

PAULA HATHORN DEFENDANT

ARRAIGNMENT AND GUILTY PLEA

BE IT REMEMBERED, THAT THE ABOVE STYLED AND NUMBERE CAUSE CAME ON FOR HEARING DURING THE JULY TERM OF THE COURT AFORESAID, AND WAS HEARD ON JULY 24, 1991, BEFORE THE HONORABLE LEE HOWARD, CIRCUIT JUDGE, WITHOUT A JURY. THE DEFENDANT APPEARED IN PERSON AND WAS REPRESENTED BY HONORABLE MARK WILLIAMSON, AND THE STATE WAS REPRESENTED BY HONORABLE THAD BUCK, ASSISTANT DISTRICT ATTORNEY.

BY MR. BUCK:

Q YOU ARE MISS PAULA HATHORN?

A YES, I AM.

Q AND YOU'RE STANDING HERE WITH YOUR ATTORNEY, MR. MARK WILLIAMSON, IS THAT CORRECT?

A YES, SIR.

Q MISS HATHORN, YOU'VE BEEN CHARGED WITH THE CRIME OF FALSE PRETENSE, A BAD CHECK, AND YOU AT A PREVIOUS TERM OF COURT ENTERED A PLEA OF NOT GUILTY TO THIS CHARGE. THE STATE NOW UNDERSTANDS YOU WISH TO CHANGE THAT PLEA, IS THAT CORRECT?

A YES, I DO.

Q AND HOW DO YOU WISH TO PLEAD?

A GUILTY.

Q AND HAVE YOU GONE OVER A PETITION ASKING THE COURT TO ACCEPT YOUR PLEA OF GUILTY TO THIS CHARGE?

A YES, SIR.

BY THE COURT:

Q MISS HATHORN, YOU HAVE INDICATED YOU DESIRE TO ENTER A PLEA OF GUILTY TO THE CHARGE OF FALSE PRETENSE IN CAUSE NUMBER 12,183 IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI.

A YES, SIR.

Q BEFORE I CAN ACCEPT YOUR PLEA OF GUILTY TO THIS CHARGE, I MUST FIRST ASK YOU SOME QUESTIONS TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU'RE DOING AND THAT YOU ARE DOING THIS OF YOUR OWN FREE WILL AND ACCORD WITHOUT ANY THREATS OR PROMISES. DO YOU UNDERSTAND?

A I DO.

Q MISS HATHORN, DO YOU UNDERSTAND THAT WHEN YOU ENTER A PLEA OF GUILTY TO THIS CHARGE YOU ARE WAIVING, THAT IS, GIVING UP YOUR RIGHT TO A TRIAL BY JURY IN THIS CASE?

A YES.

Q YOU ARE ALSO WAIVING--

BY MR. WILLIAMSON: SPEAK UP AND ANSWER YES, SIR OR NO, SIR.

A OKAY.

Q YOU ARE ALSO WAIVING OR GIVING UP YOUR RIGHT TO EITHER TESTIFY OR NOT TESTIFY FROM THE WITNESS STAND IN YOUR OWN BEHALF AS YOU SO ELECT AND AS YOU SO CHOOSE, BUT YOU GIVE THAT RIGHT UP WHEN YOU PLEAD GUILTY. DO YOU UNDERSTAND THAT?

A YES, SIR.

Q YOU'RE ALSO WAIVING OR GIVING UP YOUR RIGHT TO APPEAL ANY CONVICTION THAT MAY BE HAD IN YOUR CASE TO THE MISSISSIPPI SUPREME COURT. DO YOU UNDERSTAND THAT?

A YES, SIR.

Q NOW YOU HAVE SIGNED AND CAUSED TO BE FILED IN THIS COURT A SWORN PETITION ASKING THIS COURT TO ACCEPT YOUR PLEA OF GUILTY TO THIS CHARGE. DID YOUR ATTORNEY PREPARE THIS FOR YOU?

A YES, SIR.

Q DID HE GO OVER IT WITH YOU AND EXPLAIN EVERYTHING IN IT TO YOU?

A YES, SIR.

Q SO WHEN YOU SIGNED IT AND WHEN YOU SWORE TO IT YOU UNDERSTOOD EVERYTHING CONTAINED IN THIS PETITION?

A YES, SIR.

Q DID YOU ATTORNEY, ANY LAW ENFORCEMENT OFFICERS, OR ANYONE ELSE THREATEN YOU IN ANY MANNER OR PROMISE YOU ANYTHING TO GET YOU TO SIGN THIS PETITION OR ENTER A PLEA OF GUILTY TO THIS CHARGE?

A NO, SIR.

Q WHY ARE YOU PLEADING GUILTY.

A BECAUSE I'M GUILTY.

Q BECAUSE YOU ARE GUILTY?

A YES.

Q OF THIS CRIME OF FELONY FALSE PRETENSE, BAD CHECKS?

A YES, SIR.

Q YOU'RE TWENTY-FOUR YEARS OF AGE?

A YES, SIR.

Q COMPLETED THE TENTH GRADE?

A YES, SIR.

Q YOU HAVE NO PRIOR FELONY CONVICTIONS?

A NO, SIR.

Q ANYWHERE; FIRST FELONY CONVICTION?

A YES, SIR.

Q AND YOU WANT ME TO ACCEPT YOUR PLEA OF GUILTY TO THIS CHARGE?

A YES, SIR.

Q THE COURT FINDS THAT THE PLEA OF GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY AND INTELLIGENTLY ENTERED, AND I WILL ACCEPT YOUR PLEA OF GUILTY TO THE CRIME OF FALSE PRETENSE, BAD CHECKS, IN CAUSE NUMBER 12,183. DOES THE STATE HAVE ANY RECOMMENDATION AS TO A SENTENCE THAT MIGHT BE MADE IN THIS CASE THAT IT DESIRES TO GIVE AT THIS TIME?

BY MR. BUCK: YES, SIR. THE STATE WOULD RECOMMEND THE DEFENDANT BE SENTENCED TO A TERM OF THREE YEARS WITH THE MISSISSIPPI DEPARTMENT OF CORRECTIONS; HOWEVER, THAT BE SUSPENDED AND THAT SHE BE PLACED ON PROBATION FOR A PERIOD OF THREE YEARS, AND THAT AS PART OF THAT PROBATION SHE BE SENT TO THE HINDS COUNTY RESTITUTION CENTER TO MAKE FULL AND COMPLETE RESTITUTION ON ANY AND ALL OUTSTANDING CHECKS. THERE'S A NUMBER OF OUTSTANDING CHECKS PENDING NOT ONLY FROM THIS COUNTY, BUT FROM LOWNDES COUNTY AND MAYBE CLAY AND NOXUBEE, AND WE WOULD ASK THAT SHE MAKE FULL RESTITUTION ON ALL CHECKS AND THE STATE WILL FURNISH AN ITEMIZED LIST OF THOSE CHECKS TO ATTACH TO THE ORDER FOR THE RESTITUTION CENTER, AND AS PART OF THE PLEA BARGAIN AGREEMENT THE STATE WILL NOT PROSECUTE THE DEFENDANT ON ANY OF THESE OUTSTANDING CHECKS. BASED UPON THE DEFENDANT'S PLEA OF GUILTY, THE STATE WILL HAVE A MOTION TO RETIRE TO THE FILE CAUSE NUMBER 12,184.

BY THE COURT:

Q MISS HATHORN, YOU'VE HEARD THE RECOMMENDATION OF THE STATE. DID ANYBODY TELL YOU THEY WOULD RECOMMEND SOMETHING DIFFERENT THAN THAT?

A NO, SIR.

Q MR. WILLIAMSON, I ASSUME THIS PLEA IS ENTERED ON THE BASIS OF A PLEA BARGAIN AGREEMENT BETWEEN YOU AND THE STATE, IS THAT CORRECT?

BY MR. WILLIAMSON: THAT IS CORRECT, YOUR HONOR.

Q WAS THAT THE RECOMMENDATION YOU THOUGHT THAT THE STATE WOULD MAKE?

BY MR. WILLIAMSON: THAT'S CORRECT.

Q YOU HAVE NO PRIOR FELONY CONVICTIONS, MISS HATHORN, BUT I UNDERSTAND THAT THERE ARE A SIGNIFICANT NUMBER OF BAD CHECKS OUTSTANDING. THE STATE HAS RECOMMENDED THAT YOU BE SENT TO THE RESTITUTION CENTER UNTIL ALL OF THOSE ARE PAID OFF. THEY WILL SUPPLY AN ITEMIZED LIST OF ALL OF THE CHECKS THAT HAVE BEEN PASSED UNDER THE BAD CHECK LAWS TO THE RESTITUTION CENTER IN HINDS COUNTY. I AM GOING TO, IN THE MOST PART, FOLLOW THE STATE'S RECOMMENDATION, BUT I MAY NOT COMPLETELY FOLLOW THE STATE'S RECOMMENDATION IN THAT THIS PARTICULAR VIOLATION OF THE LAW CARRIES WITH IT A PROVISION FOR A FINE, AND I WILL PROBABLY IMPOSE A FINE IN ADDITION TO THE RESTITUTION. DO YOU UNDERSTAND THAT?

A YES, SIR.

Q KNOWING THAT, DO YOU STILL WISH TO ENTER A PLEA OF GUILTY TO THIS CHARGE?

A YES, SIR.

BY THE COURT: VERY WELL. THE SENTENCE OF THE LAW IS THAT YOU BE SENTENCED TO SERVE A TERM OF THREE YEARS IN THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, HOWEVER, I WILL SUSPEND THAT SENTENCE AND PLACE YOU ON SUPERVISED PROBATION FOR A PERIOD OF THREE YEARS. THE FIRST CONDITION OF THAT PROBATION IS THAT YOU WILL BE COMMITTED TO THE OKTIBBEHA COUNTY JAIL FOR TRANSPORTATION TO THE HINDS COUNTY RESTITUTION CENTER AS SOON AS THEY ARE ABLE TO ENROLL YOU IN THAT RESTITUTION CENTER AND FOR AS LONG AS IS NECESSARY FOR YOU TO COMPLETE THE RESTITUTION CENTER PROGRAM THAT THEY HAVE, AND MAKE FULL AND COMPLETE RESTITUTION ON THIS CHECK AND ALL OTHER BAD CHECKS THAT YOU HAVE OUTSTANDING. THE COURT WILL FURTHER SENTENCE YOU TO PAY A FINE OF FIVE HUNDRED DOLLARS ($500.00) AND ALL COSTS, THE FINE AND COSTS BEING FIRST PAID OUT OF THE FUNDS FROM THE RESTITUTION CENTER BEFORE THE RESTITUTION IS TO BE MADE ON ANY OF THE CHECKS.

THERE ARE SOME OTHER CONDITIONS OF THIS PROBATION. AS SOON AS YOU FINISH THE PROGRAM AT THE HINDS COUNTY RESTITUTION CENTER YOU WILL REMAIN ON PROBATION. YOU WILL HAVE TO REPORT TO YOUR PROBATION OFFICER AS SOON AS THEY RELEASE YOU FROM THE RESTITUTION CENTER HERE IN OKTIBBEHA COUNTY, MR. GUICE. HE WILL GO OVER THIS WITH YOU IN MORE DETAIL AT THAT TIME; HOWEVER, BEING ON PROBATION MEANS THAT YOU'RE GOING TO HAVE TO REPORT TO HIM AS HE DIRECTS, USUALLY ONCE A MONTH. YOU'RE GOING TO HAVE TO PAY A

SUPERVISION FEE OF TWENTY DOLLARS ($20.00) PER MONTH TO HIM EACH TIME THAT HE REQUIRES THAT YOU REPORT. YOU CANNOT VIOLATE THE LAWS OF THE STATE OF MISSISSIPPI OR ANY OTHER STATE OR OF THE UNITED STATES; THAT MEANS FEDERAL LAWS WHILE YOU'RE ON PROBATION; TO DO SO WOULD BE A VIOLATION OF YOUR PROBATION. DO YOU UNDERSTAND?

A YES, SIR.

BY THE COURT: YOU CANNOT USE ANY ALCOHOL OR ANY ILLEGAL CONTROLLED SUBSTANCES WHILE YOU'RE ON PROBATION; TO DO SO WOULD BE A VIOLATION OF YOUR PROBATION. YOU WILL HAVE TO SUBMIT TO PERIODIC TESTS, BLOOD, BREATH, OR URINE CHEMICAL ANALYSIS TO DETERMINE WHETHER OR NOT YOU'RE USING ANY CONTROLLED SUBSTANCES OR ALCOHOL. IF YOU ARE, THEY WILL SHOW UP IN THOSE TESTS, AND YOU MIGHT BE REVOKED AND HAVE TO SERVE THE BALANCE OF THAT THREE YEARS. DO YOU UNDERSTAND?

A YES, SIR.

BY THE COURT: I WANT TO MAKE SURE YOU UNDER-- YOU AND I UNDERSTAND EACH OTHER. YOU'RE GOING TO BE ON PROBATION AFTER YOU GET THROUGH AT THE RESTITUTION CENTER. AFTER YOU COMPLETE THEIR PROGRAM, YOU WILL BE PUT ON PROBATION HERE AND HAVE TO REPORT TO A PROBATION OFFICER. DO YOU UNDERSTAND THAT?

A YES, SIR.

BY THE COURT: THAT'LL BE YOUR SENTENCE.

* * * * * * * * * * *

STATE OF MISSISSIPPI

COUNTY OF LOWNDES

I, KATHLEEN H. BURNETT, OFFICIAL COURT REPORTER FOR THE SIXTEENTH CIRCUIT COURT DISTRICT OF MISSISSIPPI, DO HEREBY CERTIFY THAT THE FOREGOING STYLED AND NUMBERED CAUSE CAME ON FOR HEARING ON THE DAY AND YEAR THEREIN MENTIONED, AND THAT THE FOREGOING CONSTITUTES A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD THEREIN, TO THE BEST OF MY KNOWLEDGE AND ABILITY.

WITNESS MY SIGNATURE THIS THE 17TH DAY OF FEBRUARY, 1992.

Kathleen H. Burnett

KATHLEEN H. BURNETT, CSR
OFFICIAL COURT REPORTER

FILED
OKTIBBEHA COUNTY
FEB 18 1992
Circuit Clerk

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

SIXTEENTH JUDICIAL DISTRICT

STATE OF MISSISSIPPI

VERSUS CAUSE #:12-183

PAULA HATHORN

CERTIFICATION

STATE OF MISSISSIPPI

COUNTY OF OKTIBBEHA

I, Miriam M. Cook, Circuit Clerk of Oktibbeha County, Mississippi, do hereby certify that the foregoing documents are true and correct copies of the following pleas and proceedings:

1) Indictment
2) Capias
3) Petition to Enter Plea of Guilty
4) Order of Sentence
5) Arraignment and Guilty Plea
6) Petition to Revoke Suspension of Sentence
7) Order Setting Time, Date and Place For Hearing
8) Summons
9) Alias Warrant
10) Order of Sentence after Revocation
11) Commitment of Prisoner

had and done and provided upon Petition For Production of Records filed in this Court on February 13, 1992. The same is of record in this office in General Docket State Cases, Book 27, Page 31, and the Minutes of this Court.

Given Under My Hand and Official Seal, this the 21st day of February, 1992.

Miriam M. Cook
Miriam M. Cook, Circuit Clerk

MY COMMISSION EXPIRES ON JANUARY 1, 1996

By: Angie L. McGinnis
Angie L. McGinnis
Deputy Clerk

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

PAULA HATHORN — PETITIONER

VS — NO. 12-183

OKTIBBEHA COUNTY — RESPONDENT

CIRCUIT COURT CLERK OF

STATE OF MISSISSIPPI

PETITION IN REQUEST OF TRANSCRIPT

COMES NOW, PAULA HATHORN, (hereinafter "petitioner") in pro se, in the above styled and numbered cause and would show unto this Honorable Court the following, to-wit:

I.

