

COURT OF APPEALS OF THE STATE OF MISSISSIPPI

CHARLES EDWARD WILSON

APPELLANT

VERSUS

CASE NO: 2014-CP-01732-COA

STATE OF MISSISSIPPI

APPELLEE
FILED

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COURT OF APPEALS

BRIEF OF THE APPELLANT

Charles Edward Wilson #44482

CHARLES EDWARD WILSON #44482

APPELLANT PRO SE

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CERTIFICATE OF INTERESTED PERSONS

The Undersigned Appellant/Pro Se of the record in the above Numbered and Styled Case Certifies that the following listed person(s) have an interest in the outcome of this case. These representations are made in order that the Justices of the Supreme Court and/or the Judges of the Court of Appeals may evaluate possible disqualification or recusal.

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APPELLEE

BRIEF OF THE APPELLANT

STATEMENT OF THE CASE

This Appeal proceeds from the Circuit Court of Amite County, Mississippi, on Appellant's Motion for Post-Conviction Collateral Relief which was denied on October 2th, 2014, by the Honorable Forrest A. Johnson, Circuit Court Judge, and dismissed as procedurally barred pursuant to Mississippi Code §99-35-5.

STATEMENT OF THE FACTS

In October, 1982, Norman Travis, Sheriff of Amite County, Mississippi, contacted Dick Wilson, Sheriff of Pike County, Mississippi, to inform Dick Wilson that a certain Charles Edward Wilson, was upon information, a suspect in a kidnapping and rape that allegedly occurred on or about the 3rd day of August, 1982.

Norman Travis, Sheriff of Amite County, Mississippi, advised Dick Wilson, that a Confidential Informant (C.I.) informed him, Sheriff Travis that Charles Edward Wilson, was involved in the kidnapping of Rose Ann Erwin and her three children from Tangipahoa Parish, Louisiana, and transported to Mississippi, Amite County, where it is alleged the rape occurred.

On the 19th day of October, 1983, Dick Wilson, Sheriff of Pike County, Mississippi, accompanied by his deputies, one Tommy Daughdrill, and one Ken Estes, did arrest Charles Edward Wilson, and placed him in custody.

NOTE: See Witnesses listed on indictment C#1857 and C#1858.

PROCEDURAL HISTORY

On December 18th, 2013, the Honorable David Anthony Chandler, Justice of the Mississippi Supreme Court, stated in his Order, "If a Petitioner has not directly appealed the conviction or sentence, the Petitioner "Must" file his or her Motion for Post-Conviction Collateral Relief in the trial Court."

On July 31st, 2014, Appellant filed the instant Motion for Post-Conviction Collateral Relief in the Circuit Court of Amite County, Mississippi, and was denied on October 8th, 2014, and dismissed as procedurally barred.

The Appellant's PCR Motion took the place of his Direct Appeal due to the Appellant was not granted a Direct Appeal from the trial Court of Amite County, Mississippi in 1983, on his conviction and sentence.

STATEMENT OF THE ISSUES

1. THE TRIAL COURT WAS INCORRECT IN ITS "PROCEDURAL" RULING OF NOT HAVING PROPER JURISDICTION" TO REVIEW APPELLANT'S CLAIMS ON PCR.
2. THE TRIAL COURT ERRED IN NOT REACHING THE MERITS ON APPELLANT'S CLAIMS OF "ACTUAL INNOCENCE."
3. THE APPELLANT WAS SERIOUSLY PREJUDICED IN THE DESTRUCTION OF EXCULPATORY EVIDENCE BEFORE APPELLANT'S DIRECT APPEAL WAS PERFECTED.
4. THE APPELLANT WAS SERIOUSLY PREJUDICED BY THE STATE WITHHOLDING EVIDENCE WHICH WAS AVAILABLE BEFORE AND DURING TRIAL, WHICH WOULD HAVE MADE THE OUTCOME DIFFERENT IF IT HAD BEEN PRESENTED AT TRIAL.
5. THE TRIAL COURT FAILURE TO REVIEW APPELLANT'S CLAIMS OF BEING PUT IN DOUBLE JEOPARDY BY IMPOSING MULTIPLE PUNISHMENT FOR THE SAME OFFENSE IN VIOLATION OF APPELLANT'S 5TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION AND ARTICLE 3, SECTION 22 OF THE MISSISSIPPI CONSTITUTION.

ISSUE ONE

THE TRIAL COURT WAS INCORRECT IN ITS "PROCEDURAL" RULING OF NOT HAVING PROPER JURISDICTION "TO REVIEW APPELLANT'S CLAIMS ON PCR."

Appellant respectfully submits that there is an exception to the procedural bar set forth in Mississippi Code Ann., Section 99-39-5, citing Rowland v. State, 42 So.3d 503 (2010). In Rowland, the Mississippi Supreme Court held that errors affecting a fundamental constitutional right are exempt from the procedural bars of U.P.C.C.R.A. The trial court in dismissing Appellant's PCR Motion found that Appellant's Motion was not filed within the three-year statute of limitation. Clearly the record in this case shows numerous motions filed by the Appellant over the years from 1982 thru the present date; whereas majority of the motions filed in the lower court were never adjudicated on.

Appellant presents a cognizable claim under the Constitution and statutes of the State of Mississippi upon which relief can be granted. In the order before this court, the Amite County Circuit Court's order denying PCR on procedural grounds; rather than addressing the merits Appellant's substantive claims - i. e., the Appellant is actual innocence, exculpatory evidence being destroyed in bad faith, newly discovered evidence, cumulative errors so infected the proceedings actual ineffective assistance of counsel.

Appellant submits that the October 8th, 2014, decision of the Amite County Circuit Court dismissing his PCR Motion was incorrect in light of this court's decision in Rowland v. State, 42 So.3d 503 (2010). In spite of this decision, the trial court dismissed Appellant's PCR Motion, finding that the

Claims Were time-barred and procedural barred. Appellant would be required to show the trial court's procedural ruling was incorrect. And a Substantial Showing the denial of a "fundamental Constitutional right." Rowland, 42 So. 3d at 553.

The Appellant's indictment fails to allege "All" of the essential **ELEMENTS** of Kidnapping took place in Amite County, MS; Clearly alleging that the Crime of Kidnapping (Under Miss. Law) took place in Louisiana. The 14th Amendment of the U.S. Constitution States in part... Nor shall any State deprive any person of life, liberty, or property, Without Due Process of Law; Nor deny to any person Within its Jurisdiction the equal protection of the laws. The Due Process Clause of Article 3, Section 14, of the Mississippi Constitution, requires that "No person shall be deprived of life, liberty, or property except by Due Process of Law."

In Rowland, the Mississippi Supreme Court held that Constitutional rights in Serious Criminal Cases rise above mere rules that questions Not raised in the trial Court cannot be raised for the first time on appeal. Besides, No person can be deprived of his liberty except by due process of law. Section 14, Article 3, Mississippi Constitution. This prohibition intended to guarantee the protection of Fundamental and Constitutional rights, so that a fair trial shall result. Every person is entitled to a fair and impartial trial, and the dispensing of justice is the Object of the Courts. Thus, Where Fundamental and Constitutional rights are ignored, Due Process does Not exist, and a fair trial contemplation of law cannot be held...

[W]e repeat that this is a most unusual case. We neither condone nor reward inaction. But we cannot affirm where due process has been so lacking that a conviction has resulted without proper consideration of Constitutional and Fundamental rights. Id. at 97 (Citations Omitted) (emphasis added).

Appellant has demonstrated to this Honorable Court that due to Fundamental and Constitutional errors, he is Actual, Factual, and Legally innocence of the

Charge of kidnapping, where his 5th and 14th Amendment rights were violated, and Article 3, Section 14, of the MS Constitution. Under Rowland, this claim or issue must be decided on its merits and cannot be procedural barred. Wherefore, this grounds for vacation of conviction and sentence.

ISSUE TWO

THE TRIAL COURT ERRED IN NOT REACHING THE MERITS ON APPELLANT'S CLAIMS OF "ACTUAL INNOCENCE."

Asserted by the trial court, the Petitioner argues he is innocent. On March 10, 1983, the defendant along with three co-defendants were found guilty of the charge of kidnapping and sentenced to a term of life imprisonment by the jury. This argument is without merit.

The trial court did err in not reaching the merits on Appellant's claims of Actual Innocence. Appellant claims that due to an illegal sentence imposed on him causes him to be imprisoned and confined to the M.D.C., makes the Appellant actually innocent. In Strickland v. Howell, 654 So.2d 1387 (1995), the court held:

"False imprisonment is the confinement of the Plaintiff within boundaries fixed by the Defendant, without legal justification, by an act or the breach of a duty intended to result in such confinement."

