

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

No. 2020-CP-01259-COA

MATTHEW OLIVER REARDON

Appellant

v.

STATE OF MISSISSIPPI

Appellee

MOTION FOR PERUMPTORY REVERSAL
OR IN THE ALTERNATIVE FOR TIME EXTENSION ON CORRECTIONS

Your Appellant in the above referenced cause, MATTHEW REARDON, respectfully requests that this Honorable Court peremptorily reverse the trial court's Judgment and Order in the original criminal cause, LK17-295, which in turn stemmed the Post-Conviction Relief referenced to by cause L20-316, the merits and facts of both bring Appellant before this court. In the Alternative should the panel not vote unanimously in favor of Peremptory Reversal for the meritorious reasons Appellant raises to this court, Appellant would request that this honorable court grant him more time to submit the corrections to his Appellant brief due on this date, as he has been overrun from multiple angles to include by in what Appellant feels is an intentional attempt to derail him from his appeal which is filed and awaiting corrections.

In support of this motion, APPELLANT Matthew Oliver Reardon affirms the following:

1. Peremptory reversal is warranted where "reversible error is so manifest immediate reversal of the judgment or order appealed from should be granted without formal argument or submission."
2. In this case there are three specific manifest errors in the original criminal cause LK17-295 in which each of the three on their own and certainly when combined together create manifest error in the Civil Post Conviction Relief Cause L20-316. In turn these issues warrant relief from what should be considered an involuntary/voided plea as well as the judgment/order. These errors were a direct result of what would appear as the fast cutting of corners and neglect of rights and duties by Lafayette County Sheriffs Department, Lafayette County Justice Court Judge Carolyn Pettis- Bell, and Circuit Court Judge John Kelly Luther's on well-settled law.

3. On Friday May 26, 2017 approximately between the hours of 3pm-4pm Reardon was taken into custody in Oxford, MS City Square by Lafayette County Sheriffs Department and charged with Aggravated Stalking. A warrant had allegedly been issued to make the arrest, although Reardon was never shown a warrant at the time of arrest nor informed of his charge until he was booked at the Lafayette County Detention Center.

The Criminal information in this matter states the appellant:

Did feloniously commit the crime of stalking as defined in section 97-3-107 (1) and did so while displaying a deadly weapon, to wit: an AR15 rifle with the intent to place the Todd and/or Ashley Lynch in reasonable fear of great bodily injury, in violation of section 97-3-107(2) of the Mississippi Code of 1972, as amended, which offense is punishable by not more than 5 years imprisonment and a \$3,000 fine or both

4. Appellant did not receive an Initial Hearing in which Appearance Bond was Issued until Tuesday May 30th, 2017 between the estimated hours of 9am-10am. At this point, Reardon was escorted across from the backside of the Lafayette County Detention Center to the Lafayette County Justice Court for an Initial Hearing before Judge Carolyn Pettis-Bell. From the very beginning, this amounted to False Imprisonment in that pursuant to Mississippi Law and Due Process Rights of The Accused, Lafayette County and The State of Mississippi had A MAXIMUM OF 48-HOURS TIME to set an Initial Hearing and bring the accused before a Judge in order for Bond to be set. This is no new law or requirement and it was an obligation that Lafayette County Sheriff's Department had known upfront of its duties to comply.

This mandate is fully reinforced in the Mississippi Rules of Criminal Procedure Rule 5.1(C)(3) to wit:

"if not released pursuant to subsections (b)(1) or (b)(2), the accused shall be taken without unnecessary delay, and in no event later than forty-eight (48) hours after arrest, before a judge for an initial appearance. If the person arrested is not taken before a judge as so required then, unless the offense for which the person was arrested is not a bailable offense, the person shall be released upon execution of an appearance bond in the amount of the minimum bail specified in Rule 8, and shall be directed to appear at a specified time and place"

NOTE: 5.1(C)(3) refers to arrests made with warrant. This waives shadow of doubt surrounding the arrest warrant as Sheriffs Department indicated they obtained a warrant upfront in advance despite never mentioning it or displaying it at the time of arrest