That Petitioner is a citizen of the State of Mississippi and hereby resides at the Central Mississippi Correctional Facility located at Pearl, MIssisssissippi 39208, Post Office Box 88550.

II.

That Petitioner is under the supervision of Lake Lindsey, Superintendent of the Central Mississippi Correctional Facility at Pearl, Mississippi, and has been since October 29, 1991.

III.

That Petitioner has legal grounds to supress and/or request (stenographic report or transcript as evidence) (omitted). See Federal Rule 80, 28 U.S.C.A. 753.

Wherefore, remains of Federal Rule 80, is subdivision "C", states as follows:

Stenographic Report or Transcript as evidence whenever the testimony of a witness at a trial is admissable in evidence at a later trial, it may be proved by the transcript thereof duly certified by the perosn who reported the testimony.

Mississippi has made statutory provisions for the appointment, oath, nature and duties and responsibilities of Court Reporters. See Section 9-13-1, et, seq., Mississippi Code Annotated (1972). Additionally, Mississippi has a statutory equivalent of Federal Rule 80 (C); Section 9-13-43 of the Mississippi Code Annotated (1972); therefore, no Rule is necessary to make an official transcript acceptable proof of testimony.

THEREFORE, Petitioner prays that this Honorable Court order that a copy of his transcript be made and mailed, postage prepaid, to him within the required time of a twenty (20) working day period.

Respectfully Submitted,

Paula R. Hathorn

PAULA HATHORN

SUBSCRIBED AND SWORN TO before me this 2nd day of April 1992

Leanita Jordan

Notary Public

My Commission expires: My Commission Expires April 14, 1995

FILED
OKTIBBEHA COUNTY
APR 08 1992
Circuit Clerk

\TE OF MISSISSI.PI
JNTY OF RANKIN

AFFIDAVIT OF POVERTY

Personally appeared before me the undersigned authority in and for the aforesaid jurisdiction, PAULA HATHORN _____, MDC# 99979 _____ who being duly sworn on his oath, does depose and sayeth:

"I, PAULA HATHORN _____, do solemly swear that I am a citizen of the State of Mississippi, and that because of my poverty I am not able to pay the costs or give security for the same in the suit, PAULA HATHORN VS THE STATE OF MISSISSIPPI _____ which I am (or has been commenced) about to commence, and that to the best of my belief, I am entitled to the redress which I seek by such suit."

Paula G Hathorn
AFFIANT PAULA HATHORN

Sworn to and subscribed before me this the 2nd day of April, 19 92.

Deanetta Jordan
NOTARY PUBLIC

My Commission expires: My Commission Expires April 14, 1995

MISS. CODE ANN. 1972
Sec. 11-53-17

FILED
OKTIBBEHA COUNTY
APR 08 1992
Miriam M. Cook
Circuit Clerk

FR BRENDA HORHN (writ-writer)

C/O LAW LIBRARY

C.M.C.F. P. O. Box 88550

Pearl, Ms 39208

DATE: March 30, 1992 ,19__

RE: PAULA HATHORN VS STATE OF MISSISSIPPI

October 29, 1991 (SEE LIST CHECKED BELOW)

Dear Court Reporter, Circuit Clerk ,

I wish to inform you that, PAULA HATHORN has contracted this office for legal service concerning his criminal conviction, and in order to properly assist the above named individual I am requesting that the following records and/or documents be sent to me as soon as possible.

( ) INDICTMENT(S)

( ) THE ARREST WARRANT OR REPORT

(X) THE CERTIFICATE OF PROBABLE CAUSE (ORDER ISSED BY THE COURT UPON INITIAL APPEARANCE

( ) THE ORDER OF TRANFER TO ANOTHER JURISDICTION

( ) THE MINIUTES OF THE COURT, WHEREIN THE GRAND JURY WAS INPANELED AND DULY SWORN

( ) THE AFFIDAVIT OF THE GRAND JURY FOREMAN

( ) DOCUMENTATION OF CONFESSION OR SIGNED STATEMENTS

( ) TRIAL TRANSCRIPT OF THE PLEA

(X) PRE-SENTENCE INVESTIGATION REPORT(S)

( ) REVOCATION ORDER(S) - PAROLE- PROBATION

(X) COMMITMENT ORDER(S)

Thanking you inadvance for your cooperation in these matters, I am...

Respectfully Submitted,

BRENDA HORHN (writ-writer)

cc: OFFENDER FILE
OFFENDER

FILED
OKTIBBEHA COUNTY
OCT 29 1992
Myrna M. Cook
Circuit Clerk

CERTIFICATE OF SERV

THIS IS TO CERTIFY, that I, the undersigned, have this day caused to be mailed a true and correct copy of the foregoing and attached instruments, by United States Mail, Postage prepaid, to the person(s) listed below:

Judge Lee Howard
101 East Main Street
Starksville, Ms 39759

Circuit Clerk
Marion Cook
101 East Main St.
Starksville, Ms 39759

Court Appointed Attorney
Mark Williamson
104 W. Lampkin
Starksville, Ms

Sheriff Dolph Byran
100 Jefferson SDt.
Starksville, Ms 39759

SIGNED, this the 2nd day of April, A.D., 19 93.

Paula Hathorn
PAULA HATHORN 99979

FILED
[illegible]

728
10-18

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

APRIL TERM, 1992

PAULA HATHORN

VERSUS NO. 12-183

STATE OF MISSISSIPPI

ORDER

This day this cause came on for review on the defendant's request for production of documents.

The Court, being fully advised in the premises finds that the defendant has failed to show with particularity the need for said documents, and under the authority of Fleming vs. State, 553 So 2nd 505 the defendant's motion should be, and is hereby, overruled.

The Court further finds that the motion is a successive petition, and should be, and is hereby, overruled on that basis as well.

All costs are taxed to the Petitioner.

SO ORDERED, this the 30th day of April, 1992.

L. J. Howard
CIRCUIT JUDGE

mB 69
Page 728

FILED
OKTIBBEHA COUNTY
APR 3 01992
Miriam M. Cook
Circuit Clerk

Mississippi Department of Corrections

Probation/Parole Office
405 South Spring Street
Rm. 101 - City County Building
Tupelo, MS 38801
(601) 841-0436

Division of Community Services

WAIVER OF RIGHT
TO
PRELIMINARY PROBATION REVOCATION HEARING

I, Paula Hathorn Cause No. 12-183

have been charged with probation violation(s) listed below: MDOC No. _____

1. Condition N - Failed to complete the program at the Pascagoula Restitution Center
2. Condition O - Failed to pay fine & costs.

After having these charges fully explained to me, and without waiving any other rights I may have, DO HEREBY VOLUNTARILY WAIVE and relinquish my right to a Preliminary Probation Revocation Hearing, and further request that I have a Probation Revocation Hearing before the Circuit Court of Oktibbeha County.

SIGNED AND DATED, this the 3rd day of December, 19 91.

Paula Hathorn
(Signature)

Paula Hathorn
(Typed Name)

Witness: Mark D. Williamson
(Signature & Title)
Attorney for Defendant
(Signature & Title)

FILED
OKTIBBEHA COUNTY
JUN 12 1992
Miriam M. Cook
Circuit Clerk

Mississippi Department of Corrections

Parchman, Mississippi 38738

(601) 745-6611

8 July 1992

Honorable Lee J. Howard
District Sixteen
Post Office Box 1344
Starkville, Mississippi 39759

RE: Name: Paula Hathorn
Register Number (S): 99979
Offense (S): False Pretense
County of Conviction: Oktibbeha
Cause Number (S): 12,183

Dear Judge Howard:

This letter is to serve as official notification of the imminent release of the above named subject. In accordance with House Bill #565 to amend 47-7-17 of the Mississippi Code, 1972, we are required by law to inform you that the prisoner named above will be released on JULY 20, 1992 on expiration of sentence.

Please forward immediately direct to this office, any commitments not reflected in the above cause number.

Respectfully,

Christine Houston

(Ms.) Christine Houston
Director of Records

CH/pc

FILED
OKTIBBEHA COUNTY
JUL 10 1992
Circuit Clerk

2725

cc: Office of the District Attorney
Post Office Box 1044
Columbus, Mississippi 39703

Office of the Circuit Clerk
Courthouse
Starkville, Mississippi 39759

Sheriff's Department
Oktibbeha County
Starkville, Mississippi 39759

Starkville Police Department
101 Lampkin Street
Starkville, Mississippi 39759

EXHIBIT 28

FALSE PRETENSE

THE STATE OF MISSISSIPPI, CIRCUIT COURT

OKTIBBEHA COUNTY NO. 12-184
89#73

JANUARY TERM, 1991

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men and women of said County, duly elected, empanelled, sworn and charged, at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present: That

PAULA HATHORN

late of the County aforesaid, on or about the 16th day of June, 1990, in the County aforesaid unlawfully, wilfully & feloniously did, then and there devising and intended by unlawful means to cheat, wrong and defraud Ray Roach d.b.a. Raymar Jewelers, of the sum of $265.00, or of property the equivalent thereof in value, and the said **PAULA HATHORN** then and there having no account in Citizens National Bank, Inc., a banking corporation, with which a check drawn by the said **PAULA HATHORN** on said Bank for the sum of $265.00, may be paid, she, the said **PAULA HATHORN** did then and there wilfully, unlawfully, feloniously and fraudulently issue, sign and deliver unto Ray Roach for value, a certain check on the said Bank, well knowing at the time of issuing, signing and delivering said check, that she did not have an account in said Bank with which to pay said check and which said check consisted of the following words and figures, to-wit:

SEE COPY OF CHECK ATTACHED

and the said check was afterwards endorsed by the said payee named in said check and was by her or her assignees, presented to the said Bank for payment and the said check was not paid by the said Bank upon presentation for the reason that the said **PAULA HATHORN** did not have an account in said Bank with which to pay said check in full upon presentation, and by means and color of making, issuing and delivering the said check to the said payee named herein, she, the said **PAULA HATHORN** did then and there unlawfully, feloniously and fraudulently obtain and receive of and from the said payee named in the said check, the following thing of value to-wit:

one 14 karat gold charm and one 14 karat gold chain,

all of which was at the time of said making an issuing of said check then and there sold and delivered by the said payee named in said check, to the said **PAULA HATHORN** and said check was then and there given for the purchase of the same, contrary to the statute in such case made and provided and against the Peace and Dignity of the State of Mississippi.

FILED
OKTIBBEHA COUNTY
FEB 14 1991
Miriam M. Cook
Circuit Clerk

A True Bill

Forrest Allgood
District Attorney

David D. Delaney
Foreman of the Grand Jury

Filed 30th day of January, 1991 Miriam M. Cook Clerk

Recorded 8th day of February, 1991

Miriam M. Cook Clerk By /s/ Estelle D. Roberts D. C.

2607

2608

Deposit Only
To Deposit Guaranty
Raymar Jewelers

21 JUN 90

7

PAULA HATHORN
LIC. 428-53-7050
207 JOHN STENNIS DR. 773-8730
LOUISVILLE, MS 39339

187

June 18, 90 85-21/653

Pay to the order of Raymar Jewelers $ 265.00

Two hundred sixty five and 00/100 Dollars

Citizens National Bank
We Make It Easy / Member FDIC
Philadelphia, Mississippi 39350

ACCOUNT CLOSED

Paula Hathorn

Memo

⑆065300211⑆ ⑈4412⑈930⑈9⑈ 0187 ⑈00000 26500⑈

1.650-1510

DEPUTY CLERK
FEB 1 1991
Circuit Clerk

THE STATE OF MISSISSIPPI

Oktibbeha County.

12-184

TO THE SHERIFF OF SAID COUNTY — GREETING

We Command You, to take the body of Paula Hathorn

_____ if to be found in your County, and him safely keep, so that you have his body before the Honorable, the Circuit Court of Oktibbeha County, in said State, to be holden at the Court House thereof in the City of Starkville, INSTANTA and then and there to answer unto the State of Mississippi of a charge of False Pretense

_____ by indictment in said Court, at the January Term A. D. 1991, thereof.

Herein fail not, and have there this writ, with the manner you have executed the same.

Given Under My Hand and Seal, and issued the 30th day of January 1991.

Miriam M. Cook

Miriam M. Cook, Circuit Clerk

_____ D. C.

290

FALSE PRETENSE

THE STATE OF MISSISSIPPI, CIRCUIT COURT

OKTIBBEHA COUNTY NO. 12184
89#73

JANUARY TERM, 1991

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful men and women of said County, duly elected, empanelled, sworn and charged, at the Term aforesaid of the Court aforesaid, to inquire in and for the body of the County aforesaid, in the name and by the authority of the State of Mississippi, upon their oaths present: That

PAULA HATHORN

late of the County aforesaid, on or about the 16th day of June, 1990, in the County aforesaid unlawfully, wilfully & feloniously did, then and there devising and intended by unlawful means to cheat, wrong and defraud Ray Roach d.b.a. Raymar Jewelers, of the sum of $265.00, or of property the equivalent thereof in value, and the said PAULA HATHORN then and there having no account in Citizens National Bank, Inc., a banking corporation, with which a check drawn by the said PAULA HATHORN on said Bank for the sum of $265.00, may be paid, she, the said PAULA HATHORN did then and there wilfully, unlawfully, feloniously and fraudulently issue, sign and deliver unto Ray Roach for value, a certain check on the said Bank, well knowing at the time of issuing, signing and delivering said check, that she did not have an account in said Bank with which to pay said check and which said check consisted of the following words and figures, to-wit:

SEE COPY OF CHECK ATTACHED

and the said check was afterwards endorsed by the said payee named in said check and was by her or her assignees, presented to the said Bank for payment and the said check was not paid by the said Bank upon presentation for the reason that the said PAULA HATHORN did not have an account in said Bank with which to pay said check in full upon presentation, and by means and color of making, issuing and delivering the said check to the said payee named herein, she, the said PAULA HATHORN did then and there unlawfully, feloniously and fraudulently obtain and receive of and from the said payee named in the said check, the following thing of value to-wit:

one 14 karat gold charm and one 14 karat gold chain,

all of which was at the time of said making an issuing of said check then and there sold and delivered by the said payee named in said check, to the said PAULA HATHORN and said check was then and there given for the purchase of the same, contrary to the statute in such case made and provided and against the Peace and Dignity of the State of Mississippi.

A True Bill

James Allgood
District Attorney

Foreman of the Grand Jury

Filed 30th day of January, 1991 Miriam M. Cook Clerk

Recorded 8th day of February, 1991

Miriam M. Cook Clerk By Estelle D. White, D. C. 2610

B 11 - Page 290-291

...Miss... ...n o...
...gcd, at the ...
...and for the body
...the authority of t...
...That

...t the 16th day of June,
...wilfully & feloniously
... unlawful means to
... Jewelers, of the
...reof in value,
... account in
...ith which
...the sum
...and

291

Deposit Only
To Deposit Guaranty
Raymar Jewelers

...0552 0...4 3...4

21-JUN 90

CITIZENS NATIONAL BANK
LOUISVILLE, MS
DEPOSIT
GUARANTY
BANK
NATIONAL

...FEDERAL RESERVE...

PAULA HATHORN
LIC. 428-53-7050
207 JOHN STENNIS DR. 773-8730
LOUISVILLE, MS 39339

187

June 18 90

85-21/653

Pay to the order of Raymar Jewelers

$ 265.00

Two hundred sixty-five and 00/100 Dollars

Citizens National Bank
We Make It Easy / Member FDIC
Philadelphia, Mississippi 39350

ACCOUNT CLOSED

2611

THE STATE OF MISSISSIPPI
MUNICIPAL COURT
CITY OF STARKVILLE
COUNTY OF OKTIBBEHA

COPY OF THE RECORD

Proceedings of the Municipal Court of the City of Starkville, Mississippi, in the following case:

City Court Docket
Book No. 39
Page No. 82

THE STATE OF MISSISSIPPI
vs.
Paula Hathorn

OFFENSE CHARGED

Bad Check (Felony)

LIST OF WITNESSES AND ATTORNEYS

For State
Roy Carpenter
Prosecuting Attorney

For Defendant
No Attorney (Waived)
Attorney for Defendant

JUDGMENT AND SENTENCE

Affidavit made July 17, , 19 90 and warrant issued same date for the accused, Paula Hathorn , who was brought before me and an examination of said charge of Bad Check was had waived

I, the undersigned Municipal Judge, found said accused should be held over to await the action of the Grand Jury and his bond fixed at $ 1,500.00 .