In Edmonds v. State, 955 So.2d 787 (2007), the Supreme Court has stated: In these circumstances, where constitutional rights directly affecting the ascertainment of guilt are implicated, the hearsay rule may not be applied mechanistically to defeat the ends of justice. Citing Chambers v. Mississippi, 410 U.S. 248, 302 U.S.Ct. 1038; 35 L.Ed.2d 297 (1973) (Citations omitted) (emphasis added).

The Appellant is Actual, Factual, and legal innocence due to Fundamental and Constitutional errors. In Schupp v. Delo, 513 U.S. 298; 115 S.Ct. 851 (1995), the Court held: The Standard of Murray v. Carrier, 477 U.S. 478, 106 S.Ct. 2639 - Which requires a habeas Petitioner to show that "a Constitutional violation has probably resulted in a conviction of one who is actually innocent." Schupp's claim is accompanied by the assertion of Constitutional errors at trial; the ineffectiveness of Counsel and the withholding of evidence by the prosecution. As such, his Conviction may not be entitled to the same degree of respect as one that is the product of an error-free trial, and his evidence of innocence need carry less of burden. To satisfy Carrier's "actual innocence" standard, a petitioner must show that, in light of the new evidence, it is more likely than not that no reasonable juror would have found him guilty beyond a reasonable doubt. To ensure that the Fundamental Miscarriage of Justice exception would remain "rare" and be applied only in "extraordinary cases," while at the same time ensuring that relief would be extended to those who are truly deserving. The Court has explicitly tied the exception to the Petitioner's innocence.

In addition to linking Miscarriage of Justice to innocence, the Court stated that the Petitioner must show that the Constitutional errors "probably" resulted in the conviction of one who is actually innocent. The Appellant makes a sufficiently persuasive showing that a "Fundamental Miscarriage of Justice" has occurred, and the Appellant is actual innocence. The Court also stated in Schupp, "[I]f a Petitioner such as Schupp presents [adequate] evidence of innocence... the Petitioner should be allowed to pass through the gateway and argue the merits". ante at 863-864. Also, see Means v. State, 43 So. 3d 438 (2010).

The Appellant has shown a fair showing of Fundamental and Constitutional rights has been violated, and the Appellant was denied "Fundamental Fairness in the State Court proceedings." Such a showing of pervasive actual prejudice can hardly be thought to constitute anything other than a prisoner was denied "fundamental fairness," by such imperative of correcting a fundamentally unjust incarceration.

Thus, the Appellant has shown to this Honorable Court that due to Fundamental and Constitutional errors and Due Process, Appellant is Actual Innocence of all alleged charge(s). The trial Court did err in not reaching the Merit on Appellant's "Actual Innocence Claim." The Appellant is Actual, Factual, and Legally Innocence, due to an illegal Sentence and false imprisonment. Therefore, these are grounds and issues for vacation of Conviction and Sentence.

ISSUE THREE

THE APPELLANT WAS SERIOUSLY PREJUDICE IN THE DESTRUCTION OF EXCULPATORY EVIDENCE BEFORE APPELLANT'S DIRECT APPEAL WAS PERFECTED.

The Court in its Order determined that the Post-trial history reveals that the Appellant failed to perfect a direct appeal as cited by the Mississippi Supreme Court in Cause #57,888 Charles E. Wilson v. State of Mississippi, on August 24, 1988. The Court ruled that:

"Appellant did not perfect an Appeal of his kidnapping Conviction within the prescribed (45) forty-five day time limitation."

The trial Court was incorrect in its findings that Appellant did not perfect an appeal of his kidnapping Conviction within the prescribed forty-five (45) day

time limitation. See Exhibit "A" (Circuit Clerk's office letter dated: May 2, 1983), (Also, see attached, **Notice of Appeal**, Stamped filed April 1, 1983 - See Exhibit "A-1").

The lower court stated, "Furthermore, there is no evidence showing that the evidence pertinent to the case was destroyed in anything other than a routine manner and without fraudulent intent; thus Petitioner's claim is without merit.

The Appellant's claim of exculpatory evidence was destroyed in "bad faith" before his direct appeal was perfected seriously prejudiced the Appellant; especially for DNA testing which would have proved that the Appellant is actual innocence. Where exculpatory evidence in a high profile case such as Appellant's case where biological/physical exculpatory evidence was destroyed in "bad faith" before my direct appeal is processed and effected, violates the Due Process and Equal Protection of the law under the 14th Amendment of the U. S. Constitution; and Article 3, section 14, of the Mississippi Constitution. In Hardy v. State, 137 So. 3d 289 (2014), states, "In order to determine whether the State's loss of evidence violates the defendant's due-process rights, the defendant must show that: (1) the evidence in question must possess an exculpatory value that was apparent before the evidence was destroyed; (2) the evidence must be of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means; and (3) the prosecution's destruction of the evidence must have been in bad faith." U. S. C.A. Const. Amend. 14.

Also, the MS Supreme Court held: In order to find a Due Process violation by the State in a preservation-of-evidence: (1) the evidence in question must possess an exculpatory value that was apparent before the evidence was destroyed; (2) the evidence must be of such a nature that the defendant would be unable to obtain comparable evidence by other reasonably available means, and (3) the

prosecution's destruction of the evidence must have been in bad faith... This stipulates a Brady v. Maryland, 373 U.S. 83 (1963) violation.

These three segments stated by the MS Supreme Court applies to the Appellant's case where the exculpatory evidence was of great value in both causes #1857 and #1858. The exculpatory evidence was of such nature that the Appellant is unable to obtain comparable evidence by other reasonably means, especially for DNA purposes. The Appellant finds "no" order from the trial court giving former Sheriff Norman Travis of Amite County authority to have exculpatory evidence destroyed. Former Sheriff Norman Travis, and prosecution's destruction of biological/exculpatory evidence was in "bad faith" See Exhibit "B" attached where former Sheriff Norman Travis gave written permission to MS State Crime Lab., to dispose of evidence [Rose Ann Erwin] - Case No. 822593). The exculpatory evidence was destroyed January 15, 1985, (see Exhibit "B-1" attached).

Appellant did file a timely Notice of Direct Appeal in causes #1857 and #1858, the trial court Judge Edwin Benoist, Jr., refused to adjudicate on the Direct Appeal. Trial Judge Benoist, never ruled on Appellant's Direct Appeal, nor any motions or petitions filed between 1983 thru January, 1985. It was after January 15, 1985, when the trial court started responding to Appellant after he had filed a Writ-of-Mandamus to the MS Supreme Court for the trial court Judge to respond to the Direct Appeal and other petitions filed in the lower court. (See inter-office Memorandum of Chief Justice Neville Patterson-dated 1/19/84. Exhibit "C"). It is also noted on the Docket Sheet 9-26-86, in the record excerpts. Judge Benoist stated, "do nothing - let him file with S.Ct. against me", filed.

In Banks v. State, 725 So. 2d 711 (1997), where exculpatory evidence was destroyed and Due Process was violated. The MS Supreme Court held in

Banks: We conclude that, even if Banks did not cite URCC Rule 9.04 in his Motion to suppress during his trial, he raised and preserved the fundamental issue on this point, which is that his due process rights were violated by the State's destruction of the sandwich before he could examine it. The rule governing the State's destruction of physical evidence is discussed in Tolbert v. State, 511 So. 2d 1368, 1372 (Miss. 1987), in which this Court held that the State's duty to preserve evidence is limited to evidence that is expected to play a significant role in the defense... Also, see California v. Trombetta, 467 U.S. 479, 489, 104 S.Ct. 2528, 2534, 81 L.Ed. 2d 413, 422 (1984); and Johnston v. State, 618 So. 2d 90, 92 (Miss. 1993). The sandwich played a constitutionally significant role in Bank's defense and therefore this issue has merit.

Just as the extraction samples of **pubic hair, blood, saliva, and fingerprints**, played a constitutionally significant role in Appellant's defense, and this exculpatory evidence could have used for DNA purpose to prove that the Appellant is **Actual Innocence**, and innocent of all alleged charges in Causes #1857 and #1858. Such destruction of this exculpatory evidence was unnecessary and inexcusable. Also, see Freeman v. State, 121 So. 3d 988 (2013).