5. Appellant had tried to assert twice that he had exculpable evidence that would exonerate him and show the impossibility of the crime being committed, at least not by him. Both times he was interrupted by Judge Bell and advised that "he had the right to remain silent." While Judge Bell felt compelled to cut appellant off both times and advise him of his 5th Amendment Right to remain silent, she never did advise him of his right to a Preliminary Hearing, in which the exculpatory evidence which appellant tried to offer to the State during the initial hearing could be introduced. After Appellant was cut off twice and advised of his 5th amendment right, Judge Carolyn Pettis-Bell issued an appearance bond set in the amount of \$150,000 despite appellant stating he had exculpatory evidence, never being accused of a felonious crime prior, and being a US Marine Corps Veteran whom never had any history of being a flight risk. Appellant would state that appearance bonds are never to be set in a punitive way, only to ensure the accused show up for court.
6. According to the range chart on MRCP Rule 8.2, which was updated earlier that same year (2017), a bond for an alleged crime that could receive UP TO 10-YEARS INCARCERATION should be set in the range of \$5,000- \$50,000. Appellant reinforces that he was not charged with any capital crime or offense which is a non-bailable offense and that in fact the crime he was accused of receives a maximum of 5-YEARS INCARCERATION. Given the facts stated in paragraph 3 of this motion, **and in direct violation of Appellant's 8th Amendment Right guaranteeing EXCESSIVE BAIL SHALL NOT BE REQUIRED.**
7. Appellant states that the appearance bond of \$150,000 given would likely have been viewed **Unconstitutional** even if Lafayette county had not already been in violation of appellants due process rights being that it far exceeded 48-hour deadline before an initial hearing was commenced. Lafayette County took between 85-90 hours before bringing appellant before Judge Carolyn Bell for an initial hearing. This amounts to nearly twice the allowable amount of time under state law
8. Appellant is of the impression that Justice Court Judge Carolyn Bell most certainly had an obligation to not only inform Appellant of his absolute right to a Preliminary Hearing, but she should have set a hearing date for a preliminary hearing right then and there within the next 14-days time as required by law. Particularly when Appellant asserted twice that he had exculpable evidence proving in no way could he have ever committed the crime (if a crime was ever even committed by anyone). Appellant states that had he been allowed to speak

and produce evidence through *A Bill Of Sale along with the prior owner of the AR-15 that would testify to Reardon purchasing the weapon from him on May 20, 2017, 12 DAYS AFTER said crime alleged by the state was supposedly committed.*

9. Appellant was never advised of his right by Judge Bell and was suppressed when trying to speak to offer up exculpable evidence. No preliminary hearing was ever even scheduled despite it being something that should have certainly been inferred as needed right away to the justice court judge.

MRCP rule 6(c)(1) discusses delay and if a preliminary hearing is not commenced within 14-days:
Release on Recognizance. If a preliminary hearing has not been commenced within fourteen (14) days as required by subsection (a), unless postponed as provided in subsection (d), the defendant shall be released on recognizance.

10. On June 8, 2017 Public Defender's Office filed a Motion for Writ of Habeas Corpus which was approved to proceed via in forma pauperis that same day. However, Appellant was never notified that such motion was ever filed, approved to proceed, and was never brought before the court for a hearing on the matter. Writ has since been closed out as stale.
11. The entire 6-weeks Appellant spent Incarcerated, Appellant continued to ask for bond to be lowered to a constitutionally fit amount in order for him to be able to work and provide for his child, along with successfully defend a frivolous, unfair action brought in Chancery Court at the same time which had levied the relationship with his child

WHEREFORE ALL PREMISES CONSIDERED

Appellant has asserted since regaining his freedom that he simply needed to get out of jail in order to fight for his child as well as financially support her which was the only reason he felt compelled to plea out which can only be summed up best by the phrase "selling one's soul to the devil". For the foregoing reasons, Appellant respectfully requests that this Honorable Court peremptorily reverse his

plea made involuntarily and under duress for Aggravated Stalking in cause number LK17-295, and order the charge dismissed with prejudice. Should this Court disagree with the reasons listed, Appellant requests this honorable court to grant a time extension in order to complete the requests of the Clerk of this court on his submitted brief, and further to order the trial court to conduct a hearing based on the facts and merits raised in this appeal and subsequent motion for peremptory reversal. Should this Court decide that peremptory reversal is appropriate, vacating his plea, appellant respectfully asks upon this court to compel the Lafayette County Sheriff's Department to disclose where seized items of the appellant have gone in lack of a letter of destruction or notice of auction not being publicized pursuant to Mississippi Law until this year, in which appellant's seized items were not listed.

Alternatively, he asks this Court to expedite this appeal and place this matter on the first available case call.

Respectfully Submitted this 16th Day of September, 2021

Matthew Reardon

Matthew Reardon

Appellant

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CERTIFICATE OF SERVICE

This is to certify that on 9/16/2021 I sent a copy of the following documents to the to the attorneys or parties of record on file

MOTION FOR PERUMPTORY REVERSAL
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9/16/2021 *Matthew Reardon*