Committed to the County Jail.

Witness my hand, this 29 day of November, 19 90 .

William D Esters Jr.
Municipal Judge

I, the undersigned officer of the aforesaid municipal court, hereby certify that the foregoing is a true and correct copy of the record of the case stated therein, as appears on the Docket of the said municipal court.

This the 14 day of December, 19 90.

(SEAL)

Margaret Wade
Municipal Judge/Court Clerk

FILED this the 14 day of December, 19 90.

(SEAL)

Miriam M. Cook
Clerk of the Circuit Court

By Regina Evans

White Original — Appellate Court
Canary Copy — Municipal Court
Pink Copy — Defendant

2612

GOH 73

-21
-31-32

FEE BILL, CRIMINAL CASES, CIRCUIT COURT

STATE OF MISSISSIPPI
OKTIBBEHA COUNTY
CASE NO. 12-183
12-184
HEDERMAN BROTHERS–JACKSON

STATE OF MISSISSIPPI
VS.
Paula Hathorn

[illegible] 1307

Jury Tax	$ 3.00
Court Reporter's Fee	10.00
County Attorney	3.00
Law Library	2.50
State Court Education Fund	2.00
Clerk's Fee	25.00
Sub-Total	45.50
Sheriff's Fee	
Law Enforcement Officers and Training	
Federal State Alcohol Program	
Mississippi Alcohol Safety Education Program	
Emergency Medical Services	
Correctional Facility Construction	
Driver Education and Training	
Hunter's Safety Education Program	
Fees of other Sheriff's	
Other 2% Bond Fee (Due to county if guilty, refund if not guilty.)	240.00
Other	
Other	
Fine	
TOTAL	
Partial Payment	

Bond Paid: ☐ Cash
☐ Check
☐ Money Order

Payment received from Dolph Bryant
this the 14th day of Feb. A.D., 19 91 Dollars $ 240.00

By Angie L McGinnis D.C. Miriam M. Cook Circuit Clerk

2614

MISSISSIPPI LICENSE NO. 8001738

APPEARANCE BOND Circuit **Court** **Bond No.** N° 4843

THE STATE OF MISSISSIPPI

Okt. County.

We, Paula Hathorn, principal, and

KENNETH L. MONTGOMERY D/B/A NATIONAL BAIL BONDS surety, agree to pay the State of Mississippi Six Thousand Dollars & no/100 ($6000.00) Dollars, unless the said Paula Hathorn shall appear before the Circuit Court on the 15 day of April 19 91 at 9:00 o'clock A m., and from day to day and term to term until discharged by law to answer a charge of False Pretense

NATIONAL BAIL BONDS

by L. Akers

(Signed) Paula L. Hathorn Principal

APPROVED:

This 12 day of FEB 19 91

X [illegible] Crosby
Deputy Sheriff

By Jessie Ader D.C.

FILED
OKTIBBEHA COUNTY
FEB 18 1991
[illegible] Clerk

STATE OF MISSISSIPPI

VERSUS

PAULA HATHORNE DEFENDANT

SHERIFF'S ORDER SETTING BAIL BOND
(TEMPORARY BAIL BOND)

THE BAIL BOND ON THE DEFENDANT PAULA HATHORNE CHARGED WITH 2 COUNTS FALSE PRTENCE WILL BE SET AT $3,000,00 AND THE BAIL BOND WILL BE RETURNABLE TO THE NEXT TERM OF THE CIRUIT COURT, IN THE CONDITION AND FORM REQUIRED BY LAW.

SO ORDERED THIS ~~30~~ 14 DAY OF JAN. 19 91.

FILED
DKTIBBEHA COUNTY
DEC 11 1990
Circuit Clerk

Jerry H. Eleuv
~~SHERIFF~~/ SUPERVISOR

~~not bail~~ DJ #'s 72, 73

2615

THE STATE OF MISSISSIPPI
MUNICIPAL COURT
CITY OF STARKVILLE
COUNTY OF OKTIBBEHA

COMPLAINT

Personally appeared before me, the undersigned officer of said court, Tony Cooper on information and belief who states under oath that Paula Hathorn did, on or about the 16 day of June, 1990, unlawfully and willfully and feloniously with fraudulent intent deliver a check for the payment of money in the amount of $265.00 drawn on Citizen National Bank of Philadelphia,MS for the purpose of containing merchandise from Raymar Jewelers, at a time when she knew she did not have sufficent funds on deposit with such bank knowing such account had been closed, at Raymar Jewelers on Main Street in the City of Starkville, MS.

97-19-55

FILED
OKTIBBEHA COUNTY
DEC 14 1990

against the peace and dignity of the state and within the corporate limits of said city.

Tony Cooper

Sworn to and subscribed before me this 17 day of July, 1990.

Margaret Wade
Municipal Judge/Court Clerk/Deputy Clerk

White Original — Court
Canary Copy — Defendant
Pink Copy — Complaining Witness

2616

MC FORM 1

Vaughan Printing Co.

RE: ATE OF MISSISSIPPI

VERSUS # 12-184

Paula Hathorn

IS THIS A NEW ASSESSMENT OF DAMAGES?_____

I. VICTIM'S IMPACT STATEMENT

VICTIM'S NAME: Raymar Jewell (Ray Roark) DATE OF BIRTH:

ADDRESS: P.O. Box 264, Starkville

PLACE OF EMPLOYMENT:_____ HOURS OF EMPLOYMENT:_____

HOME PHONE NUMBER:_____ WORK PHONE NUMBER: 323-3565

II. PROPERTY DAMAGE OR LOSS

LOSS SUSTAINED: (list dollar amount here) $ 265.00

DESCRIPTION OF LOSS OR DAMAGE: Paula Hathorn gave a check for $265.00 bouncing the account was closed.

ESTIMATE TO REPAIR OR REPLACE: (dollar amount)_____

Amount of Deductible: $_____

INSURANCE COVERAGE?_____ WHAT COMPANY:_____

III. OWNERSHIP OF PROPERTY

WHO ACTUALLY HOLDS TITLE TO THE PROPERTY, AND IF YOU LEASE, WHO IS RESPONSIBLE FOR REPAIRS OF DAMAGES:_____

IV. PERSONAL INJURY

DESCRIPTION OF INJURY:_____

LIST ANY MEDICAL BILLS AND SHOW TO WHOM OWED:_____

NAME OF TREATING PHYSICIAN:_____

NAME OF HOSPITAL, IF REQUIRED:_____

DO YOU HAVE MEDICAL INSURANCE:_____ AMOUNT OF DEDUCTABLE: $_____

TOTAL AMOUNT OF OUT OF POCKET EXPENSES: $_____

*PLEASE ATTACH COPIES OF ALL MEDICAL BILLS (INCLUDING AMBULANCE BILLS)

DO YOU ANTICIPATE ANY FUTURE BILLS?_____

V. AS THE VICTIM OF A CRIME, YOU ARE ENTITLED TO TELL THE COURT OF THE EMOTIONAL AND PHYSICAL IMPACT OF THE CRIME UPON YOU AND YOUR FAMILY. YOU MAY ALSO HAVE ADDITIONAL FINANCIAL IMPACT THAT YOU WISH TO TELL THE COURT ABOUT. PLEASE WRITE IN THE SPACE BELOW AND ON A SEPARATE SHEET OF PAPER, IF NEEDED, YOUR FEELINGS ABOUT THE CRIME's IMPACT. PLEASE ALSO INDICATE YOUR FEELINGS REGARDING A PROPER SENTENCE IN THIS CASE.

Mr. Roark thinks if she can't pay back all the money she owes people she certainly should spend some time in jail - She has written bad checks all over this area I spoke with Mr. Ray Roark over the telephone on 3-6-91

FILED
OKTIBBEHA COUNTY
MAR 06 1991
Miriam M Cook
Circuit Clerk

Greta Moore
SIGNATURE

2617

500
1-35

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

June TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO: 12-184

Paula Hathorn

JUDGMENT NISI

This cause came on this day for Arraignment and the Defendant Paula Hathorn, being called, came not, judgment is therefore given against him and Kenneth L. Montgomery d.b.a National Bail Bonds ~~by~~ L. Sanders, Sureties on his appearance bond for $6000.00 Dollars to be made final unless they show cause against it according to law; and the same day Scire Facias to Paula Hathorn, Principal and Kenneth L. Montgomery, d.b.a. National Bail Bonds ~~and~~ L. Sanders, Sureties, and returnable on the 22nd day of July, 1991. And the Clerk shall issue Alias Capias for the Defendant Instanta, and upon arrest bail is fixed at $12,000.00 Dollars.

SO ORDERED AND ADJUDGED, this the 15th day of April, 1991.

FILED
OKTIBBEHA COUNTY
APR 15 1991
Miriam M. Cook
Circuit Clerk

John Montgomery
CIRCUIT JUDGE

MB 66
Page 500

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

VACATION TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO: 12-183

PAULA HATHORN

O R D E R

This day this cause came on to be heard in Open Court upon the petition of HONORABLE PATRICIA SPROAT, ASSISTANT DISTRICT Attorney of the Sixteenth Circuit Court District of Mississippi, petitioning the Court to revoke the suspension of sentence heretofore imposed upon PAULA HATHORN, by this Court in the above styled and numbered cause for the crime of FALSE PRETENSE and wherein the said Defendant was sentenced to serve a term of 3 years, in the Mississippi Department of Corrections at Parchman, Mississippi and ATTEND RESTITUTION CENTER IN PASCAGOULA, MS & SUCCESSFULLY COMPLETE THE PROGRAM & MAKE FULL & COMPLETE RESTITUTION, PAY A $500.00 FINE & ALL COSTS, and which sentence was suspended, and the Defendant having been notified by summons served by the Sheriff of said county of the day, time and place of hearing at least five days before this date, and Defendant having appeared in Open Court and the Court having been fully advised in the premises is of the opinion and finds that the Defendant PAULA HATHORN, has violated the terms and conditions of his aforesaid suspension of sentence and that the Defendant is not a fit subject to be rehabilitated, and that the aforesaid sentence heretofore imposed upon him and which was then suspended should now be revoked, and that the Defendant should now be required to serve 3 years in the Mississippi Department of Corrections at Parchman, Mississippi, and ~~\\\\\\\\\\\\\\\\\\\\\\\\~~, for the commission of said crime as such sentence was originally imposed by the

448

Court.

It is therefore and accordingly by the Court Ordered and Adjudged that the suspension of sentence heretofore granted to PAULA HATHORN for the crime of FALSE PRETENSE in the above styled cause is hereby revoked and terminated and that the Defendant serve Three (3) years in the Mississippi Department of Corrections at Parchman, Mississippi, and ~~and~~ ~~and~~, and the Sheriff of Oktibbeha County, Mississippi is hereby Ordered and directed to take the said Defendant PAULA HATHORN into custody, if he is not already in custody of such Sheriff, and to turn said Defendant over to the proper authorities at the Mississippi Department of Corrections at Parchman, Mississippi, to serve such sentence. The defendant's medical records are to be furnished to the MDOC reception center to facilitate their immediate admission and proper placement.

SO ORDERED AND ADJUDGED, this the 2nd day of Dec. 1991.

CIRCUIT JUDGE

FILED
OKTIBBEHA COUNTY
DEC 03 1991
Miriam M. Cook
Circuit Clerk

3338

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:
NO: 12-184

Whereas, PAULA HATHORN principal , and KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT

sureties, by their BOND entered into before WILLIAM D. ESHEE, JR., MUNICIPAL JUDGE

on the 14TH day of JANUARY A.D. 1991, agreed to pay the State of Mississippi THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars,

unless the said PAULA HATHORN

Principal , should appear at the APRIL Term, A. D. 1991, of the Circuit Court of OKTIBBEHA County, STARKVILLE, MISSISSIPPI

and therein remain

from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE

and, whereas, on the 15TH day of APRIL, A. D. 1991, at the APRIL Term, A. D. 1991, of said Court, the said PAULA HATHORN

having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL; KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT

sureties as aforesaid, having been duly called to come in to Court and bring with them the body of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT PAULA HATHORN, PRINCIPAL, & KENNETH L. MONTGOMERY the sum of THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable JULY 22, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL, AND KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT that unless, on the 22ND day of JULY A. D. 1991, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 16TH day of APRIL, A. D. 1991.

Miriam M. Cook

Circuit Clerk, OKTIBBEHA
County, Mississippi

By _____, D. C.

619

3-13

541

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI

VERSUS NO. 12-184

Paula Hathorn

Order Appointing Counsel For Defendant

The defendant, Paula Hathorn, having been arrested and imprisoned on a charge of False Pretense, and it appearing that he is without legal counsel to represent and defend him and he is financially unable to employ counsel of his own choice, and it further appearing that he has requested that counsel be appointed by the court; the court therefore appoints Honorable Mark Williamson, to represent and defend said defendant.

IT IS THEREFORE, ordered and adjudged that Honorable Mark Williamson be and hereby is selected and oppointed to defend said defendant on said charge.

So ordered this the 17th day of April, 19 91.

CIRCUIT JUDGE

FILED
OKTIBBEHA COUNTY
APR 17 1991
Circuit Clerk

VAUGHAN PRINTING COMPANY

SM B 66
Page 541

2620

STATE OF MISSISSIPPI

COUNTY OF OKTIBBEHA

12-183
12 184

AFFIDAVIT AND MOTION

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID COUNTY AND STATE, Paula Hathorn WHO BEING BY ME FIRST DULY AND LEGALLY SWORN ON HIS/HER OATH, STATED THAT HE/SHE HAS BEEN ARRESTED AND CHARGED ON THE CHARGE OF False Pretense AND THAT BECAUSE OF HIS/HER POVERTY HE/SHE IS NOT FINANCIALLY ABLE TO EMPLOY COUNSEL OF HIS/HER CHOICE.

SAID Paula Hathorn THEREFORE REQUESTS THAT THE COURT SELECT AND APPOINT COUNSEL TO REPRESENT HIM/HER.

Paula Hathorn
DEFENDANT

SWORN TO AND SUBSCRIBED BEFORE ME ON THIS THE 16 DAY OF April, 19 91.

William A. Bayle
JUSTICE COURT JUDGE

(SEAL)

MY COMMISSION EXPIRES:
1/11/1992

FILED
OKTIBBEHA COUNTY
APR 17 1991
Miriam M. Cook
Circuit Clerk

STATE OF MISSISSI

COUNTY OF OKTIBBEHA

STATEMENT OF INDIGENCY

I, Paula Hathorn, DO MAKE THIS STATEMENT OF INDIGENCY UNDER OATH.

ALL ASSETS AVAILABLE TO ME FOR THE PAYMENT OF AN ATTORNEY'S FEE ARE AS FOLLOWS:

REAL PROPERTY: Ca. - 980 Chevette.

PERSONAL PROPERTY: Diamonds - $1000

MY EMPLOYMENT STATUS AND SALARY IS AS FOLLOWS: N/A.

I HAVE 1 NUMBER OF DEPENDENTS.

I HAVE THE FOLLOWING SOURCES OF INCOME, IN ADDITION TO MY EMPLOYMENT LISTED ABOVE: N/A.

MY PARENTS AND/OR SPOUSE HAVE THE FOLLOWING ABILITY TO PROVIDE AN ATTORNEY'S FEE: N/A.