Furthermore, there is evidence that the Appellant through a three (3) year period waiting for his appeal to be perfected, which was no fault by Appellant. This three (3) year time frame **"did"** prejudice the Appellant in his efforts for a Direct Appeal. A letter from the Circuit Clerk's Office of August 4, 1986, show from the record: Notice of appeal, Motion for leave to appeal in Forma Pauperis, Affidavit of poverty, and Certificate of service, filed by the Appellant in the above cause; which also had a notation written at the bottom of the letter by Judge Edwin Benoit:

"[Ruth - I believe Charles Edward Wilson pled guilty. Therefore, all that need to be done is send a copy of the indictment, sentencing and plea hearing and a copy of sentence.]"

This was an error and an incorrect statement by the then presiding judge. (See Exhibit "B2").

The trial court "~~never~~" authorized the Amite County Circuit Clerk to process Appellant's Notice of Appeal filed on April 1, 1983.

The Pro Se Motion requesting an Out-of-Time Appeal, filed on May 17, 1983, and denied by the Amite County Circuit Court on July 13, 1983, was well within the allotted time under Rule 3., M.R.A.P.

The Appellant was seriously prejudiced in the destruction of exculpatory evidence before Appellant's Direct Appeal was perfected by the lower court. This is grounds for reverse and remand or in the Alternative Vacation of Conviction and Sentence.

ISSUE FOUR

THE APPELLANT WAS SERIOUSLY PREJUDICED BY THE STATE WITHHOLDING EVIDENCE WHICH WAS AVAILABLE BEFORE AND DURING TRIAL, WHICH WOULD HAVE MADE THE OUTCOME DIFFERENT IF IT HAD BEEN PRESENTED AT TRIAL.

The trial court states that the Appellant argues that cumulative errors in the proceedings violated his due process rights under the Fourteenth Amendment of the United States Constitution. Under this argument, the petitioner reiterates the above argument of jurisdiction and a flawed indictment.

This argument is Without Merits.

The Appellant was seriously prejudiced by the State Withholding evidence which was available before and during trial, which would have made the outcome different if it had been presented at trial. Under the Newly Discovered Evidence Rule, MS Code Ann., Section 99-39-5(1)(e); states, "That there exists evidence of Material facts, Not previously presented and heard, that requires vacation of the Conviction or Sentence in the interest of Justice." Also, under MS Code Ann., Section 99-39-5(2)(a)(i), states, "That there has been an intervening decision of the Supreme Court of either the State of Mississippi or the United States which would have actually adversely affected the outcome of his Conviction or Sentence or that he has evidence, Not reasonably discovered at the time of trial. Which is of such nature that it would be practically conclusive that had such been introduced at trial it would have caused a different result in the Conviction or Sentence..."

On or about April 16, 2001, the Appellant filed a 42 U.S.C., Section 1983 Complaint in the United States Court of Appeals for the 5th Circuit. Not knowing the Defendants-Respondents had filed a brief to the Complaint due to the Court(s) prompt dismissal of the Complaint. In August, 2010, the Appellant was interviewed by an attorney and his assistant from Mississippi Innocence Project. During this interview Appellant was asked a pacific question about a Confidential informant (C.I.) that played a big role in Appellant being arrest. I stated to the attorney that I didn't know Nothing of a C.I. The attorney stated to Appellant, "this C.I. is probably the reason you was arrest and "set-up" to be prosecuted." The attorney then asked me did I think my case was racially motivated? "I said probably was." He then gave me a copy of the Defendants-Respondents' brief with some lines he had drawed in certain areas of the brief with

a few scribbled words on the side of the page. (See page 4, Pars. 5-6 in the Defendants-Respondents' brief).

There was never, from the outset, any identification, in-court or out-of-court by ROSE ANN ERWIN of Plaintiff-Appellant being one of her kidnappers and rapist. There was no physical evidence linking Plaintiff-Appellant to either crime. There was no accusation, warrant or affidavit or otherwise by the victim accusing Plaintiff-Appellant of any criminal act against her person. Thus, Plaintiff-Appellant's conviction on both charges were purely racially motivated. (See Page 5, Par. 2 in the Defendants-Respondents' brief, Exhibit "D").

Thus, this shows that the Appellant is Actual, Factual, and Legally Innocent as I've stated from the beginning. Surely, the Appellant have receive an illegal sentence. If the State would have presented or made known before or during trial, this would have made the outcome different. The Appellant should have been acquitted of all charges from the outset. Exclusion of evidence in state criminal action for failure of..., 33 A.L.R. 4th 301..., states, "Non-disclosure of investigate reports to defendant pursuant to timely request for discovery was violation of state's duty to disclose, and sanctions for such failure is the matter within discretion of trial court, which is abused only if failure to disclose information results in fundamental unfairness to defendant..." *Id.* at page 59 (cumulative supplement). The Appellant have received, "Cruel and Unusual Punishment," a violation of Appellant's 8th Amendment right of the U.S. Constitution. Furthermore, the Appellant's Due Process rights and equal protection of the law rights of the 14th, 5th, Amendments of the U.S. Constitution has been violated, along with Article 3., Section 14, of the Mississippi Constitution.

In Murray v. Carrier, 477 U.S. 478 (1986), the Court stated, "At the outset, it should be noted that this balancing is more apparent than real, for

the Concurrence made plain that the controlling consideration must be whether the Petitioner was denied "fundamental fairness in the State Court proceeding." Such a showing of pervasive actual prejudice can hardly be thought to constitute anything other than a showing that the prisoner was denied "fundamental fairness." However, as we also noted in Engle, "[i]n appropriate cases" the principles of comity and finality that inform the concepts of cause and prejudice "must yield to the imperative of correcting a fundamental unjust incarceration." 456 U.S. at 135. 102 S.Ct. at 1576. We remain confident that, for the most part, "victims of a fundamental miscarriage of justice will meet the cause-and-prejudice standard."

Due to the State withholding pertinent evidence, cumulative errors, and ineffective assistance of counsel, the Appellant has shown and demonstrated fundamental unfairness and fundamental miscarriage of justice which meets the Cause-and-Prejudice Standard from the trial court. The Appellant was seriously prejudiced by the State withhold evidence which was available before and during trial; which would have made the outcome different. Therefore, these are grounds for vacation of conviction and sentence.

ISSUE FIVE

THE TRIAL COURT FAILURE TO REVIEW APPELLANT'S CLAIMS OF BEING PUT IN DOUBLE JEOPARDY BY IMPOSING MULTIPLE PUNISHMENT FOR THE SAME OFFENSE IN VIOLATION OF APPELLANT'S "5TH AMENDMENT RIGHTS OF THE U.S. CONSTITUTION AND ARTICLE 3, SECTION 22 OF THE MISSISSIPPI CONSTITUTION."

The trial court asserts the petitioner claims he received ineffective assistance of counsel; specifically, that counsel failed to file a direct appeal.

The Mississippi Supreme Court has previously ruled as stated above that Petitioner failed to perfect an appeal from the kidnapping conviction within the forty-five (45) days required by law; therefore this issue is moot and petitioner is not entitled to any relief.

Appellant trial counsel was ineffective by allowing the trial court to put the Appellant in Double Jeopardy by imposing multiple punishment for the same offense in violation of Appellant's 5th Amendment rights to the U.S. Constitution, and Article 3, Section 22 of the Mississippi Constitution. Appellant's trial counsel was ineffective to allow cumulative errors so infected the proceedings, the Appellant was denied his constitutional rights to fundamental fairness and Due Process. Appellant's counsel fail to obtain witnesses in his favor, nor did counsel investigate Appellant's case before trial. Appellant's counsel basically slept through the trial, and was awakened several times by Appellant and his fellow counselmen.

Appellant's counsel abandoned him at a crucial time causing more prejudice to his case. Due to counsel's failure to follow-up on Appellant's appeal, left the Appellant without legal representation during the process of his appeal of his kidnapping conviction of March 10, 1983.

The Appellant did receive the ineffective assistance of counsel. An ineffective assistance claim by its very nature refers to the totality of counsel's pretrial, trial performance and post-trial. [A]ppellant's complaint here is of his court-appointed counsel failed to follow-up on appeal. In Strickland v. Washington, 446 U.S. 668, 104 S.Ct. 2032, 80 L.Ed. 2d 674 (1984). Whether that claim be asserted under the Sixth and Fourteenth Amendment to the Constitution of the United States or under Article 3, Section 22 of the Mississippi Constitution of 1890; Washington mandates a two-

fold inquiry: (1) Whether Counsel's performance was deficient, and if so, (2) Whether the deficient performance was prejudice to the defendant in the sense that confidence in the correctness of the outcome is not undermined.

Here, as did the defendant in Rowland, Appellant's Counsel failed to raise the double jeopardy issue — insofar as jurisdiction; because no additional proof is required for a sound judicial determination that Appellant's Plea of guilty to rape run afoul of the Federal and State Constitutional provisions concerning former jeopardy. Citing Duhart v. State, 981 So. 2d 1056, 1058 (Miss. Ct. app. 2008), on the question of whether the kidnapping and a rape occurred at the same time.

Four Men including Appellant, were arrested and indicted in connection with an alleged kidnapping and rape of Rose Ann Erwin. See [Indictment Cause No. 1858] (attached). Citing Weeks v. State, 604 So. 2d 748, 750 (Miss. 1992), where once the prosecution has proved the greater, or the lesser included — The defendant may be convicted and punished for one of these offense — but not both. The right to be free from double jeopardy is a fundamental right. The indictments in Cause Numbers 1857 and 1858 were drafted in a manner that sought to turn one alleged kidnapping — rape into multiple criminal episodes. (See indictments #1857 & 1858 attached. Exhibits "E" & "E-1")

Appellant's finding of guilt on indictment in Cause Number 1857 Kidnapping was the same episode as indictment under Cause Number 1858. Thus, the Appellant's plea was as the underlying felony in a capital indictment. This clearly violates the Constitutional prohibitions against multiple punishment for the same offense. U.S. Const. Amend. V ("Nor shall any person be subject for the same offense to

be twice put in jeopardy of life or limb"): MISS. CONST. ART. 3, SECTION 22 ("No person's life or liberty shall be twice placed in jeopardy for the same offense"). Therefore, Appellant urge this Court to treat the rape charge as the legal nullify that it is, and Order Appellant's plea of guilty for the rape offense vacated.

Further, Appellant's trial Counsel was ineffective by not challenging the indictment in Cause #1857 on its "intent". The intent language states, "all with the intent of them." What was the intent? The indictment never states the intent purpose. Due to Appellant's Counsel allowing the trial court to put the Appellant in double jeopardy by imposing multiple punishment for the same offense without any objection of such, violated the Appellant's 5th Amendment rights of the U.S. Constitution and Article 3, Section 22 of the Mississippi Constitution. Counsel further allowed Appellant's Sixth Amendment right to be violated under the Confrontation Witness Clause - in respect of an absent of a Confidential Informant (C.I.) to cross-examine his statement against the Appellant. Appellant's trial Counsel deficient performance did fall below an objective "standard of reasonableness." Therefore, these are grounds for vacation of conviction and sentence. (See HYMES V. STATE, 763 So. 2d 258 (1997)).

SUMMARY OF THE ARGUMENT

1. The trial court was incorrect in its procedural ruling of not having proper jurisdiction to review Appellant's claims on PCR. Appellant presents cognizable claims under the Constitution and Statutes of the State of Mississippi upon which relief can be granted. Appellant submits that the October 8th, 2014, decision of the Amite County Circuit Court dismissing his PCR motion was incorrect in light of this Court's decision in Rowland V. State, 42 So. 3d 503 (2010). In spite of this decision,

the trial Court dismissed Appellant's PCR Motion, finding that the Claims were time-barred and procedural barred. Appellant would be required to show the trial Court's procedural ruling was incorrect, and a substantial showing the denial of a "fundamental constitutional right." Rowland, 42 So. 3d at 553. Appellant is Actual Innocence.

2. The trial Court erred in not reaching the Merits on Appellant's Claims of "Actual Innocence." The trial Court did err in not reaching the Merits on Appellant's Claims of Actual Innocence. Appellant Claims that due to an illegal sentence imposed on him causes him to be imprisoned and confined to the M.D.D.C., Makes the Appellant actually innocent. The Appellant is Actual, Factual, and Legally innocence due to fundamental and Constitutional errors.
3. The Appellant Was Seriously prejudiced in the Destruction of exculpatory evidence before Appellant's direct appeal was perfected. The trial Court was incorrect in its findings that Appellant did not perfect an appeal of his kidnapping conviction within the prescribed forty-five (45) day time limitation. The Appellant's Claim of exculpatory evidence was destroyed in "bad faith" before his direct appeal was perfected. Seriously prejudice the Appellant; especially for DNA testing which would have proved that the Appellant is Actual Innocence.
4. The Appellant was seriously prejudiced by the State withholding evidence which was available before and during trial, which would have made the outcome different if it had been presented at trial or before trial. It was stated in the Defendants-Respondents' brief in April, 2001, "There was Never, from the outset, any identification, in-court or out-of-court by Rose Ann Erwin of Plaintiff-Appellant being one of her kidnapers and rapist."
5. The trial Court failure to review Appellant's Claims of being put in double jeopardy by imposing multiple punishment for the same offense in violation of

Appellant's 5th Amendment rights of the U.S. Constitution and Article 3, Section 22 of the Mississippi Constitution. Appellant Counsel fail to raise the double jeopardy issue. The right to be free from double jeopardy is a fundamental right. The indictments in Cause numbers 1857 and 1858 were drafted in a manner that sought to turn one alleged kidnapping-rape into multiple criminal episodes.

CONCLUSION

The Appellant has shown and demonstrated to the best of my ability as a "lay person" before this Honorable Court that I am Actual Innocence of all the alleged charges. "When an innocent person is incarcerated, not only does he become a victim of suffering, his family does also." Through my Affidavit, Exhibits, and brief, this Honorable Court will find that all is true and correct, and that I am Innocent. Therefore, all the grounds set forth in this brief requires vacation of conviction and sentence, and Appellant released.

WHEREFORE, PREMISES CONSIDERED, Appellant respectfully Request be granted relief and any other relief this Honorable Court deems just and appropriate.

"Praying For Relief"

this the 18th, day of March, 2015.

Respectfully Submitted,
Charles Edward Wilson
CHARLES EDWARD WILSON #44492
APPELLANT ~ PRD SE

CERTIFICATE OF SERVICE

This do I Certify that I, the Undersigned, have this day cause to be Mailed, via the U.S. Postal Service, First-Class postage pre-paid, BRIEF OF THE APPELLANT, to the MS Supreme Court Clerk, with copies indicated below to the following person(s):

Office of The Clerk
Honorable Muriel B. Ellis
SUPreme Court & Court of Appeals
Post Office Box 249
JACKSON, Mississippi 39205-0249

Honorable Jim Hood
MS State Attorney General
Post Office Box 220
JACKSON, Mississippi 39205

SO CERTIFIED this the 18th, day of March, 2015. A.D.

Charles Edward Wilson
Charles Edward Wilson #44482
SMCI-II, D-2, B-Zone, Bed #111
P.O. Box 1419
Leakesville, MS 39451

CIRCUIT CLERK'S OFFICE
AMITE COUNTY
RUTH DIXON, CLERK
P. O. BOX 312
LIBERTY, MISSISSIPPI 39645

CIRCUIT COURT CONVENES:
3RD MONDAY FEBRUARY
2ND MONDAY JUNE
3RD MONDAY OCTOBER

May 2, 1983

PHONE: AREA CODE 601
657-8932

Honorable Edwin E. Benoist, Jr.
Circuit Judge
P. O. Box 1244
Natchez, Ms. 39120

Re: State of Mississippi
vs.
Donald Ray Brown,
Michael Wayne Williams
Wilton Williams, and
Charles Edward Wilson
No. 1857 and 1858

Dear Judge:

I mailed you Notice of Appeals, Pauper's Affidavits,
Petition for Productions of Records and copies of Plea, but
to date I have not received an order from you on this accepting
their Pauper's Affidavit, for the county to pay the appeal costs.

Please advise me what to do in these two cases. I have
not mailed Certificates to the Supreme Court showing they are
being appealed.

Very truly yours,

(Mrs.) Ruth Dixon

rd

EXHIBIT "A"

IN THE CIRCUIT COURT OF Amite COUNTY, MISSISSIPPI

Charles E. Wilson

PETITIONER

V.

NO. 1857 + 1858

STATE OF MISSISSIPPI
BY AND THROUGH

RESPONDANT

NOTICE OF APPEAL

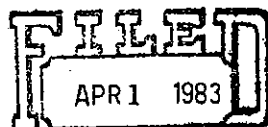
Comes now, Charles E. Wilson, Pro Se, being aggrieved by the Order of this Court entered on March 10, 1983, in the above numbered cause and does desire to appeal this decision to the Mississippi Supreme Court.

The Clerk of this Court is hereby requested to send up to the Mississippi Supreme Court the complete record in this cause.

In Lieu of an Appeal Bond petitioner attaches hereto an Affidavit of Poverty as provided by M.C.A. Sec. 11-53-17.

Charles Edward Wilson

53975 Unit R+D



By Charles E. Wilson
Circuit Clerk

(Exhibit "A-1")

Parchman, Mississippi

38738

Subscribed and sworn to before me in my presence, this 29 day of March 83, a Notary Public in and for the county of Amite and state of Mississippi.