I HAVE THE FOLLOWING FURTHER INFORMATION WHICH MIGHT BE HELPFUL TO THE COURT IN DETERMINING MY STATUS AS AN INDIGENT: N/A

Paula Hathorn

AFFIANT

FILED
OKTIBBEHA COUNTY
APR 17 1991
Deborah M. Ford
Circuit Clerk

2622

STATE OF MISSISSI

COUNTY OF OKTIBBEHA

PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED AUTHORITY IN AND FOR SAID COUNTY AND STATE, THE WITHIN NAMED Paula Hathorn, WHO BEING BY ME FIRST DULY AND LEGALLY SWORN STATED ON OATH THAT THE MATTERS AND FACTS SET FORTH IN THE FOREGOING STATEMENT OF INDIGENCY ARE TRUE AND CORRECT TO THE BEST OF HIS/HER KNOWLEDGE.

Paula Hathorn
AFFIANT

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 16 DAY OF April, 1991.

William A. Boyd
JUSTICE COURT JUDGE

SEAL

FILED
OKTIBBEHA COUNTY
APR 17 1991
William M. Cook
Circuit Clerk

MY COMMISSION EXPIRES: 1/11/1992

WITNESS: Walter Hall

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

April TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO. 12-184

Paula Hathorn

WAIVER OF ARRAIGNMENT AND ENTRY OF PLEA

COMES NOW THE DEFENDENT, Paula Hathorn, IN OPEN COURT AND ACKNOWLEDGES SERVICE OF A COPY OF THE INDICTMENT ON A CHARGE OF False Pretense, AND FOR PLEA TO SAID CHARGE SAID DEFENDANT SAYS THAT (HE, SHE) OFFERS A PLEA OF NOT GUILTY.

WITNESS MY SIGNATURE THIS THE 17th DAY OF April, 19 91.

Paula Hathorn
DEFENDANT

Mary H. Williamson
ATTORNEY FOR DEFENDANT

BOND RECOMMENDATION: $ 12,000.00

FILED
OKTIBBEHA COUNTY
APR 18 1991
Miriam M Cook
Circuit Clerk

548

4-5

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

April TERM, 19 91

STATE OF MISSISSIPPI

VERSUS NO. 12-184

Paula Hathorn

ORDER

COMES THE DISTRICT ATTORNEY WHO PROSECUTES THE PLEAS FOR THE STATE OF MISSISSIPPI, AND COMES ALSO THE DEFENDANT, Paula Hathorn, IN THE PRESENCE OF ~~HIS~~ HER ATTORNEY, Mark Williamson, WHO WAS BROUGHT BEFORE THIS COURT AND WHO WAIVED FORMAL READING OF THE INDICTMENT PREFERRED AGAINST ~~HIM~~ HER OF False Pretense, AND FOR PLEA TO SAID CHARGE SAID DEFENDANT SAYS THAT ~~HE~~/SHE (IS) (IS NOT) GUILTY.

IT IS ORDERED BY THE COURT THAT SAID DEFENDANT, Paula Hathorn, REMAIN IN THE CUSTODY OF THE SHERIFF UNLESS RELEASED ON BOND IN THE SUM OF $10,000.00, CONDITIONED ACCORDING TO LAW, TO BE APPROVED BY THE SHERIFF OF THIS COUNTY, PROVIDING FOR HIS APPEARANCE HEREIN.

IF DISCOVERY IS REQUESTED BY THE DEFENDANT, THE REQUEST SHALL BE MADE ON OR BEFORE Apr. 25, 1991 ALL DISCOVERY SHALL BE COMPLETED PURSUANT TO RULE 4.06 OF THE UNIFORM CRIMINAL RULES 30 DAYS FROM THE DATE OF THIS ORDER.

ALL PRELIMINARY MOTIONS SHALL BE BROUGHT FORWARD BY THE MOVING ATTORNEY ON July 1, 1991. FAILURE TO BRING MOTIONS AS DIRECTED BY THIS ORDER SHALL BE CONSIDERED AN ABANDONMENT OF SUCH MOTION PURSUANT TO RULE 2.06 OF THE MS RULES OF COURT.

IF PLEA NEGOTIATIONS ARE ENTERED INTO, ANY FINAL AGREEMENT MUST BE REDUCED TO WRITING AND SIGNED BY THE STATE AND THE DEFENSE ATTORNEY FIVE DAYS PRIOR TO THE NEXT TERM OF COURT; OTHERWISE, ALL PLEAS WILL BE OPEN PLEAS. THIS CASE IS SET FOR A PLEA ON July 22, 1991, AT SUCH TIME AND PLACE AS DETERMINED BY THE COURT. FAILURE OF THE DEFENDANT TO ENTER HIS NEGOTIATED PLEA ON THE DATE SET FORTH ABOVE WITHOUT PERMISSION OF THE COURT WILL CANCEL ANY PLEA AGREEMENT ENTERED INTO, AND ANY PLEA AFTER SAID PLEA DAY WILL BE CONSIDERED AN OPEN PLEA.

IT IS FURTHER ORDERED THAT THIS CAUSE BE AND THE SAME IS HEREBY CONTINUED FOR THE TERM AT THE REQUEST OF Defendant AND IS SET FOR TRIAL ON July 25 1991.

SO ORDERED, THIS THE 18th DAY OF April, 1991.

CIRCUIT JUDGE

AGREED: Forrest Allgood, DISTRICT ATTORNEY

Mark Williamson, DEFENDANT'S ATTORNEY

FILED
OKTIBBEHA COUNTY
APR 18 1991
Miriam M Cook
Circuit Clerk

MB 66
Page 548

2625

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

STATE OF MISSISSIPPI — PLAINTIFF

VERSUS — CRIMINAL ACTION FILE NUMBER: 12-184

PAULA HATHORN — DEFENDANT

MOTION FOR DISCOVERY

COMES NOW, the Defendant in the above entitled cause and moves the Court to require the State to produce, at a time sufficiently prior to trial to facilitate preparation of this matter for trial.

1. Copies of any statements allegedly made by the Defendant whether oral, written, taped, recorded or in whatever form that the prosecution either intends to introduce into evidence or rely upon at trial of the cause.

2. Copy of criminal record of the Defendant, if proposed to be used to impeach.

3. That a complete list of all persons interviewed in the entire investigation, the name of the person or persons conducting such interview together with a copy of the interview or correct account of same.

4. Meaningful address as to all persons interviewed by the authorities in this case so that the Defendant might have the opportunity to determine what exculpatory beneficial evidence each witness might have.

5. Names and addresses of all State's witnesses whether the State intends to call these witnesses at trial or not.

6. Copies of any statements made by any and all State's witnesses, whether oral, written, taped or in whatever form, whether the State intends to call these witnesses a trial or not.

7. Complete and detailed list of criminal records for all State's witnesses whether the State intends to call these witnesses at trial or not including any and all charges which may now be pending against them which they have not yet been officially disposed of by plea, trial or otherwise.

8. Any and all written reports, documents or physical evidence that is in the possession of the State or the prosecution relative to this case or the investigation thereof.

9. Any photographs or other documents which the prosecution intends to offer into evidence.

10. Results of all reports of any scientific tests or experiments or studies made in connection with the above styled case and all copies of such reports.

11. A list and complete description of all physical evidence in possession of the State as a result of its complete investigation; and movant and his counsel should be permitted to physically inspect any and all of such evidence.

12. A list of all items of physical evidence submitted to any laboratory for any type of tests, together with all of the findings and conclusions of said laboratory.

13. There may be other items and matters of evidence, information and data in existance that are not enumerated aforesaid of which movant is unaware due to the secrecy surrounding the investigation, but in any event, movant now requests and demands that he be furnished with any and all evidence and information, whether specifically delineated or listed herein or not, that may be materially favorable to movant in either a directory or impeaching manner irrelevant to punishment which falls within the context of Brady v. Maryland, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d. 215 (1968). See also United States v. Gigelio, 405 U.S. 150; Moore v. Illinois, 408 U.S. 786.

Respectfully submitted, this, the 18th day of April, 1991.

Mark G. Williamson

Mark G. Williamson - Attorney for Defendant

WARD AND WILLIAMSON
Mark G. Williamson
Post Office Drawer 1216
Starkville, MS 39759
(601) 323-1187

Certificate of Service

I, Mark G. Williamson, do hereby certify that I have this date mailed postage prepaid, a true and correct copy of the foregoing Motion to Hon. Forrset Allgoood, Post Office Box 1044, Columbus, Mississippi 39703.

Witness my signature, this, the 18th day of April, 1991.

Mark G. Williamson

Mark G. Williamson

FILED
OKTIBBEHA COUNTY
APR 19 1991
Circuit Clerk

MISSISSIPPI LICENSE NO. 8001738

APPEARANCE BOND Circuit **Court** **Bond No.** Nº 4843

THE STATE OF MISSISSIPPI

Okt. County.

We, Paula Hathorn, principal, and

KENNETH L. MONTGOMERY D/B/A NATIONAL BAIL BONDS surety, agree to pay the State of Mississippi Six Thousand Dollars & no/100 (6000.00) Dollars, unless the said Paula Hathorn shall appear before the Circuit Court on the 15 day of April 19 91 at 9:00 o'clock A. m., and from day to day and term to term until discharged by law to answer a charge of False Pretense

NATIONAL BAIL BONDS

by L. Anders

(Signed) Paula P. Hathorn Principal

APPROVED:

This 12 day of Feb 19 91

Okt Bryan Sheriff

By Jessie Ader D.C.

FILED
OKTIBBEHA COUNTY
FEB 28 1991
Circuit Clerk

Ronald McHand Judgment

THE STATE OF MISSISSIPPI Alias Capias #12-184

Oktibbeha County.

TO THE SHERIFF OF SAID COUNTY — GREETING

We Command You, to take the body of Paula Hathorn

_____ if to be found in your County, and him safely keep, so that you have his body before the Honorable, the Circuit Court of Oktibbeha County, in said State, to be holden at the Court House thereof in the City of Starkville, INSTANTA and then and there to answer unto the State of Mississippi of a charge of _____

False Pretense

_____

_____

_____ by indictment in said Court, at the January

Term A. D. 1991, thereof.

Herein fail not, and have there this writ, with the manner you have executed the same.

Given Under My Hand and Seal, and issued the 16th day of April 1991.

Miriam M. Cook

Miriam M. Cook, Circuit Clerk

_____ D. C.

2630

2631

CERTIFICATE OF SURRENDER OF PRISONER

STATE OF MISSISSIPPI

SHERIFFS DEPARTMENT
COUNTY OF OKTIBBEHA

POLICE DEPARTMENT
CITY OF _____

THE SURETY, upon the bail bond of Paula Hathorn
hereinafter called defendant, charged with False Pretense

having delivered to me a certified copy of the bail bond surrendering said defendant, and I, having thereupon taken in custody the said defendant, do hereby certify and by this certificate acknowledge that Kenneth Montgomery d/b/a **NATIONAL BONDING CO.** has surrendered the said defendant, and that said defendant is now in my custody.

Dated 4-15 1991

L. Sanders, Bondsman

Dewitt Bryan, Sheriff
Sheriff or Chief of Police

By Jerry H. Edwards, DS
Deputy Sheriff or Jailer

FILED
OKTIBBEHA COUNTY
MAY 01 1991
Miriam M. Cook
Circuit Clerk

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:
NO: 12-184

Whereas, PAULA HATHORN principal , and

KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT

sureties, by their BOND entered into before

WILLIAM D. ESHEE, JR., MUNICIPAL JUDGE

on the 14TH day of JANUARY A.D. 1991, agreed to pay the State of Mississippi

THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars,

unless the said PAULA HATHORN

Principal , should appear at the APRIL Term, A. D. 19 91, of the Circuit Court of

OKTIBBEHA County, STARKVILLE, MISSISSIPPI

and therein remain

from day to day and term to term until discharged by law, to answer a charge of

FALSE PRETENSE

and, whereas, on the 15TH day of APRIL, A. D. 1991, at the

APRIL Term, A. D. 19 91, of said Court, the said

PAULA HATHORN

having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL; KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT

sureties as aforesaid, having been duly called to come in to Court and bring with them the bod Y of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT PAULA HATHORN, PRINCIPAL, & KENNETH L. MONTGOMERY the sum of THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable JULY 22, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL, AND KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGEN that unless, on the 22ND day of JULY A. D. 19 91, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 16TH day of APRIL, A. D. 19 91.

FILED
OKTIBBEHA COUNTY
MAY 01 1991
Miriam M. Cook
Circuit Clerk

Miriam M. Cook

Circuit Clerk, OKTIBBEHA County, Mississippi

By _____, D. C.

Scire Facias on Forfeited Appearance Bond or Recognizance. Secs. 1396 and 1400, Annotated Code 1906.

THE STATE OF MISSISSIPPI,

To the Sheriff of OKTIBBEHA County, in said State:
NO: 12-184

Whereas, PAULA HATHORN principal , and KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT

sureties, by their BOND entered into before WILLIAM D. ESHEE, JR., MUNICIPAL JUDGE

on the 14TH day of JANUARY A.D. 1991, agreed to pay the State of Mississippi THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars,

unless the said PAULA HATHORN

Principal , should appear at the APRIL Term, A. D. 19 91, of the Circuit Court of OKTIBBEHA County, STARKVILLE, MISSISSIPPI

and therein remain

from day to day and term to term until discharged by law, to answer a charge of FALSE PRETENSE

and, whereas, on the 15TH day of APRIL, A. D. 1991, at the APRIL Term, A. D. 19 91, of said Court, the said PAULA HATHORN

having been duly called into court and answer said charges, came not, but made default; and thereupon the said PAULA HATHORN, PRINCIPAL; KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT

sureties as aforesaid, having been duly called to come in to Court and bring with them the bod Y of the said PAULA HATHORN to answer said charge, came not, but made default: It was thereupon considered, and so ordered by said Court, that the State of Mississippi do have and recover of and from the said D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGENT PAULA HATHORN, PRINCIPAL, & KENNETH L. MONTGOMERY the sum of THREE THOUSAND AND 00/100 ($3,000.00)---------- Dollars, that being the amount of their BOND aforesaid, and that scire facias, returnable JULY 22, 1991 be issued.

You are therefore hereby commanded to make known to said PAULA HATHORN, PRINCIPAL, AND KENNETH L. MONTGOMERY, D/B/A NATIONAL BAIL BONDS AND LINDA SANDERS, AGEN that unless, on the 22ND day of JULY A. D. 19 91, before said Circuit Court, at the Courthouse in the CITY of STARKVILLE, in OKTIBBEHA County, Mississippi, they shall show cause to the contrary, the said judgement will be made final; and have there then this writ.

Given under my hand and official seal, and issued this the 16TH day of APRIL, A. D. 19 91.

FILED
OKTIBBEHA COUNTY.
MAY 01 1991
Miriam M. Cook
Circuit Clerk

Miriam M. Cook

Circuit Clerk, OKTIBBEHA County, Mississippi

By _____, D. C.

DOROTHY LANGFORD
COURT ADMINISTRATOR
SIXTEENTH CIRCUIT COURT DISTRICT
P.O. BOX 1387
COLUMBUS, MISSISSIPPI 39703
(601) 329-5919

LEE J. HOWARD
CIRCUIT JUDGE

JOHN M. "MICKEY" MONTGOMERY
CIRCUIT JUDGE

May 2, 1991

NOTICE:

TO: Mark Williamson, Defendant's Attorney

RE: State of Mississippi
versus # 2-183-12-84, Oktibbeha Circuit Court
Bothern

Please take notice that the above styled and numbered cause has been set for trial at the next regular term of Circuit Court in Oktibbeha County on July 29, 1991.

A complete trial docket will be available from the Circuit Clerk's office prior to the start of the term.