Jeff B. Bosters
Notary Public

My Commission expires 12-31-85
My Commission Expires 12-31-1985

STATE OF MISSISSIPPI
COUNTY OF SUNFLOWER

SS

I, Charles E. Wilson, being first duly sworn under oath, present that I have subscribed to the foregoing petition and do state that the information therein is true and correct to the best of my knowledge and belief.

Charles E. Wilson

SUBSCRIBED AND SWORN to before me this 29 day of March, 1983 A.D.

Jeff L. Porter
NOTARY PUBLIC
My Commission Expires Jan 23, 1985

FORMA PAUPERIS AFFIDAVIT

I, Charles E. Wilson, being first duly sworn according to law, state and depose that I am the petitioner in the above proceedings; that I am unable to pay the costs or give security for the said proceedings and that I believe that I am entitled to redress.

Charles E. Wilson

SUBSCRIBED AND SWORN to before me this 29 day of March, 1983 A.D.

Jeff L. Porter
NOTARY PUBLIC

My Commission Expires: _____

My Commission Expires Jan 23, 1985

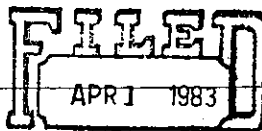


Exhibit "A-1"

By Paul Stefan
Circuit Clerk

IN THE CIRCUIT COURT OF Amite COUNTY

IN AND FOR THE COUNTY OF Amite

Charles E. Wilson

PETITIONER

VS.

NO. _____

Amite County Circuit Clerk RESPONDENT

PETITION FOR PRODUCTION OF RECORDS

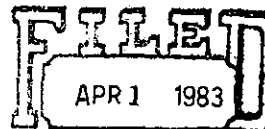
Into the Court now comes, Charles E. Wilson the petitioner, in the above styled and numbered cause and without the benefit of Counsel. The petitioner respectfully prays that this Court to issue an order, directed to the respondent, to prepare, certify and forward to the petitioner a true and correct 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. Charles E. Wilson.

1. That on/or about the 20 day of October 1982 the petitioner was arrested in the city of Liberty Mississippi, and charged with the offense(s) of Kid-
napping; _____; and Rape.

2. That the petitioner sincerely desires to test the legality of such imposition and conviction in an application for redress, 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 a part of the record, in the case of the STATE OF MISSISSIPPI VS.

Charles E. Wilson

Exhibit "A-1"



By [Signature]
Circuit Clerk

3. That the petitioner is indigent within the means of law and is wholly unable because of His poverty, to defray the costs an/or give security therefore. Whereas; the petitioner would unto this Honorable Court, that it would be prejudice that he be denied such relief because of His poverty.

WHEREFORE, the petitioner respectfully prays this Honorable Court will grant unto him the relief sought and grant other such relief that this Court may deem just and proper.

Respectfully submitted,

Charles E. Wilson

BY:

Charles E. Wilson
UNIT # KAD, MSP#, 53275
PARCHMAN, MS. 38738.

Exhibit "A-1"

Subscribed and sworn to before me in
my presence, this 29 day of March 83
a Notary Public in and for the county
and state of Sunflower, ms.
Jeff S. Potter
Signature
Notary Public
My Commission expires 23 of 1985
My Commission Expires Jan. 21 1985

OFFICE PHONE 657-8057

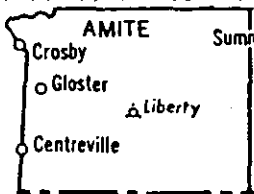
NORMAN TRAVIS

SHERIFF OF AMITE COUNTY

RESIDENCE PHONE 542-5644

CIRCUIT COURT TERMS

THIRD MONDAY IN FEBRUARY
SECOND MONDAY IN JUNE
THIRD MONDAY IN OCTOBER



P. O. BOX 208
LIBERTY, MISSISSIPPI 39645

CHANCERY COURT TERMS

SECOND MONDAY IN JANUARY
SECOND MONDAY IN APRIL
FIRST MONDAY IN JULY

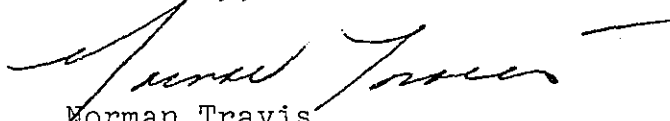
January 11, 1985

Mississippi Crime Lab
P.O. Box 5008
Jackson, Ms. 39216

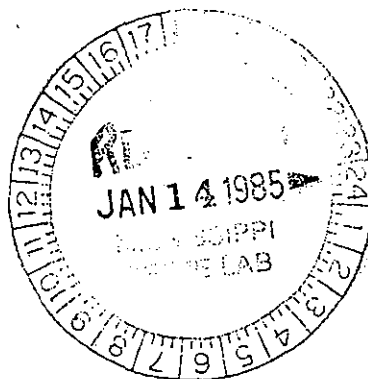
RE: Rose Ann Erwin - Case No. 822593

You can dispose of the evidence in Case No. 822593.

Sincerely,


Norman Travis
Sheriff of Amite County
Liberty, Ms. 39645

(Exhibit "B")



Disposed 1/15/85 BA



HALEY R. BARBOUR
GOVERNOR

STATE OF MISSISSIPPI
DEPARTMENT OF PUBLIC SAFETY
MISSISSIPPI CRIME LABORATORY

RUSTY FORTENBERRY
COMMISSIONER

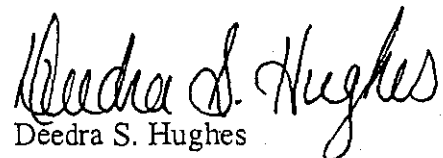
July 13, 2004

Debra W. Blackwell
Assistant District Attorney
P.O. Box 1148
Natchez, MS 39121-1148

Re: State of Mississippi vs. Charles Wilson – C.#1857 and C.#1858 – Circuit Court of
Amite County, Mississippi

Ms. Blackwell:

In response to your recent inquiry on the Charles Wilson and Rose Ann Erwin case, I regret to inform you that all evidence in that case has been disposed. Please refer to the enclosed documents showing authorization from the Amite County Sheriff's Office to dispose of the evidence. The evidence was disposed on January 15, 1985 by Bonnie Armider, an Evidence Technician at the Mississippi Crime Laboratory. If the Mississippi Crime Laboratory can be of any other assistance, please let us know.


Deedra S. Hughes
DNA Technical Leader

Enclosure

(Exhibit
"B-1")

MAIN LABORATORY
1700 EAST WOODROW WILSON
JACKSON, MISSISSIPPI 39216-1700
601-987-1600
FAX: 601-987-1615

NORTH MISSISSIPPI LABORATORY
22000 HWY 35 NORTH
BATESVILLE, MISSISSIPPI 38606
662-563-5681
FAX: 662-563-5687

GULF COAST LABORATORY
1141 BAYVIEW AVENUE, STE 102
BILOXI, MISSISSIPPI 39530
228-432-1115
FAX: 228-432-1522

EAST MISSISSIPPI LABORATORY
POST OFFICE BOX 4450
MERIDIAN, MISSISSIPPI 39304-4450
601-483-5273
FAX: 601-483-5278

CIRCUIT CLERK'S OFFICE
AMITE COUNTY
RUTH DIXON, CLERK
P. O. BOX 312
LIBERTY, MISSISSIPPI 39645-0312

CIRCUIT COURT CONVENES:
3RD MONDAY ~~APRIL~~ March
2ND MONDAY JUNE
3RD MONDAY OCTOBER

August 4, 1986

PHONE: AREA CODE 601
657-8932

Honorable Edwin E. Benoist, Jr.
Circuit Judge
P. O. Box 1244
Natchez, MS. 39120

Re: State of Mississippi
vs.
Charles Edward Wilson
No. 1857

Dear Judge:

I enclose herewith copy of Notice of Appeal, Motion for Leave to Appeal in Forma Pauperis, Affidavit of Poverty, and Certificate of Service, as filed by the defendant in the above cause.

Do I go ahead and send a Notice of Appeal to the Supreme Court? Or, do I acknowledge receipt of the instruments to the defendant and just file the papers? These convicted prisoners confuse me.

I am sending a copy of all these papers to Marie Kossum in case she is to begin transcribing her notes.

Very truly yours,

Exhibit - "B-2"

Ruth Dixon
(Mrs.) Ruth Dixon

Filed this the 7 day of
August 1986
Ruth Dixon
Circuit Clerk

rd

Enclosures

cc: Ms. Kossum

*Ruth - I believe Charles Edward Wilson pled
guilty - Therefore, all that needs be done is
send a copy of the indictment, sentencing & plea
hearing, and a copy of sentence. E. Dixon*

INTEROFFICE MEMORANDUM

TO: ROBERT E. WOMACK, CLERK OF THE SUPREME
COURT

FROM: CHIEF JUSTICE NEVILLE PATTERSON

DATE: JANUARY 19, 1984

When petitions for mandamus against trial judges are filed in this Court, they will be placed as usual on the miscellaneous docket. You are requested to mail a copy to the judge presiding over the court wherein the matter to be heard is pending, and in the event of a multi-judge district, to the senior judge and a copy to the Attorney General. The Attorney General will have thirty (30) days in which to answer the petition, and the petition and answer will be sent to the Court after the answer has been filed. It is suggested that you send a copy of this memorandum to the trial judge and the Attorney General along with the copy of the petition.

Neville Patterson
NEVILLE PATTERSON
CHIEF JUSTICE

(Exhibit
"C")

Filed this the 7 day of
November 19 *86*
Quinn R. Jones
Circuit Clerk

For Opinion See 273 F.3d 1104

United States Court of Appeals, Fifth Circuit.
Charles Edward WILSON, Plaintiff-Appellant, Pro Se,
v.
Dick WILSON, et al., Defendants-Respondents.
No. 01-60093.
April 16, 2001.

NEW ORLEANS, LOUISIANA

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI JACKSON DIVISION
USDC NO. 3:00cv881LN

Respondent's Brief

Charles Edward Wilson, Plaintiff, #44482, CMCf 3A-1, P.O. Box 88550, Pearl, MS 39288-8550

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CONSTITUTIONAL AMENDMENT #14

42 U.S.C.A. SECTION 1983

42 U.S.C.A. SECTION 1985

42 U.S.C.A. SECTION 1981

CONCLUSION ... 7

***iv TABLE OF AUTHORITIES**

CASES CITED

EX. D

Westlaw.

State lower court, where his case was dismissed summarily on procedural grounds, and the Mississippi Supreme Court denied review based on Plaintiff-Appellant's inability to pay Court filing fees.

Plaintiff-Appellant commenced action with the United States District Court under the Federal Civil Rights Statute, 42 U.S.C.A. Section 1983, alleging that all defendants were involved in a conspiracy to falsely arrest, accuse, prosecute, and imprison him. Plaintiff alleges that his false arrest and malicious prosecution have caused him to be falsely imprisoned since 1982. Plaintiff-Appellant requested monetary relief against each of the named defendants for the malicious prosecution and for the deprivation of his Constitution and Civil Rights. The Court below dismissed the action as time barred under the applicable statute of limitation under section 1915(d).

*3 The Plaintiff-Appellant agree with the lower court's analysis of the applicable law governing the case. However, he is in disagreement in dismissing the case on procedural grounds without applying "as" analysis to the Discovery Doctrine under Mississippi Supreme Court case law on when the statute of limitation is tolled.

ARGUMENT

1. THE DISTRICT-COURT ABUSED ITS DISCRETION DISMISSING THE COMPLAINT SUA SPONTE, AS TIME BARRED AND ON STATUTE OF LIMITATIONS GROUNDS WITHOUT ALLOWING PLAINTIFF TO PLEAD THE DISCOVERY OF HIS CAUSE OF ACTION.

The District Court abused its discretion in dismissing the complaint sua sponte as time barred and on the state's statute of limitations without the benefit of allowing Plaintiff-Appellant to plead the Discovery of his cause of action under the law.

The Mississippi statute for general personal injury limitation period is the three year, Miss. Code Ann. 1972, Section 15-1-49, as amended. Even though Mississippi law govern the applicable limitations period, Federal law governs where a cause of action under the Federal Civil Rights Statute (Sec. 1983) -accrue See Laveelee v. Listi, 611 F.2d 1129,1130 (5th Cir. 1980). Under Federal law, a cause of action accrues when a person know or has reasons to know of his injury which is the basis of his action. id. at 1131. A Federal Court should also give effect to the forum State's applicable tolling provisions. Rodriques v. ?olmes, 963 F. 2d 799, 803 (5th Cir. 1992).

*4 Under Mississippi Supreme Court analysis as to when a cause of action accrues, parallels Federal law, it to states that a cause of action accrues when a person know or have reason to know the basis of his injury giving rise to his cause of action. See Fortenberry v. Memorial Hospital at Gulf-Port, Inc., 676 So. 2d 252 (Miss. 1996); Smith v. Sanders, 485 So. 2d 1051, 1052 (Miss. 1986); Kilgore v. Barnes, 508 So. 2d 1052 (Miss. 1987); Reynolds v. Wolff, 916 F. Supp. 1018 (D. Nev. 1996); Vidrime v. Enger, 752 F. 2d 107 (5th Cir. 1984).

Sheriff's office, Dick Wilson, through the use of racial epits and coercion, begin to interrogate Plaintiff-Appellant in the absence of counsel, by asking Plaintiff-Appellant "Nigger did you kidnap and rape that white woman?" Plaintiff repeatedly denied having committed the kidnap and rape. During that interrogation on October 19th, 1982, Dick Wilson, placed his loader revolver on his desk, and loaded a 12 guage shotgun with "buck-shots" and placed the shotgun under Plaintiff-Appellant's chin, releasing the safety on the shotgun, and told Plaintiff-Appellant in apt words, "Nigger I want you to tell me the truth and admit to kidnapping that white woman and raping her or I'm going to. blow you damn brains out you black head." Through extreme fear and intimidation for his life, and having knowledge of Sheriff Wilson's conduct directed at and upon black people, confessed to the charges and signed the confession.

Identification and Accusation

There was never, from the outset, any identification, in-court or out of court by Rose Ann Erwin of Plaintiff-Appellant being one of her kidnappers and rapist. There was no physical evidence linking Plaintiff-Appellant to either crime. There was no accusation, warrant or affidavit or otherwise by the victim accusing Plaintiff-Appellant of any criminal act against her person. Thus, Plaintiff-Appellant's conviction on both charges were purely racially motivated.

*7 Under the factual circumstance presented, the Plaintiff-Appellant had absolutely no knowledge that the acts and conduct on the part of Dick Wilson October 19th, 1982 and the subsequent conspiracy between Amite County defend-and Court appointed attorney constituted a legal cause of action under the Constitution and Laws of the United States. Thus the District Court abused its discretion in failing to review this case under the Discovery Doctrine Rule, rather than incorrectly focusing on statute of limitation grounds for dismissal.

CONCLUSION]

The Plaintiff-Appellant asks this Court of Appeals to vacate the judgment of the Court below and to remand with instruction to conduct a SPEARS evidentiary hearing, and to order discovery in order that the factual issues may be fully developed.

Charles Edward WILSON, Plaintiff-Appellant, Pro Se, v. Dick WILSON, et al., Defendants-Respondents.

2001 WL 34496338 (C.A.5)

END OF DOCUMENT

THE STATE OF MISSISSIPPI }
Amite County

OCTOBER

CIRCUIT COURT

Term, A. D., 1982 No. 1857
AMITE COUNTY

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful citizens of Amite County, elected, empaneled, sworn and charged to inquire in and for the said County of Amite, at the term aforesaid, of the Court aforesaid, in the name and by the authority of the State of Mississippi, upon their oath, present that

DONALD RAY BROWN, MICHAEL WAYNE WILLIAMS, WILTON WILLIAMS
AND CHARLES EDWARD WILSON, a/k/a WINDING

late of the County aforesaid, on the 3rd day of AUGUST, 19 82, acting in concert ~~XXXXXX, XXXXX~~

each with the others did wilfully, and feloniously, without lawful
authority, forcibly seize and confine Rose Ann Erwin, Mark Eric
Erwin, Robin Daniel Erwin and Paul William Erwin, in Tangipahoa
Parish, Louisiana, and did feloniously kidnap the said Rose Ann Erwin
Mark Eric Erwin, Robin Daniel Erwin and Paul William Erwin, and
remove them to Amite County, Mississippi, all with the intent of
them, the said Donald Ray Brown, Michael Wayne Williams, Wilton Williams,
and Charles Edward Wilson, a/k/a, Winding, to cause Rose Ann Erwin,
Mark Eric Erwin, Robin Daniel Erwin, and Paul William Erwin to be
secretly confined and imprisoned against their will in Amite County,
Mississippi.

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

George W. Harrison
District Attorney

Section 97-3-53

Kidnapping

Charge.