Sincerely,
Dorothy Langford
Dorothy Langford,
Court Administrator

FILED
OKTIBBEHA COUNTY
MAY 03 1991
Circuit Clerk

2634

3/6

3-12

CRIMINAL FORM NO: 7

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

July TERM, 19 91

STATE OF MISSISSIPPI

VERSUS

CAUSE NO: 12-184

Paula Hathorn

RETIRED TO FILES

This day came on to be heard the within styled and numbered cause on motion of the District Attorney to retire to files, the Defendant stating that he/she has no objection, and the Court duly considering said motion Orders that said motion is well taken, and the cause is hereby retired to the files based upon plea of guilty in # 12-183,

SO ORDERED AND ADJUDGED, this the 24 day of July, 19 91.

CIRCUIT JUDGE

FILED: FILED OKTIBBEHA COUNTY JUL 24 1991 Miriam M. Cook Circuit Clerk

CIRCUIT CLERK

BY: DEPUTY CLERK

MINUTE BOOK 67

PAGE 316

EXHIBIT 29

STATE OF MISSISSIPPI)
)
COUNTY OF LOWNDES)

AFFIDAVIT OF PAULA RENEE HATHORN

1. My name is Paula Renee Hathorn. My address is 527 Baremore St., Louisville, MS 39701. I am presently incarcerated in the Lowndes County Detention Center. I was a prosecution witness in the 1993 trial of Willie Jerome Manning, which was held in Oktibbeha County.

2. I was first approached by the sheriff soon after Willie was arrested on other charges, and before he was actually charged with capital murder.

3. Sheriff Dolph Bryan approached me on the street facing the jail. He told me Willie was a suspect in the student murders and he wanted to see if I could help them identify some stolen items. This was also the first time that he told me I was going to get a reward.

4. Several times Sheriff Bryan pressured me to try to get Willie to confess or talk about the case. At least twice, he took me to a house on Mill Street to have Willie call me there. Sheriff Bryan gave me the phone number to give to Willie. Willie called and I tried to get him to talk to me and confess. Willie did not tell me he did anything at all to the students. He said he had nothing to do with that.

5. Sheriff Bryan also arranged to have me talk to Willie while I was living with Dennis Jones, my then boyfriend in Brooksville. The phone was in Terry Priester's name. I talked to Willie about fifteen times over a period of several weeks.

6. Sheriff Bryan kept asking me to talk to Willie right up to the time he was charged with capital murder. After that, I was not allowed to talk to him on the phone.

7. After the trial was over, I was told to call Sheriff Bryan each week until the reward money was collected. I received $17,500 about the end of November.

8. When I was approached to help Sheriff Bryan, I had about thirteen bad check charges in Oktibbeha County. I also had about twenty bad check charges in Lowndes County. There were also bad check charges in Macon, Clay, and Jackson Counties. Altogether, I owed more than $10,000 in fraudulent checks and court fees.

9. My attorney, Mark Williamson, had told me that I was facing 8-10 years plus some years probation. However, after I testified against Willie, my charges were PRESENTLY passed to the file, and I have not served any time. I was worried about this before I was approached by Sheriff Bryan, but

he told me not to worry about going to jail.

10. Because the sheriff indicated that I would not have to serve any prison time, I agreed to plead guilty to some of the charges in Justice Court in Oktibbeha County. Because the sheriff assured me that I had nothing to worry about, I waived my right to an attorney for that guilty plea. I think that was in the fall of 1993 or maybe early in the winter of 1994. I was also not prosecuted on the other charges.

11. I am making these statements of my own free will. No threats, coercion, or promises have been made to obtain this information, which is true and correct.

12. However I am giving this statement with the expectation of reprisals from law enforcement. I am afraid of what might happen on my present charges because I made these statements. Regardless of the consequences, the foregoing statements are truthful and correct.

Paula Hathorn
PAULA RENEE HATHORN

Sworn to and subscribed before me
this 4th day of October, 2001.

James Green
NOTARY PUBLIC

My commission expires: 6-13-05

EXHIBIT 30

False pretense 1st
1st + 2nd Offense

WAIVER OF ATTORNEY

IN THE JUSTICE COURT
Paula Hathorn

NO. _____

Starkville, MISSISSIPPI

I, the undersignned adult, have been advised by the judge of the court that I am entitled to be represented by an attorney in this cause. I have been advised that if I am found guilty of the charge or charges against me that I may be fined or sentenced to jail. The judge has advised me that if I am unable to afford an attorney, one will be provided for me at no cost to me.

With full knowledge and understanding of the foregoing and after having had same explained to me and having been given an opportunity to ask questions concerning this matter as well as leave of the court to obtain legal counsel, I hereby waive my right to an attorney in this cause.

This the 28th day of September 1993.

Paula R. Hathorn
Defendant

Witness:

Ruby Howell Deputy
Clerk of the court

STATE OF MISSISSIPPI

VS.

Paula Renee Hatten

ORDER

The defendant, Paula Renee Hatten, having been found guilty of False Pretense (2nd Off.), in the Justice Court of Starkville, MIssissippi, and after taking all matters of extenuation and mitigation into consideration, said defendant is hereby sentenced to

$300.00 fine and costs of court.
30 days in county jail, suspended for
two years on good behavior.
Payment of restitution and court costs
on all other counts.

9/28/93
Date

Allen Wells
Justice Court Judge

STATE OF MISSISSIPPI

VS.

Paula Renee Heithaus

ORDER

The defendant, Paula Renee Heithaus, having been found guilty of False Pretense (1st off.), in the Justice Court of Starkville, MIssissippi, and after taking all matters of extenuation and mitigation into consideration, said defendant is hereby sentenced to

$100.00 fine and cost.
5 days in county jail suspended for three years on good behavior

9/28/73
Date

Alton Mills
Justice Court Judge

DOB 6-5-67

SOCIAL SECURITY 428-53-7050 EMPLOYMENT Gal-Jack Macon, Ms.

Star Rt Box 131
Brooksville, Ms. 39739
738-5044

AGREEMENT

STATE OF MISSISSIPPI

OKTIBBEHA COUNTY JUSTICE COURT

I, Defendant Paula Hathorn having plead guilty or was found guilty in Justice Court on 28 day of Sept, 19 93 to the charge of False Pretense, agrees to make payments to Justice Court in the following manner:

_____ Money Down on the _____ day of _____, 19___

30.00 Payments on a ✓ Weekly or _____ Monthly

OTHER TERMS: To mail Money Order 10-2-93

This the 28 day of Sept, 19 93.

1,391.11

Paula R. Hathorn
DEFENDANT

Alton Bills
OKTIBBEHA COUNTY JUSTICE COURT

Failure to abide by the terms of this agreement will constitute a Contempt of Court Charge and a Warrant will be served on you for your arrest, or Your Driver License will be suspended.

EXHIBIT 31

PAULA HATHORN
BAD CHECKS (1989-1994)

1989

DATE	VICTIM	AMOUNT
10/28/89	Wal-Mart	$ 71.76
11/03/89	Payless Shoes	49.79
11/03/89	Wal-Mart	85.34
11/03/89	Happy's Fashions	10.00
11/21/89	Wal-Mart	120.92
11/22/89	Sack & Save	20.54
11/nd/89	Withit Department Store	42.39
12/01/89	Wal-Mart	55.25
12/09/89	Wal-Mart	74.76
12/09/89	Mullins Department Store	52.92
12/09/89	Mullins Department Store	67.84
12/30/89	Wal-Mart	37.68
12/31/89	Allied Department Store	13.25

1990

01/13/90	The Kroger Co.	99.75
01/24/90	Wal-Mart	44.93
02/23/90	Piggly Wiggly	82.88
03/nd/90	Wal-Mart No. 112	39.09
04/06/90	Wal-Mart No. 112	36.82
05/09/90	AMECO	6.00
05/12/90	Sack & Save	147.67
05/nd/90	Annea's	158.95
05/nd/90	Towne & Campus	86.92
05/nd/90	Happy's Fashions	46.64
06/05/90	Mullins Department Store	113.42
06/16/90	Raymar Jewelers	265.00
06/22/90	Name Brand Shoes	76.26
07/03/90	She-Shop	95.40
07/26/90	NBC	400.00
07/26/90	NBC	260.00
10/26/90	Kroger #325	100.92
11/19/90	Wal-Mart #495	29.80

1991

01/10/91	Factory Connection #24	55.55

1992

None to Date

1993

01/31/93	Texaco	10.00
07/13/93	Cash (Hwy 12 Texaco)	64.00 + 20.00
07/22/93	Hwy 82 Texaco	4.75
07/26/93	Hwy 82 Texaco	6.00
07/27/93	Sack & Save	32.87
07/nd/93	A & J Shoes	37.58 + 15.00
08/03/93	Boardwalk	74.92
08/06/93	Moreland, Inc.	38.00
08/06/93	Moreland, Inc.	40.00
08/06/93	Moreland, Inc.	35.00
08/06/93	Moreland, Inc.	35.00
08/06/93	Moreland, Inc.	35.00
08/06/93	Moreland, Inc.	40.00
08/06/93	Moreland, Inc.	35.27
08/06/93	Moreland, Inc.	35.00
08/06/93	Moreland, Inc.	35.00
08/06/93	Dollar General	96.86
08/06/93	Dollar General	55.13
08/06/93	Dollar General	43.02
08/06/93	Big B Drugs #412	28.14
08/13/93	Western Auto	92.00
08/16/93	Moreland, Inc.	16.86
08/16/93	Moreland, Inc.	55.00
08/17/93	Party Works	32.97
08/20/93	East Mississippi Lumber Co.	51.12
08/20/93	B-Quick Food Stores	22.42
08/20/93	Factory Connection #24	68.48
08/27/93	B-Quick Food Stores	29.11
08/27/93	B-Quick Food Stores	16.77
08/27/93	B-Quick Food Stores	25.00
08/27/93	B-Quick Food Stores	21.35
09/03/93	Sunflower Foods #56	74.98
09/21/93	Looking Good	54.54
09/24/93	Kroger #381	47.40
09/24/93	Kroger #381	33.37
09/29/93	Cost Less Foods	111.48
10/01/93	Food Max #215	36.58
10/04/93	Don's Furniture	51.38
10/08/93	Fleming Building Supply	100.15
10/08/93	Vanlandingham Lumber Co.	70.55
11/04/93	Bill's Dollar Store	40.98
11/12/93	Beall Ladyman	47.08
11/12/93	Beall Ladyman	77.06
12/13/93	Beall Ladyman	36.40
12/13/93	Beall Ladyman	62.41

1994

01/25/94	George's	27.11
01/31/94	Farmers Market	36.59
01/31/94	Farmers Market	40.47
02/22/94	Lowe's	67.34
03/01/94	Fred's #1285	84.52
03/03/94	Piggly Wiggly #79	35.00
03/03/94	Piggly Wiggly #79	44.69
03/03/94	Sanco Food Mart	30.68
03/03/94	Wade's	85.89
03/03/94	Piggly Wiggly #79	20.35
03/14/94	Fashion Outlet	28.78

EXHIBIT 32

STATE OF MISSISSIPPI

COUNTY OF OKTIBBEHA

AFFIDAVIT

I, Sharon (erron) Armstead Mitchell, after being duly sworn, depose and state as follows:

1. I am over 18 years old and am competent to provide this affidavit.

2. I have known Willie Jerome Manning for a number of years. I know him as "Fly."

3. On the night of December 10, 1992, I went to the 2500 Club. I was with my cousin, George Clark. I had recently gotten married, and my husband was not happy that I was going out. That was also the night that Steve Moore shot himself. I remember a lot of people talking about it.

4. I saw Fly at the 2500 Club that night. He was wearing white loafer shoes, and a white sweater with a red and blue stripe around the collar. He also had a tannish color hat. S.M. I first saw him outside. Later that night, I saw him inside at the bar drinking beer. Inside, he had the sweater around his shoulders. He had been drinking Budweiser beer that night. S.M.

5. I remember that I saw him inside at 12:30 a.m. I was fixing to leave because I knew that my husband would be mad at me for being out so late. I know that I eventually left when it was almost 1:00 a.m. Fly was still at the Club when I left. I remember that I spent most of the time from 12:30-1:00 a.m around Fly and my cousin. I remember that around that time, Fly was asking what time it was. I think he approached us around that same time that I was originally thinking about leaving to ask my cousin for the time. We talked for a while and then I left around 1:00 a.m.

6. I clearly remember that I got home around 1:15 a.m. I remember that because my husband and I got into a fight because I had stayed out so late. I know that I looked at the clock in our bedroom when we were arguing. That night, my husband and I got into a rough fight. I got some bruises in that fight.

7. When I learned that the students had been killed, I did not think Fly was really a suspect. Around that time, I went to the Delta. My mother was there. She had to have a lump surgically removed. When I came back, I did not realize how what I knew would have fit in with Fly's defense. If I had known, I would have come forward sooner. No one working for Fly, however, came to me to see if I knew anything.

FURTHER AFFIANT SAYETH NOT.

Sherron Armstead-Mitchell

~~SHARON~~ SHERRON ARMSTEAD MITCHELL

Sworn to and subscribed before me
this 24th day of September, 2001.

David P. Voisin

NOTARY PUBLIC

My commission expires: 4/11/05

DAVID P. VOISIN, HINDS COUNTY, MS NOTARY PUBLIC My Commission Expires April 11, 2005

EXHIBIT 33

STATE OF MISSISSIPPI)
)
COUNTY OF OKTIBBEHA)

AFFIDAVIT OF TROYLIN JONES

I, Troylin Jones, after being duly sworn, depose and state as follows:

1. I am over 18 years of age and am competent to provide this affidavit.

2. I have known Willie Jerome Manning ever since he lived in Brooksville Garden. I lived there at the time. I knew him as "Fly." Fly got along with everyone. We knew that Fly stole stuff, but he was not known to be a violent person or someone who got into fights. If anything, he avoided that kind of problem.

3. I remember seeing Fly the night that the Mississippi State students were killed. I saw him when I got to the 2500 Club around 9:30 that night. Fly was outside with a group of guys who were talking. A lot of people were talking about Steve Moore, who shot his wife and himself at Arby's earlier that night.

4. I saw Fly later that night inside the Club. It was probably around midnight or maybe a little afterward.

5. I remember that it was pretty chilly that night, but I know that I did not see Fly or anyone else wearing gloves.

FURTHER AFFIANT SAYETH NOT.

Troylin L. Jones
TROYLIN JONES

Sworn to and subscribed before me this
24 day of September 2001.

NOTARY PUBLIC
My commission expires: 4/11/05

DAVID VAUGHN NOTARY PUBLIC HINDS COUNTY, MS
My Commission Expires April 11, 2005

EXHIBIT 34

STATE OF CONNECTICUT)
)
COUNTY OF HARTFORD)

AFFIDAVIT OF JOHN HOLDRIDGE

On September 24, 2001, at Hartford, Connecticut, I, John Holdridge, of West Hartford, Connecticut, make the following statement of my own free will without fear, threat or promise, after being duly sworn:

1. I am an attorney in good standing, licensed to practice law in Mississippi, Louisiana, New York, and Connecticut. I graduated from New York University Law School in 1988 and accepted a position as an associate at Cahill, Gordon and Reindel, in New York City.
2. In 1990, I moved to New Orleans, Louisiana, to work for the American Civil Liberties Union Capital Punishment Project–Fifth Circuit. After the ACLU cut the funding, this project became the Mississippi and Louisiana Capital Trial Assistance Project. The project was dedicated to representing and providing assistance to attorneys representing capital defendants in those states both at the trial level and at the direct appeal level. Because of a severe funding crisis, in March of 2001 I took a position with the Capital Trial Services Unit of the Connecticut Chief Public Defender Office.
3. I have directly represented over 20 capital defendants both at the trial level and at the direct appeal level in the State of Mississippi.
4. In addition, I have provided varying degrees of consultation in numerous death

penalty cases in the State of Mississippi.

5. In 1994, I was asked to provide assistance to Willie Manning's defense team, including investigator Clayton Hall and attorney Mark G. Williamson. (Mr. Hall, whom I counted as a close friend, is now deceased.) I discussed Mr. Manning's case with Mr. Hall and Mr. Williamson, and concluded that the prosecution's case seemed weak, given that it rested on circumstantial evidence and witnesses, such as jailhouse informants, whose credibility was subject to attack on cross-examination.