A True Bill

J. F. L.
Foreman of the Grand Jury.

WITNESSES:

Dick Wilson

~~Tommy Dougherty~~ Tommy Dougherty

Ken Estes

Norman Travis

H. N. Jensen, Mike Stricker

Filed 29 day of October, 19 82 *Paul Dyer*, Clerk

Recorded 29 day of October, 19 82

Paul Dyer Clerk By _____, D. C.

SWPC-8807

EXHIBIT "E"

THE STATE OF MISSISSIPPI }
Amite County

OCTOBER

CIRCUIT COURT

Term, A. D., 19⁸²

No. 1858

AMITE COUNTY

THE GRAND JURORS of the State of Mississippi, taken from the body of the good and lawful citizens of Amite County, elected, empaneled, sworn and charged to inquire in and for the said County of Amite, at the term aforesaid, of the Court aforesaid, in the name and by the authority of the State of Mississippi, upon their oath, present that Wilton Williams, Charles Edward Wilson, a/k/a Winding, Donald Ray Brown and Michael Wayne Williams

late of the County aforesaid, on the 3rd day of August, 19 82, in the County aforesaid, acting in concert, each with the others, in and upon Rose Ann Erwin, a female over the age of twelve years, did violently, forcibly and feloniously make an assault, and her, the said Rose Ann Erwin, then and there violently, forcibly, without her consent and against her will, feloniously did rape, ravish and carnally know,

Contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Mississippi.

Section 97-3-65 (2)

Rape

Charge.

WITNESSES:

Charles E. Wilson

Tommy Daughdrill

Norman Travis

H.N. Jensen, Jr., Mike Sticker

Filed 29 day of October, 19 82 Quinn Dyer Clerk

Recorded 29 day of October, 19 82

Quinn Dyer Clerk By E-1 D. C.

SWPC-8807

EXHIBIT "E-1"

THE APPELLANT'S AFFIDAVIT OF OATH AS
HIS PERSONAL WHEREABOUTS

STATE OF MISSISSIPPI }
COUNTY OF GREENE }

Personally appeared before Me, the Undersigned authority in and for the aforesaid Jurisdiction, Charles Edward Wilson #44482, who after being duly Sworn, did State Under Oath as follows:

It is alleged that ON **August 3, 1982**, that Ms. Rose Ann Erwin and her three children were kidnapped in Tangipahoa Parish, Louisiana, and removed to Amite County Mississippi; where Ms. Rose Ann Erwin, is alleged to have been raped.

ON Monday, July 26th, 1982, I departed from my home at 38 McKay Road, Magnolia, MS at 9:00'clock A.M., enroute to my job, located at 625 Old HWY 49 South, Richland, MS where I drove 18 Wheeler trucks for Mr. Ralph Walker, Inc. I arrived at my job site at 11:15 A.M. I then proceeded into the office at which time Mr. Walker informed me that he had a loaded trailer coming in going to California that has three drop-offs (Los Angeles, Oakland, and Sacramento.) At 2:30 p.m., ON 7-26-82, I departed from Richland, MS enroute to California. At 5:30 p.m., I stopped in Shervport, Louisiana, and fueled both truck and trailer. After fueling and updating my log book, I departed Shervport enroute to California.

At 12:40 A.M., I stopped in Big Spring, Texas, where I slept for a few hours. At 5:00'clock A.M., ON 7-27-82. I woke up, exited the truck, and checked both truck and trailer, updated my log book and departed Big Spring enroute

to California. At 8:20 A.M., (Mountain time), I stopped in El Paso, Texas, refueled, called Mr. Walker, ate, update my log book and departed El Paso enroute to California.

At 12: p.m. (M.T.), I stopped in Tucson, Arizona at the TTT Truck Stop and had my truck and trailer washed, and my truck Air Condition recharged; I updated My log book and departed Tucson enroute to California. At 1:15 p.m. (M.T.), I stopped in Eloy, Arizona, refueled, updated my log book and departed Eloy enroute to Los Angeles, CA.

At 2:45 p.m. (Pacific time), I stopped at My Brother's home (Sammy Winding, Jr.) in Long Beach, California, picked him up to ride with me; We departed his home and at 3: p.m. (P.T.), we arrived at Industrial Park Southwest Los Angeles with my first drop-off. After Completion of my first drop-off at 3:45 p.m. (P.T.), I called Mr. Walker, updated my log book, we departed Los Angeles enroute to Oakland, CA.

At 11:45 p.m. (P.T.), I stopped in Silverton, California, where my brother and I ate and slept for several hours. On 7-28-82, at 5:40 A.M. (P.T.), I woke up, exited the truck and checked my truck and trailer, updated my log book, and departed Silverton enroute to Oakland, California.

At 8:30 A.M. (P.T.), we arrived at a Warehouse on Alameda Street in South Oakland, where I completed my second drop-off. Upon completion of my second drop-off, I called Mr. Walker, updated my log book, and departed South Oakland enroute to Sacramento, CA; before getting out of the Oakland Bay area there where a severe accident with several cars and trucks pile-up due to condensed fog closing the freeway for 6 1/2 hours. About 2:30 p.m. (P.T.), the freeway reopen, but traffic was slow because it was still foggy.

On Thursday, 7-29-82, at 4:30 p.m. (P.T.), we arrived in Sacramento, where I stopped at a 76 Truck Stop to get direction to the place for my final

drop-off. After getting directions and upon my arrival at the place, it was closed at 4: p.m. (P.T.), and reopen at 7:30 A.M. (P.T.), according to the posted sign at the gate entry. I then drove back to the 76 Truck Stop and called Mr. Walker, Mr. Walker advised me to call him when I got unloaded. After my brother and I had finished eating, he then called a friend of his that lived in the Sacramento area (Ms. Gena Davis). Ms. Davis invited us to stay at her home while we were in the area. We accepted her invitation.

On Friday, 7-30-82, at 8:50 A.M. (P.T.), I had completed my final drop-off. I then called Mr. Walker, Mr. Walker informed me that he didn't have a load and to call him back at 1:30 p.m. (Central Time). I then ended my trip log, Mileage log, updated my log book - logged lay-over and logged off-duty at 9:30 A.M. (P.T.), and returned to Ms. Davis' home. At 1:30 p.m. (C.T.), I called Mr. Walker and he stated, "I don't have a load," and I would be on lay-over for the weekend; keep all lay-over receipts and call him Monday Morning. I was on lay-over for 3½ days.

On Monday evening, August 2, 1982, at 2:15 p.m. (P.T.), I was dispatched by Mr. Walker to Turlock, California for reload. We then departed Sacramento enroute to Turlock, CA. At 4: p.m. (P.T.), we arrived in Turlock; I was then told by the Shift Supervisor to crank my refrigeration unit and turn the thermal set to Zero degrees, after five minutes my unit changed its cooling cycle and immediately the employees begin loading my trailer. While being reloaded, I started a new trip and Mileage log, refrigeration log, and updated my log book. At 4:50 p.m. (P.T.), my brother and I departed Turlock enroute to Mississippi. At 5:55 p.m. (P.T.) 50 Miles South of Turlock, I pulled into a truck garage for repairs on my truck. At 6:45 p.m. (P.T.), I departed the truck garage enroute to MS. At 2:45 A.M. (P.T.), on 8-3-82, I dropped my brother off at his home in Long Beach, California, and

departed Long Beach enroute to MS. At 5:15 A.M. (M.T.). I stopped in Eloy, Arizona, refueled and slept for a few hours. At 9:0'Clock A.M. (M.T.) DN 8-3-82, I Woke up, Exited my truck, Checked truck, trailer and refrigeration unit, Called Mr. Walker, updated my log book and departed Eloy enroute to MS.

DN 8-3-82, at 4:30 p.m. (M.T.), I stopped in El Paso, Texas, refueled, ate, Called Mr. Walker, updated all my logs and departed El Paso at 5:30 p.m. (M.T.) enroute to MS. DN Wednesday, 8-4-82, at 6:45 A.M. (C.T.), I stopped in Weatherford, Texas, and slept for a few hours. I Woke up at 9:10 A.M., Called Mr. Walker, Mr. Walker informed me to stop and call him at 6:0'Clock p.m. After talking to Mr. Walker, I Checked my truck, trailer, refrigeration unit, updated my log book and departed Weatherford enroute to MS. At 4:15 p.m., I stopped in Long View, Texas, refueled truck and trailer and departed Long View enroute to MS.

At 6:15 p.m. DN 8-4-82, I stopped in Calhoun, Louisiana, and Called Mr. Walker; Mr. Walker informed me that a loaded trailer going to Portland, Oregon was on the yard with the invoices in the back hatch of the trailer; drop your trailer, leave the invoices and logs in the back hatch of your trailer.