6. Despite my assessment of the state's case, however, I underscored the importance of preparing for the possible penalty phase of the case. To assist Mr. Manning's defense team, I volunteered to interview Mr. Manning and his mother to determine what mitigating evidence could be developed.

7. I interviewed both Mr. Manning and his mother in July 1994. Notes of those interviews are attached to this affidavit. Even during those brief interviews, I learned of significant mitigating evidence. More important, it was abundantly clear to me that further investigation would prove highly fruitful and would uncover a powerful mitigation case.

8. I thought it highly likely, moreover, that Mr. Manning suffers from neurological impairment, such as brain damage or fetal alcohol syndrome or effects. Indeed, Mr. Manning's mother admitted that she drank throughout her pregnancy. She was only about sixteen or seventeen when she gave birth to Mr. Manning. When Mr. Manning was born, she told me, the midwife had to "re-shape" his skull. I

also learned that Mr. Manning had suffered several head injuries. Because of these factors, I recommended that trial counsel seek funds to have Mr. Manning undergo psychological testing.

9. During these brief interviews, I also learned some compelling details about Mr. Manning's family history, including grinding poverty, abandonment by his mother, head injuries, trauma, and neglect. I informed the defense team that, at the very least, it needed to gather numerous records, and locate and interview numerous witnesses, who could prove to be very powerful witnesses at the penalty phase. I also strongly urged the defense team to seek funds for a social worker to develop a full social history of Mr. Manning - a social history that could well turn out to be the cornerstone of a persuasive case for life to the jury at the penalty phase.

10. My involvement in Mr. Manning's case ceased after I passed on the results of my interviews to Mr. Williamson. Despite my willingness to provide additional assistance, no member of the defense team ever contacted me again about Mr. Manning's cases.

11. On the basis of over ten years of experience working almost exclusively on capital trials in Mississippi and Louisiana, I believe that Mr. Manning's defense team had a potentially strong case for life at the penalty phase of his trial. Even though I only scratched the surface of Mr. Manning's social history, the type of information that I uncovered has been used by trial lawyers in numerous capital cases to obtain life plea agreements with prosecutors. Moreover, the type of

information that I learned about Mr. Manning, if properly developed and presented, is frequently successful in securing life verdicts from juries.

I have read the above statement consisting of four pages. The facts therein are true, correct and given voluntarily.

JOHN HOLDRIDGE

Subscribed and sworn to before me this 24th day of September 2001.

Peter E. Palmer
Notary Public
my Comission Expires on
march 31st 2002

MISSISSIPPI AND LOUISIANA CAPITAL TRIAL ASSISTANCE PROJECT

Suite 1343
210 Baronne Street
New Orleans, LA 70112

(504) 522-0578
FAX (504) 586-8155

July 27, 1994

Mark G. Williamson
Attorney at law
201 S. Lafayette Street
PO Box 1545
Starkville, MS 39759

Re: State of Mississippi v. Willie Jerome Manning

Dear Mark:

Enclosed please find my typed notes from my brief interview with Willie's mother and my more extensive interview with Willie. You will note that throughout I provide suggestions as to contacts and further mitigation investigation. (Please excuse any spelling errors!)

It is clear to me that you need a social worker to assist in the defense. (You might want to send him/her the enclosed notes.) It is also clear to me that you need another psychologist to give Willie a battery of psychological tests. In addition, you must contact a gynecologist about Willie's problematic birth.

I am intrigued by the possibility that Willie may have Fetal Alcohol Syndrome or the less serious Fetal Alcohol Effects. I am having a clerk research this issue for me, and will provide you with the results of his research. Is there anyone in Starkville who has knowledge of Fetal Alcohol Syndrome or Effects? Please check this out. If not, I will attempt to obtain someone to advise you. You must obtain pictures of Willie as he looks now, and as he looked at various ages.

Take care and best regards.

Sincerely,

John Holdridge

cc: Clayton Hall

enclosures

MISSISSIPPI AND LOUISIANA CAPITAL TRIAL ASSISTANCE PROJECT

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210 Baronne Street
New Orleans, LA 70112

(504) 522-0578
FAX (504) 586-8155

July 27, 1994

7/19/94 interview with Willie Jerome Manning at jail.

Willie reported that he had a bicycle accident when he was 10 years old. He was hospitalized at Oktibbeha County Hospital.

NOTE: Obtain records.

Willie also reported that at his birth his grandmother had to "shape his head."

NOTE: Check this out with gynecologist.

Willie reported that he was reared by his grandmother. She was highly superstitious, and illiterate.

Willie expressed some resentment about his grandmother's illiteracy, because he had no one to help him with his school work but other children did.

Willie reported that "a lot of people" thought his mother was his sister, and his grandmother was his mother. Willie reported that he "couldn't look at his grandma any other way than as his mother."

Willie's grandmother was born in 1919 or 1921. Willie was born in 1968. Therefore, his grandmother was 47 when Willie was born.

For Willie's first 6 years of life, it was just him and his grandmother. They lived on Bellschool House Road, near various relatives, the Evans, the Fullers, and the Vines. Asked for some names, Willie gives the name of Paul Vine, a cousin; Uncle Terry Fuller; Aunt Eliadee [sp.?] Fuller.

NOTE: As many of these relatives as possible should be interviewed.

When Willie was 5, he and his grandmother moved uptown (in 1973). Brookfield Gardens, rough project. Willie's best friend for first 2 years was Victor Sudduth.

NOTE: Contact. Also Victor's parents.

When Willie was 6, his little brother was born, Marshall. At that time, his mother lived in Chicago. "I heard I had a little brother." Eventually, his mother returned to Morehead, where they lived. His mother and little brother moved in with him and his grandmother. His little brother stayed; his mother was "in and out."

Marshall and Willie got along good.

Willie reported he has an uncle and aunt in Jackson.

NOTE: You must contact.

When Willie 7 (in 1975), he, his little brother and his grandmother moved back to Bellschool House Road, near Fullers, Vines, Evans.

In 1975, Willie first encountered **PROFESSOR OZZIE RENDON. Teaches at M.S.U.** Professor Rendon became close family friend. He felt sorry for family because of their poverty. House in shambles, very poor.

NOTE: It is critical that Professor Rendon be contacted, stroked, and convinced that he must testify on Willie's behalf.

In 1976, moved to Rock Hill (in the country). Willie's best friend (for 3-4 years) was Henry Yeates. Another friend: Ronnie Brooks.

NOTE: Contact them. Also their parents.

When young (about 8-9), Willie got into a lot of fights in school and was often sent to the principal. Willie reports that his grandmother defended him and took the attitude that one had to defend oneself. He states that he lived in a rough area at that time.

NOTE: Obtain school records. Talk to principal and teachers.

When young, Willie was very small for his age. Now, Willie is 5'9". Willie reports that he started growing at 19.

When young, Willie used to play a lot by himself. He reports that there were not a lot of people around because they lived in the country. This stopped when he was 8.

Willie cannot say what his grandmother liked best about him. He reports that his grandmother got mad when Willie started skipping school, but did not whip him.

About his father: Willie reports that his mother originally told him that Jimmy Weaver, her relatively long-term companion, was his father. However, when she visited him at the jail (on his current charges), she told him that Weaver was not his father. She was willing to tell him

who his father was, but Willie reports that he did not want to hear.

Willie was first arrested at 10 years old for stealing some type of box. The authorities called his grandmother, and Willie was released. His grandmother stated that she was going to tell his mother. "I was afraid of my mother." His grandmother did tell his mother, who was the one who talked to Willie about the stealing.

Willie reported that his mother disciplined him, not his grandmother. He reported that his grandmother felt that he did not listen to her.

Willie was next arrested for shoplifting. He was still 10. His grandmother took him to his mother and told his mother to whip him. She did.

Willie was next arrested when he was 11 for taking jewelry from cars. He was put in reform school, Columbia Training School. He ran away after week, but eventually stayed for 5-1/2 months.

When he was left out, he returned to grandmother's. She was very happy to see him. Mother and grandmother gave him a bicycle because "a lot of my crimes were stealing bicycles."

Willie stayed out of trouble for a couple of years. He explains this by stating that he hung out with different people. He hung out with Bobby Gene Clark and George Clark. They played basketball, played cards, skipped school.

NOTE: Contact.

At 14, Willie moved in with his mother. His grandmother was getting out, "found me too much to deal with." When he lived with his mother, she drank a lot. His mother's curfew was that he was to be in by 10 pm on school nights and 12 pm on weekends. But Willie did not comply with this curfew. His mother complained for a while at the beginning but then "let it go."

Willie quit school at 15. He reports that he did so because he felt he did not fit in after having gone to training school. But he also reports a precipitating event. A black girl's purse went missing and she accused him of stealing it. He and girl had words in principal's office. Willie said "bull" (he denies saying bullshit), and principal wanted to suspend him for 10 days. So he quit. (Willie denies stealing the purse.)

Willie lived with his mother until she was convicted of aggravated assault right after Willie turned 18.

Willie first started drinking at 14. He reports that he started to overdrink at 18, and that he had a drinking problem. He drank beer. He had to have a drink everyday. He also smoked pot.

Willie's best subject in school was math. His worse was science. He reports that his grandmother could not help him with his studies and "my mother was never around to help."

Willie's grandmother supported him with welfare money. She received welfare checks for him and his brother.

Willie reported that his friends and relatives had more money and "lived better."

Willie reports that during his childhood his mother had 6-7 boyfriends "that I know of." Looking back on it, "I resent it now."

MISSISSIPPI AND LOUISIANA CAPITAL TRIAL ASSISTANCE PROJECT

Suite 1343
210 Baronne Street
New Orleans, LA 70112

(504) 522-0578
FAX (504) 586-8155

July 27, 1994

7/19/94 interview with Willie Jerome Manning's mother at Willie's former residence.

Willie's mother reported that she drank "as much as I could" when pregnant with Willie. She readily admitted that she had very little to do with Willie's upbringing. Indeed, for many years, she did not even live in the same town.

She reported that Willie was born at her home, with a mid-wife. The mid-wife was Willie's grandmother. The mother reported that the grandmother had to "reshape the head" when Willie came out of the womb. She could not be more specific as to the shape of the head, or how the grandmother "reshaped" it.

Willie's mother started to cry when I stated that there is a real possibility that Willie could be executed.

The family is extremely impoverished.

EXHIBIT 35

BURDINE LAW OFFICE

501 7TH STREET NORTH, SUITE 1
COLUMBUS, MS 39701

TELEPHONE (662) 329-2266 or 329-2231
FAX (662) 329-5982

RICHARD BURDINE
ATTORNEY AT LAW

PHILIP KEITH BRYANT
CASE ADMINISTRATOR

SONDRA MCGREGORY
LEGAL SECRETARY

STATE OF MISSISSIPPI

COUNTY OF LOWNDES

AFFIDAVIT

Personally appeared before me, the undersigned authority in and for the aforesaid jurisdiction, the within named, Hubert Chandler, who after being duly sworn by me, stated on his oath that Attorney Richard Burdine is presently on sick leave. Attorney Burdine is in Chicago, Illinois recuperating after undergoing eye surgery. He is presently under the doctor's care and expected to return on or about the 15th day of December, 2001.

WITNESS MY SIGNATURE, this the 4th day of October, 2001.

Hubert Chandler
HUBERT CHANDLER

SWORN TO AND SUBSCRIBED before me, this the 4th day of October, 2001.

Lowena Stokes
NOTARY PUBLIC

(SEAL)

My commission expires:

My Commission Expires December 2, 2004

EXHIBIT 36

STATE OF MISSISSIPPI
COUNTY OF HINDS

AFFIDAVIT OF JAMES GREEN

1. My name is James Green. I am the Investigator for the Mississippi Office of Capital Post-Conviction Counsel. I am presently assigned to the case of Willie Jerome Manning.

2. I originally met with Attorney Richard Burdine May 5, 2001 at his office in Columbus, Mississippi. He assisted Lead Attorney, Mark Williamson in Willie's trial. I interviewed him in connection with Willie's Post-Conviction Petition.

3. Mr Burdine stated that Mark Williamson did not seek his input as an experienced trial attorney and apparently wanted to handle the case largely by himself. He further stated he was unsure about locating and talking to witnesses because he was not clear what role Mark wanted him to play and seldom, if ever, discussed trial strategy with him.

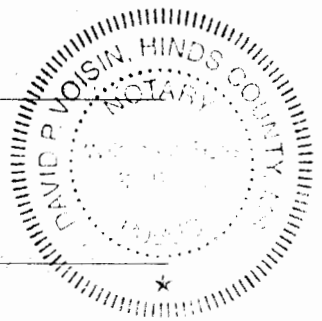
4. Mr Burdine also stated he was not asked to obtain any documents or records for mitigation purposes.

5. Mr Burdine stated he would locate his file materials and voir dire notes and provide me additional information at a later date. However, when I returned September 25, 2001 to further discuss Willie's case, I was informed by his investigator, Hubert Chandler that Mr Burdine was on medical leave and would not return to his office for several weeks.

James Green
JAMES GREEN

Sworn to and Subscribed before me
this day_____day of October, 2001.

_____
NOTARY PUBLIC



My Commission expires:_____

EXHIBIT 37

IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY, MISSISSIPPI

WILLIE JEROME MANNING — PETITIONER

v. — Cause no. 2001-0144-CV

STATE OF MISSISSIPPI — RESPONDENT

AFFIDAVIT OF GARY R. MOOERS

STATE OF MISSISSIPPI

COUNTY OF LAFAYETTE

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the state and county aforesaid, GARY R. MOOERS, who being by me first duly sworn, states on oath as follows:

1.

My name is GARY R. MOOERS, and I am over the age of eighteen and the information set forth in this Affidavit is based on my personal knowledge and belief.

2.

I am a professor at the University of Mississippi. I teach in the Social Work Department. A true copy of my curriculum vitae is attached as Exhibit A. In addition to academic work, I provided sentencing phase investigation, and related expert services, to attorneys defending capital cases. In that capacity, I am a Mitigation Specialist. I have served in this capacity in about nineteen cases in North Mississippi.

3.

When asked to provide services as a Mitigation Specialist, the following tasks must be completed to competently and effectively represent the client and to fully develop a reliable social

history:

(a) Identify factors in the client's background that require expert evaluations.

(b) Assist in locating appropriate experts.

(c) Provide background materials and information to these experts to enable them to perform competent and reliable evaluations.

(d) Obtain records regarding the client and his/her family including, but not limited to, records related to the case and to the client's criminal history, birth and other medical records, school records, social service agency records, juvenile court and juvenile probation/court services records, employment records, military records, adult education records, prior jail/prison/probation/parole records, treatment records, jail records including the current incarceration, and other documents and items that illustrate the client's life.

(e) Identify, locate and interview potential penalty phase witnesses.

(f) Develop additional witnesses who would not previously have been interviewed.

(g) Prepare myself to testify, if needed.

(h) Coordinate materials produced by the prosecution and by the defense team in an accessible form, including all pertinent events predating the crime and continuing to the present.

(i) Determine which materials have not been produced but which should be in existence, and collect them.

(j) Consult with the attorney(s) regarding the development of the theory of the case and case strategy.

(k) Conduct needed interviews of the client and work with the client and his family while the case is pending.

4.

As a Mitigation Specialist it is imperative that I interview the client to obtain detailed social history information, and to ascertain the names or identities of collateral sources of information. Information that will be obtained from the client regarding childhood and adulthood should include,

but not be limited to, information regarding his/her birth, including date and place of birth, any knowledge he/she might have regarding the mother's pregnancy, the circumstances of the birth, any complications of delivery or birth trauma, health at birth; early developmental history; makeup of family unit, including background information on birth parents; early health of client, including whether the client suffered any serious accidents, illnesses and injuries; residential history of the family, including where they lived, for what period(s) of time, and under what conditions; educational history, including schools he/she attended, performance and behavior, and special services provided; religious training, practices and beliefs; discipline in the home, including the form of discipline, how administered, by whom, and for what; family relationships, including the nature and quality of the client's relationship with each parent, siblings and other relatives, and the relationship between the parents; friends and other significant relationships; any significant childhood experiences, including such things as death, or serious injury of a family member or other significant person, divorce of parents, abandonment by parent, family violence, parental alcohol or drug abuse, or abuse of the client, including physical, sexual or emotional abuse; history of running away; juvenile records, including any times the client was taken into custody, petitioned in juvenile court, adjudicated, disposition orders and services or treatments provided; employment history, including name of company or person for whom the client and family members worked, dates of employment, description of job and duties, performance of the job, names of persons familiar with work, and any significant job experiences; health of the client and all family members throughout their life span, including physical and mental health, any serious accidents or illnesses, treatment received, location of treatment and names of treating medical professionals, and chronic or acute symptoms experienced; alcohol and drug history, including substances used, frequency and amounts,

effects produced by use, any treatment sought or received, names of persons who can corroborate use; significant relationships, including marriages, children and the nature and quality of these relationships; and legal history, including arrests, convictions, circumstances surrounding prior offenses, experiences on probation, parole or prison.

5.

As a Mitigation Specialist I also conduct interviews with the family members and others to supplement and corroborate the information obtained from the client. Persons to be interviewed include, but are not limited to, parents, siblings, spouses or significant others, children, other relatives such as grandparents, aunts and uncles, cousins, childhood and adult friends and neighbors, school personnel, including teachers, principals, guidance counselors; social workers; psychologists; ministers or other church personnel; employers, job supervisors and coworkers; social service and court personnel, including juvenile or adult probation/parole officers; other service providers, such as counselors; physicians or medical personnel who have treated the client; jail or correctional institutions staff; law enforcement personnel; and mental health experts who have assessed the client at any time in the past or for purposes of the present proceeding.

6.

As a Mitigation Specialist, I will locate and interview any other witnesses who may be able to provide information about the client and the circumstances of the alleged crime in order to gather background materials and information for experts to provide documentary support for all information so that they can perform competent and reliable evaluations.

7.

As a Mitigation Specialist, I must maintain ongoing communications with the attorney(s) on

the case, keeping the attorney(s) informed on the results of the investigation, and consulting on the implications of the results for case strategy. Decisions regarding the form to be used for communicating the results of the investigation and evaluation should be based on jurisdictional procedures and practices.

8.

In late June 2001, counsel for Willie Jerome Manning, requested my assistance in investigating and evaluating evidence relevant to a penalty-phase defense for Mr. Manning. Shortly after agreeing to conduct an evaluation of Mr. Manning, I interviewed him several times and also interviewed his brothers. I also reviewed a substantial number of records, including hospital records, school records, incarceration records, counseling center records, court files on Mr. Manning and family members. Counsel for Mr. Manning had also interviewed a substantial number of relatives. I met with counsel for Mr. Manning to determine which family members I should interview to complete my evaluation.

9.

Unfortunately, I did not have an opportunity to complete my evaluation in August due to a serious medical condition that left me incapable of conducting the necessary investigation. Mr Manning's counsel explained to me that they would have to seek authorization from the Courts for funding purposes. I was prepared to interview a number of family members and professionals in the social service field in Oktibbeha County if the Court authorized the funding. I was also awaiting the results of a hearing that would enable me to interview employees of the Department of Human Services and inspect records pertaining to Mr. Manning and his family.

10.

I then learned that the hearings have been cancelled. Without the authorization for funding, I have not been able to complete my interviews and evaluation. This is unfortunate because I was beginning to uncover a substantial amount of mitigating evidence. Without having conducting additional interviews and reviewing records to corroborate the information that I have gathered or reviewed, I cannot state definitively or with any specificity any conclusions. The major themes that I have uncovered, however, include the grinding poverty and deprivation of Mr. Manning's childhood. In addition, Mr. Manning was essentially abandoned by his mother and raised by his grandmother. His grandmother, however, was in poor health and barely able to attend to day-to-day requirements. Mr. Manning, as a young child, was forced to take on a great deal of responsibility when he was not equipped to handle such a burden. After his grandmother's health deteriorated, Mr. Manning had to move in with his mother. At this point, Mr. Manning lacked supervision and was exposed to alcoholism and significant levels of violence. He witnessed his mother being beaten by her husband, Kelvin Bishop, and he also was at home when his mother stabbed Bishop in retaliation for his abuse. At that point, Mr. Manning's mother was sentenced to prison, sending the family into chaos. I will be able to develop this theme in much greater depth after conducting additional interviews and reviewing records.

11.

I also believe that there is a substantial likelihood that Mr. Manning suffers from posttraumatic stress disorder. Besides witnessing significant levels of violence at home, he was also shot during an attempted armed robbery at a convenience store. Mr. Manning was an innocent victim in that robbery.

12.

Based on the records and other information available to me, I believe that there is a possibility that Mr. Manning suffers from some type of neurological impairment. I reach this conclusion due to his mother's drinking during pregnancy, a difficult birth in which Mr. Manning's head had to be "re-shaped," head injuries, and Mr. Manning's own alcoholism. This requires additional investigation. On the positive side, I have spoken to or heard about numerous people who will attest to Mr. Manning's character.

13.

I understand that Mr. Manning has several prior convictions and had difficulty maintaining steady employment. Nevertheless, I believe that a thorough investigation into Mr. Manning's mental state and social history will provide a better understanding as to why he has had such problems.

14.

If the issues concerning funding are resolved favorably for Mr. Manning, I would be happy to complete my assessment.

The affiant says nothing further.

Gary R. Mooers

GARY R. MOOERS

SWORN TO AND SUBSCRIBED BEFORE ME, this the ____ day of October, 2001.

NOTARY PUBLIC

My Commission Expires:

_____

EXHIBIT 38

STATE OF MISSISSIPPI)
)
COUNTY OF OKTIBBEHA)

AFFIDAVIT OF MARY WAYNE PRATER

I, Mary Wayne Prater, after being duly sworn, depose and state as follows:

1. I am over 18 years of age and am competent to provide this affidavit.

2. I am the daughter of ~~Mae~~ MARY Fuller Prater. I grew up in the country with my family. There was not much to do in the country, so the kids would just get together and play. I grew up playing with Willie Jerome Manning and the kids who lived near me.

3. Jerome was a little older, so he always made sure that I stayed out of trouble. I felt that he was very protective of me and looked out for me. He told me: "don't do that, you will get in trouble."

4. I think my mother saw Jerome as someone who would look out for me. I used to love to go skating. My mother generally did not like for me to go skating unless she knew that Jerome was also going to be there to look out for me.

5. Jerome was not someone who was considered violent or who got into fights. I remember one time when Jerome was about 15 years old, we were all at the skating rink, and someone wanted to fight Jerome. Jerome, however, just walked away. That was basically how he was. I heard that he got into trouble for stealing, but I never thought of him as a mean person.

6. I like Jerome a great deal and would have been happy to have spoke to his lawyers at the time of his trial. His lawyers, however, did not talk to me about any aspect of his upbringing or character.

FURTHER AFFIANT SAYETH NOT.

Mary W. Prater
Mary Wayne Prater

Sworn to and subscribed before me this
23 day of September 2004.

David P. Voisin
NOTARY PUBLIC
My commission expires 4/11/05

DAVID P. VOISIN, HINDS COUNTY, MS NOTARY PUBLIC My Commission Expires April 11, 2005

EXHIBIT 39

STATE OF MISSISSIPPI)
)
COUNTY OF OKTIBBEHA)

AFFIDAVIT OF MARK G. WILLIAMSON

I, Mark G. Williamson, after being duly sworn, depose and state as follows:

1. I am an attorney licensed to practice law in the State of Mississippi. Approximately half of my practice involves criminal law. I have a contract with Oktibbeha County to represent indigent defendants.

2. In 1993, I was appointed to represent Willie Jerome Manning on charges related to the deaths of Jon Steckler and Tiffany Miller. The state was seeking the death penalty. Richard Burdine of Columbus, MS, was also appointed to represent Mr. Manning.

3. At the time of my appointment, I had never been lead counsel in a capital trial, but I had assisted attorneys in other cases in which the prosecution expressed its intent to seek the death penalty.

4. Mr. Manning's case consumed most of my time. It had taken the sheriff's department approximately 5-6 months to make an arrest, and I had to review the discovery provided that included the sheriff's investigation into other suspects. There were numerous witnesses to interview, many leads to follow, many reports from the Mississippi and FBI crime labs to review, and a host of legal issues to research.

5. Because of the great amount of work involved in preparing Mr. Manning's case for trial, Mr. Burdine and I divided the work. Roughly speaking, I took responsibility for preparing for the first part of the trial, and Mr. Burdine was responsible for developing mitigating evidence for the

penalty phase of the trial.

6. As a result of my investigation, I became convinced – and remain convinced – that Mr. Manning is innocent. Nevertheless, I was not naive enough to believe that we should rest solely on my efforts for the first part of the trial. I understood all too well that regardless of how I felt, the jury still might convict Mr. Manning of capital murder.

7. Thus, it was always the defense strategy to pursue all available mitigating evidence in the event that the jury convicted Mr. Manning. During the course of my investigation, if I came upon the names of mitigation witnesses whom I thought would be helpful, I forwarded those names to Mr. Burdine. (I also lodged much of that correspondence with the Clerk of Court). I also suggested various exhibits that Mr. Burdine should use.

8. In my opinion, the key witness against Mr. Manning was Paula Hathorn. She testified that she actually saw Mr. Manning shoot bullets into a tree at his house, and also provided the sheriff with a leather jacket, given to her by Mr. Manning, that was supposedly taken in a car burglary at the fraternity parking lot at the time when the victims were allegedly abducted.

9. Ms. Hathorn's testimony was critical because she linked Mr. Manning to the bullets. Without her, the prosecution had only a very weak circumstantial evidence case against Mr. Manning (with the exception of two jailhouse informants, whom I thought to be unreliable). As I demonstrated at trial, guns are readily passed around. Without Ms. Hathorn's testimony, there would have been no way to determine who had been firing a gun into a tree or when.

10. I had previously represented Ms. Hathorn on false pretense charges. I knew from my prior dealings with her (and from discussions with law enforcement and others) that Ms. Hathorn had no credibility whatsoever and that she was the kind of person who would say anything to help

herself out.

11. I never agreed to forward money to handle restitution matters for Ms. Hathorn. I did not do this for Ms. Hathorn, and I do not do this for any client under those circumstances. If a client first provides me with the funds to be used for restitution, then I shall submit the money to the appropriate individuals and ensure that my client is properly credited with the payment. Ms. Hathorn did not provide me with any funds in advance for that purpose.

12. Mr. Manning's current attorneys have shown me what appear to be transcripts (one typed and one handwritten) of telephone conversations between Ms. Hathorn and Mr. Manning. I also understand that there are at least two microcassettes in the custody of the sheriff's department of recorded telephone calls between Mr. Manning and Ms. Hathorn. I have also seen a sheet with what appear to be questions concerning the offense and have learned that law enforcement was encouraging Ms. Hathorn to try to secure incriminating statements from Mr. Manning. None of this information was disclosed to me during pre-trial discovery, and I did not know that Ms. Hathorn was basically acting as a state agent. (The list of questions is attached as Exhibit A, and the transcript of the telephone conversation is attached as Exhibit B. I have not had an opportunity to listen to the microcassettes).

13. I believe that this evidence would have been critical not only with respect to Ms. Hathorn's credibility but also with respect to showing the jury the lengths to which the prosecution was willing to go to create evidence to use against Mr. Manning. Significantly, Mr. Manning did not admit anything at all to Ms. Hathorn during these or other conversations despite her efforts to induce him to talk about the crimes. Thus, the prosecution wanted the jury to believe that Mr. Manning "confessed" to other pretrial detainees but did not want the jury to know that he had said

nothing incriminating to his girlfriend.

14. According to the transcript, Ms. Hathorn also made a number of statements inconsistent with her trial testimony, most notably when she said to Mr. Manning that she did not know anything about his shooting into a tree. This was precisely the point that I had been trying to make at trial. She also said that she did not know anything about Mr. Manning having a class ring, which I believe was inconsistent with her sworn testimony at trial.

15. The transcripts also show that the prosecution had been threatening to charge Ms. Hathorn as an accessory after the fact and that she would receive up to ten years in prison on that charge. I certainly would have cross-examined Ms. Hathorn on her motivation to testify against Mr. Manning, including her obvious desire to avoid those serious felony charges. I would have also brought out Ms. Hathorn's statement that she did not believe that Mr. Manning committed the offenses.

16. I would have also used the fact that Ms. Hathorn had been working at the behest of law enforcement. The prosecution's position was that Ms. Hathorn was relatively passive and that she was not especially eager to come forward with any evidence. In reality, however, it appeared that Ms. Hathorn was actively trying to induce Mr. Manning to incriminate himself, which he never did despite Ms. Hathorn's best efforts.

17. As I indicated, I have not had the opportunity to listen to the microcassettes, but I had no knowledge about them and would certainly have used them to impeach Ms. Hathorn and law enforcement officers, for example, by showing bias, prior inconsistent statements, pressure, and intimidation.

18. Current counsel for Mr. Manning have shown me correspondence from Frank Parker

to Forrest Allgood and Judge Howard. I had never seen this correspondence before. (These documents are attached to this affidavit as Exhibit C).

19. Frank Parker, who was from Texas, was a key witness for the prosecution. He supposedly heard Mr. Manning tell another inmate about disposing of the murder weapon. At trial, Mr. Parker testified that he was not facing any charges in Texas. In his letter, however, Mr. Parker acknowledged that he was still facing charges in Texas and asked for assistance. Had I known of the letter, I would have cross-examined Mr. Parker about this false testimony as well as his expectations of some type of assistance.

20. I also did not know that Mr. Parker was so anxious to obtain reward money. Had I known about the contents of the letter, I would have cross-examined on that point to expose his motives for testifying as well as his bias.

21. Although Mr. Parker wrote at length about the reward money, he did not mention much about his charges. A reasonable inference to be drawn is that he expected some assistance from the authorities in Mississippi on his Texas charges in exchange for his cooperation. I would have explored this on cross-examination.

FURTHER AFFIANT SAYETH NOT.

Mark G. Williamson

MARK G. WILLIAMSON

JENNIFER HARRIS NOTARY PUBLIC OKTIBBEHA COUNTY, MS

Sworn to and subscribed before me
this 8 day of October 2001.

Jennifer Harris

NOTARY PUBLIC
My commission expires: Notary Public State of Mississippi At Large
My Commission Expires: March 20, 2005
Bonded Thru Holden, Brooks & Garland, Inc.

EXHIBIT A

You better tell
me what to
tell those folk
About the bullets out the tree
About that disc player
About that leather jacket
About that bag with your belong.
What do I tell them
Where is that gun and d.
you get rid of it.
Is there anything you want me
to tell Shawne or Ne to get
rid of.
They showed me a picture like
that gun you had
That watch with that leathe
band on it.
~~[illegible]~~
~~[illegible]~~
What do you want me to do

EXHIBIT B

Side B

Paula: Hello.
Fly: Hello.
Paula: Fly,
Fly: Yeah?
Paula: Me and you needs to talk.
Fly: Yeah I know what you're talking about.
Paula: Baby,
Fly: Wait, listen, listen. They got the wrong man on that tip. You know what I'm saying? That man's got four or five jackets like that back there in his office, and he told me where he got that from and everything.
Paula: Well, why did they get a search warrant and come to the house and get the jacket that I had?
Fly: I don't, well, okay. See Bone came back, I mean Bone came in our house 'bout two months ago saying that somebody told him that I bought the jacket off the street. He never came back after that so I didn't think nothing of it which I was thinking about that long brown jacket. You know, so anyway, that's the one he was talking about so they called me in conference yesterday you know and showed me that "Crimestoppers" reporter showed me that jacket. Is this the jacket? I said, well, it all depends. He said well, I got this from Paula. I said well, if that's the jacket that you got from Paula then that's my jacket. So then he asked me about Papoose. Did I give Papoose a pistol? I said nah I haven't.
Paula: They asked me about a pistol. They showed me a pistol, the one that had that thing that you was putting up in there.
Fly: uh huh, the clip.
Paula: And then they turned around
Fly: Wait, wait, listen.
Paula: Listen, wait a minute.
Fly: You listen.
Paula: Okay, I'll listen.
Fly: Don't say 'what I was putting in there.'
Paula: Okay, don't tell 'em? Okay.
Fly: Okay, now go ahead.
Paula: Okay that gun that you had with that thing that go up in it.
Fly: Listen what you saying.
Paula: Oh, okay, alright I'll be particular.
Fly: I hadn't had a gun to put nothing to nothing in. Just say that the way that you put the clip in the gun.
Paula: Okay, you know those, they showed me some bullets too that they got out of a tree, and they asked if I knew anything about that. What do I supposed to tell these folks, Fly?
Fly: You tell 'em you don't know nothing about nothing. You know I'm not supposed to have a gun
Paula: Uh huh.
Fly: Okay, so they trying to put it like I gave the gun to Papoose. They say that it's the same gun that Papoose used to shoot the boy was the gun that was used in the murder.
Paula: In the murder?
Fly: In the murders of those two white people, see what I'm saying? Okay, least that's totally wrong from the start. Okay, somebody had told them that I gave Papoose that gun, and then they going to Papoose saying ——— I said that I sold him a gun. You see what I'm saying? Which Papoose ain't gonna tell no lie like that noway. So, anyway what the deal is he asked me - then Dolph tells me, he said well, he said, Jerome, you killed them white folks. I said man you got me dead wrong. He said you did do it. I said man you got me fucked up. He said you willing to take a lie detector test? I said right now. So he said come on, so we went across the street and took the test.
Paula: Did you pass?

Fly: Evidently, I passed the test so we come back over here and he tried me, you know still to see if I'm guilty or whatever.
Paula: But you know that black jacket? They got that black jacket too. I seen it last night too when they called me back up there.
Fly: Black jacket?
Paula: That black suede jacket.
Fly: Black suede? Oh yeah, I know what you talking about.
Paula: And you know it's a paper sack.
Fly: With all my stuff in it?
Paula: Uh huh, they got that. I seen that up there.
Fly: Yeah, I saw that and uh I saw the paper sack in his office, but I didn't see the jacket cause he called me out last night.
Paula: They asked me what do those words represent.
Fly: What words?
Paula: That you had been writing. Something in the pad. I said I don't know. They told me you seem to don't know anything about him. I said I don't know. They talking about arresting me.
Fly: Arresting you for what?
Paula: I don't know?
Fly: They can't arrest you for nothing. They can't arrest you for nothing I said. See all this is game. All it is is interrogation. See, he think he on the right track but like I told him, he gonna soon find out he barking up the wrong tree. You know I'm not, I'm not charged with that. He just taking me through the same thing he took Judy,
Paula: Well, why do he suspect you then, Fly?
Fly: Because I told you somebody - I'm gonna tell you, I'm gonna tell you what the real deal is. There's a broad in Jackson, right? That her boyfriend had got this car and didn't bring it back and it was some kind of way that<u>jailhouse something???</u> and put them folks on her. So she told them folks a whole lot of stuff she did.
Paula: She sure did.
Fly: Everything to tey to try to fry me. She told them folks that. Now I been knowing that.
Paula: Because when Dolph approached me with your other two girlfriends. That really hurt me really bad.
Fly: Nah, nah, nah.
Paula: Do you want me to tell you they names?
Fly: Who?
Paula: Vicky and Tina.
Fly: See Tina is the girl who had the car. Tina is my cousin girlfriend. My cousin got kids from her. You see what I'm saying. And I been telling you everytime I go down there.
Paula: I didn't think you would mess around on me.
Fly: Okay, you see what I'm saying?
Paula: Uh huh, okay, you know that necklace that you gave me? They wanted to know did I know anything about that necklace.
Fly: They asked me about it, I told you so he showed me a some kind of little canister.
Paula: A gray canister?
Fly: It was silver. He said this here got your fingerprints all over it and I said no it don't cause I never saw that thing before in my life.
Paula: But you know those, it was some, you know your shoeos that you had that you told me you went shopping to get?
Fly: My Nikes?
Paula: Na uh, the ones was in their footlocker - the footlocker,

Fly: The footlocker, what kind were they?
Paula: Those cleats.
Fly: Yeah, you talking - those golf shoes. I told 'em my momma and them had found alot of shoes on the side of the road the night I got those things out of there.
Paula: Uh huh.
Fly: Cause momma did. She found a whole lot of things.
Paula: Is there anything you want me to tell Shun or -
Fly: Nah, you go on and say I didn't have no gun, I never had a gun. You know I never carried a weapon so period. You know because what they'll try to do like only thing they can think about, anything like that I had carried a weapon then they automatically say that I was a habiuasl criminal carrying a weapon period. You know what I'm saying. So I never had a weapon and so that's why,
Paula: They asked me about this disc player too.
Fly: Uh huh, they asked me about that too.
Paula: and I said I don't know.
Fly: You're going to tell 'em you don't know. You just don't know.
Paula: It ain't nothing you need to get rid of is it? A "G" or nothing? You know what I'm talking about, don't you?
Fly: It ain't nothing.
Paula: I ain't gonna say the word.
Fly: It ain't nothing, know what I'm saying?
Paula: I'm tired of them folks coming to the house.
Fly: Where they coming? Over there where you at?
Paula: Uh huh, except at this other older lady's house - now helping her
Fly: Uh huh, nah, it ain't nothing. Know what I'm saying?
Paula: They shocked me?
Fly: Huh?
Paula: They shocked me when they come in.
Fly: Think you was shocked. I was shocked too, because I heard this last week, and I heard that Tina had told them,
Paula: How did they get in touch with the girl named Tina? How did they know anything about her?
Fly: I'm gonna tell you something because I think these damn phones are rigged up some kind of way. See what I'm saying? During the time when I was down in Jackson it was a lot of sonversation being passed through the phones about me even through the jail, I think.
Paula: Yeah, cause Keith was telling me something. You know what I told you Keith had told me about and you said it was true.
Fly: Wait hold up. I'm gonna call you back after the phone hang up.
Paula: Okay, it fixing to hang up now?
Fly: It's got thirty seconds. Anyway that's where all that shit came from.
Paula: Alright.

Side B

Paula: Yes.
Fly: Uh huh, anyway uh do you have a ride?
Paula: Do I have a ride?
Fly: Yeah, will you be able to get a ride today?
Paula: Yeah.
Fly: Uh, if you can go out there to the country and just tell momma and them I'm doing alright and I think they went out to the house.
Paula: That's what they did after they went out to your house, they came back up there and got me and brought me back up there last night.
Fly: Oh, they did?
Paula: Uh huh, asking me about those bullets and stuff that they got out of some tree, which I told them I don't know nothing about it. I don't know who been out there shooting. So, did I do right?
Fly: Yeah, I'm just saying like just go tell momma don't worry about it cause she know I never had a gun and Shun and them know I never had a gun. So just, you know, don't worry about me, okay?
Paula: Uh huh, Fly, are they trying to stick you with that murder?
Fly: They just, it's just interrogation game and they went to Judy, they went to Eric, they went to Steve, and now they fucking with me. You know that's all it's about.
Paula: You don't need me to take car of nothing gor you or do noting for you?
Fly: Nope.
Paula; Okay, getting to this classring they was asking me about. i said I don't know anything about a classring.
Fly: The first time it was brought to my attention was yesterday when I was watching "crimestoppers" they got on there. They got Herbert like posing as the guy robbing two white people. That was my first time ever seeing that and then at the end of it, it's showing the classring and the watch and stuff like that. See, I never had any of those things.
Paula: All I want you to do is be truthful to me, Fly, that's all I'll ask of you.
Fly: Everything that we ever, that I ever did, we used to talk about it, right?
Paula: Uh huh.
Fly: Everything you ask me I'll tell you, right?
Paula: Yeah.
Fly: Just being real about that, I don't, still they gathered up jackets and they gathered up .380s and all this and that type of junk. You know, at first it was a joke, but now it ain't funny.
Paula: You know I'd do anything for you, don't you?
Fly: I know.
Paula: Is you ready to get out of there or what?
Fly: Okay, now here's the deal on that. Okay, I got to go to court Thursday so now with this bullshit right here now if I do get bounded over, they can keep me here.
Paula: So you won't be able to get out?
Fly: I don't know, I think,
Paula: Now, I'll get you out. Like I say, you get it down to $10,000. I go on and get you out. I know a bondsman that'll get you out.
Fly: Okay, listen.
Paula: Okay.
Fly: Okay, if they do get it down to that, we'll see the outcome of it, cause I'm nor fixing to run nowhere. you know what I'm saying?
Paula: Yeah.
Fly: I'm not gonna run and I'm not going nowhere period.

Paula: Did that man press charges on you um when me and you got into it/
Fly: Na uh.
Paula: He didn't press charges on you?
Fly: Na uh. Have you

on you um when he & you got into it
F Yea uh
P he didn't press charges on you
F Na uh
F Have you? I said that
P I don't really know which one it was you know you had me running so fast
F Ah girl come on. You ought to quit that
P You hurt me. Fly even tense I think about that
F Did you get your letter
P You mailed it?
F Yeah
P Well, I'll probably get it today
F I mailed it yesterday
P I'll get it today then What the telling me you telling me something good on it
F Well, I'm just being straight up about a lot of things
P A lot of things like what - that you was going to talk to me about
F Basically it's got something to do with me & you & my present state of mind

P Okay look that lady hadn't
come up there & talked to
you yet
F Who that
P the lady that ~~was~~ supposed
to be coming so you won't go
nothing
F See he gonna tell me last
P night
P Who
F Dolph
P What he tell you
F he tell me to go home & mea
go back to my cell & do a
dot of praying to god & that
P he told you to do what
F Pray do a dot of praying &
hopefully tomorrow they could ca
over there & admit to him
that I killed those people
P How did you act when he
asked you did you call those
people
F How did I react?
P Uh huh
F I told him nah ____ then
he said well you know drug

Gathered this up I had a feeling this is what it is about Cause I been having a feeling that all convicts that know felony business will have to go through this here. from the jump I just didn't know who I was on the top of the list anyway they went through three that I know of then might go even through some more that I don't know of
P Well, Dolph me if he come to me again to get me he gonna be coming to get me up to arrest me talking bout you know something
F You ain't got to worry about the Paula, all you got to do is be strong
P I'm trying to be strong
F he can't arrest you for nothing just like he can't charge me
I said Dolph if you knew in your heart even thought that I killed these folks will you be charged I said I haven't been charged

I aint ~~bout~~ worried about that
he said but I feel that you
know something about it
P But ~~you~~ Fly you know he said something about those
bullets that he dug out of the
ree matched that same
gun or something
F Look I'm gonna tell you something
anything - you said it matche
the .380 gun
P Yeah he said a .380
F Any time that you get a .380
~~bullet~~ bullet a .380 then run
the same you see what
I'm saying
P Uh huh
F Then run the same nationwide
that's why he wanted to help
you see what
Put
I'm saying
P Uh huh
F So you can't determine he
can't determine whether - if he
get shot with a .380 + somebod
else get shot with a .380 + so
or they gonna think it was
the same cause the .380
same

P Well Ralph told me that
if he chose would be
accessory after the fact
a murder that I could
F get toys what's that
Your not accessory after
the fact you letting them
folks play them head trucks
with you
P I don't know nothing
F I don't know nothing neither
so who can you be an
accessory to something you
don't know
P he hurt my feelings when
he told me when he told
me you had done something like
that I said you know what
I thought about last night
F What
P I said I know Fly didn't
do that I ate those times I
laid my head by him
F Ah shit
P But I don't believe you done it
I don't care what nobody say
F I ain't got to go over and over
with you

P No you aint got to go over
there with him. Don't get
upset with me
F you made me upset
P Don't get mad at me
F you letting em play head game
with you
P I aint gonna let them play
head games with me
F & what he gonna arrest you
for?
P everything they ask me I told
them I didn't know
F just because you big mouth
side they think you supposed
know everything about me
anyway & that little ____ mo
he has made ____ is tu
to tell you about Vicky & about
Tina was just something to ma
you bad mouth the & spill so
thing that they thought you
anyway But see I ain't
worried about em because
See I was at the 250 cl
because that was the sa
right that Steve got kill
Steve killed his self

& killed his wife.

P that happened the same night?

F It happened the same night when I was at the 2500 club cause Judy & them was just telling me about it & after they did I went & got drunk & came home & woke up the next morning to watch the news about Steve & that's when I saw that so

P Okay that same night the guy name Steve got killed- him & his wife got killed is the same night the other thing took place

F Ah huh the same night we was at the 2500 club & then they told me about Steve so you know I ain't worried about that ju & it was about 12:00 something then

EXHIBIT C

To. MR. AllGood, MAR. 24th, 94

This letter is about My Attorney MR. Charles Merkel. I have know Idea if he has contacted you concerning the trial and being paid not for damages but for the jail stay and for not being able to support my daughter and wife to be, so please write me a letter concerning your decision about my situation.

I Thank-You!

Or stop by and say hi, I haven't ~~spoken~~ spoken with MR. Bryan in a while but he told me 8 months ago that I would not ~~be~~ be entitled to the reward and that all I would get out of this is a "bus" ticket.

That's not right!

Signed
FRANK PARKER
"Wittness"

P.S.
I need some of that money and would gladdly ~~Accept~~ Accept it and spend it with my daughter and fiance'.

eigth to Ten Grand will nicely do.

...ning then give me my Freedom

All because your waisting my time and Future; plus tax payers money. I know that what I'm doing is right but I also should be rewarded for my servies rendered and Three-Hundred days away from my daughter. Damages have taken it's toll on me and my fiance' I would like for the "Justice" system to work in my favor now.

This letter is in no way threating to you or any-one else, It's just the way I feel about this hole ordeal! And it "sucks", that I will not recieve any of that reward but I will get a "bus" ticket out of it all. "Wow"
What about my rights?

Frank Parker III

Write Back "PLEASE"

P.S.
I need some shampoo "SIR" and this jail has none plus the soap makes us itch, Other then that things are great. Plus a hair-cut would be nice before the trial. Some good looking clothes or suit would

To: MR. LEE HOWARD & FORREST ALLGOOD,

My name is FRANKLIN D. PARKER and I am a Materal Withness for the State of Mississippi. To testify against William J. Manning. I recently read the News paper (WED.) the 24th. And to my under-standing, I'm at a loss. The trial will be moved and my Question is to where, and when, so. I can contact my parents and fiance' to let them know. I recently asked the Jailer to run NCIC on my name and it came back with a "thieft" charge. Since I am a Withness, I am wondering about all the time that I have served here. Will this time go towards that charge? Also I under-stand that there is a reward offered My Question is why am I not entitled to a porportion of the reward, let's say for Damages and services rendered. I've been locke up since MAY OR June and have served two hundred an Ninty days in jail. My fiance' has had a really hard time raiseing my four yr. Old daughter and is haveing ~~finance~~ trouble paying bills, Plus going too college at the same time. I know that it's rough on ~~her~~ her, but I don't need to be released and have a hole lot of bills to pay and no place to live at. What I'm getting at

Oktibbeha County Jail
100 Jefferson St.
Starkville, MS 39759
Inmate Mail

COLUMBUS, MS 397
PM
25 MAR
1994

To JUDGE LEE HOWARD &
MR. FORREST ALLGOOD OF the
CIRCUIT COURT HOUSE
109 W MAIN
STARKVILLE, MISS. 39759

FILED
OKTIBBEHA COUNTY
MAR23 1994
Miriam M. Cook
Circuit Clerk