At 11:p.m., I arrived in Richland, MS, Switched trailers, Checked trailer, its refrigeration unit, ended trip and Mileage log; Started New trip and Mileage logs, updated my log book, and departed Richland enroute to Portland, Oregon.

DN Thursday, 8-5-82, at 3:45 A.M., I Crossed the Texas State line, pulled into the Welcome Center rest area and slept for several hours. At 8:15 A.M., I was awakened by a fellow driver for Ralph Walker, Inc. I then exited my truck, checked truck and trailer, Called Mr. Walker, Updated my log book. The other driver ask me Where was I going? I Stated to him Portland, Oregon. He then stated that he was going to Denver, Colorado, and we could run together to Denver; I Stated Okay, and we both departed on our scheduled

routes. We stopped in Mesquite, Texas, at 11:45 A.M., we both refueled and departed on our scheduled routes. At 6:30 P.M., we stopped in Dumas, Texas, refueled, called Mr. Walker, updated our log books, departed Dumas on our scheduled routes. We departed running together at 10: P.M. (M.T.) in Denver, Colorado; I continued enroute to Portland, Oregon. On Friday, 8-6-82, at 1:30 A.M. (M.T.), I stopped in Little America, Wyoming, and slept a few hours. I woke up at 5: A.M. (M.T.), exited my truck, checked truck and trailer, updated my log book, and departed Little America enroute to Portland, Oregon.

At 9:30 A.M. (M.T.), I stopped in Boise, Idaho, refueled, called Mr. Walker, ate, update my log book, departed from Boise enroute to Portland, Oregon. About two miles before crossing the Idaho and Oregon state lines, I was stopped by a Idaho State Trooper on a routine check. The State Trooper checked my logs and driver's license. The State Trooper informed me that the DMD in Mississippi have your license suspended due to an unpaid speeding ticket in South Carolina. I replied, "they are wrong." I then looked in my wallet, got the ticket and gave it to the State Trooper. At the bottom of the ticket it stated, "Paid in full - \$20.00", with the initials of the South Carolina State Trooper. The State Trooper called Idaho dispatch to forward call to MS DMD, Jackson, MS and informed them that they had made a mistake in suspending my license. After his conversation with the MS DMD, he then wrote me a temporary driving permit, and informed me, "when you get back to MS go to the DMD and have the suspension of your license lifted, 'and have a good day'". I then proceeded enroute to Portland, Oregon.

At 3:45 P.M. (P.T.), I arrived at Montgomery Wards' Warehouse in Portland, Oregon, where their employees begin to unload my trailer. While they were unloading my trailer, I called Mr. Walker, and he dispatched me to Yakima, Washington. I then ended my trip and mileage logs and started new trip and mileage

logs and updated my log book. At 4:15 p.m. (P.T.), I departed from Portland enroute to Yakima, WA. At 8:15 p.m. (P.T.), I arrived in Yakima, got me a Motel room, ate, & rested. DN Saturday, 8-7-82, at 8:45 A.M. (P.T.), I was reloaded to Golden, Colo. After being reloaded, I called Mr. Walker, checked my truck and trailer, signed invoice Sheet, updated my log book, and departed from Yakima enroute to Golden, Colorado.

At 11: A.M. (M.T.), I stopped in Boise, Idaho, refueled, and departed from Boise enroute to Golden, Colorado. At 5:50 p.m. (M.T.), I arrived at Coor's Beer Company in Golden, Colorado, where their employees begin unloading my trailer. While in the process of being unloaded, I call Mr. Walker and he gave me a dock Number to reload at Coor's Beer Co., for Atlanta, GA. I then gave the dock Number to the Shipping Supervisor, and he informed me, just as soon as they finish unloading your trailer, back your trailer in Shipping dock #2 and we'll get you loaded and out of here. While they were reloading my trailer, I ended my trip and mileage logs; started new logs and updated my log book. At 6:45 p.m. (M.T.), I departed Coor's Beer Co., enroute to Richland, MS. At 7:30 p.m. (M.T.), I stopped at the 76 Truck Stop in Denver, Colo., ate, called my wife, and slept for several hours.

DN Sunday, 8-8-82, at 10: O'clock A.M. (M.T.), I woke up, checked my truck and trailer, went in the Truck Stop, bought a variety snacks, updated my log book, and departed from Denver enroute to Richland, MS. At 1:45 p.m. (C.T.), I stopped in Amarillo, Texas, refueled, and departed Amarillo enroute to Richland, MS. At 11: p.m., I stopped at the T.S.A. Truck Stop in Dallas, Texas, had my truck and trailer washed, and slept for several hours.

DN Monday, 8-9-82, at 5:15 A.M., I woke up, checked my truck and trailer, updated my log book, and departed from Dallas enroute to Richland, MS. At 10:45 A.M., I stopped in Shervport, Louisiana, refueled, called Mr. Walker, and

departed from Shervport enroute to Richland, Mississippi.

At 2:50 p.m., I arrived in Richland, MS at Ralph Walker, Inc. I then ended my trip and Mileage logs, signed off-duty in my log book; gathered all my logs, receipts, and invoices, exited the truck and proceeded in the office where I gave Mr. Paul McCallen, General Manager, all my paper work. While Mr. McCallen was calculating my receipts and mileage, I went into Mr. Walker's office and informed him of my Driver's license being suspended and I would be off until the suspension on my license be corrected. Mr. Walker stated okay and signed my pay check Mr. McCallen had placed on his desk.

After receiving my pay check, I departed from Richland enroute to the DMD Office in Jackson, MS. The DMD Officer apologized for the wrongful suspension of my license. He then renewed my license, gave me a copy of the renewal receipt and informed me that I should receive my renewed license in three to four weeks. I departed from the DMD office enroute to my home at 38 McKay Road, Magnolia, MS.

ON October 19, 1982, I pulled onto the MS North Bound Weigh Station Scales on I-55 in Pike County, MS when I notice the Scales' sign said, "Report Inside". I pulled off the scales and parked. Before exiting the truck, I told my co-driver Marshal Garner, to watch the truck while I go see what the Scales' man wanted. I exited the truck, walked half way of the trailer where I met Detective Tommy Daughdrill of the Pike County Sheriff Department. He asked me my name, I told him; then he ordered me to turn, face the trailer with my hands up against the trailer. He briefly pat-searched me, then handcuffed me and stated, "I'm placing you under arrest for suspicious of kidnapping," for Amite County law officials. At this time Sheriff Richard "Dick" Wilson of Pike County, MS along with

Several Hwy patrolmen and Pike County deputies arrived on the scene with their weapons drawn. Sheriff Dick Wilson stated, "he ain't so bad after all." He then ordered Detective Daughdrill to put me in the back seat of his car.

Sheriff Wilson departed the Weigh Station with me to his office in Magnolia, MS. Upon arriving at the Sheriff's Dept., my co-driver was waiting inside with several Pike County deputies. Sheriff Wilson asked which one of you is the head driver of the truck? I stated, "I AM." He then asked me could he and his deputies search the truck? I replied, "No," the only official allowed to search that truck is a Department of Transportation Officer (D.O.T.), I then told my co-driver to get all my property out of the truck and place it in the Sheriff's Office. I then requested a phone call. Sheriff Wilson uncuffed me and allow me to make a call. I called Mr. Walker and informed him of my situation; Mr. Walker instructed me to tell my co-driver to pick up my other co-drive, J. C. Varnado, and continue the route. I then informed my co-driver what Mr. Walker had said for him to do. But instead, he drove the truck to the Fernwood Truck Stop, got his personal vehicle and left the truck.

At 9:58 p.m., Sheriff Dick Wilson ordered all his deputies, detectives, and dispatcher out of the Sheriff Department and instructed them to go on patrol for a while and he would handle things there (Sheriff's Dept.) if needed. He then sat me in a chair in his office, handcuffed my hands behind the chair. He asked me several times was I involved with Wilton Williams in a kidnapping? I constantly answered him "No." He then stated, "Nigger" you are a goddamn lie, I know you was involved, you black-ass S.O.B., again, I told him "No." Sheriff Wilson became very hostile towards me; he grabbed a chair, slammed it down in front of me and sat down. He stated

to me, listen good you black-ass S.O.B., I'm going to tell you a story and you are going to repeat this story in this little tape recorder. I then said, "I ain't repeating nothing," and "I'm not saying anything," because I haven't done anything wrong. "You want to be one of them smart black-ass niggers, 'huh'!" I know you was involved in the kidnapping and the rape of that white woman wasn't you? Again, I told Sheriff Dick Wilson "No," I wasn't involved in anything.

At this time Sheriff Wilson pulled a .38 revolver pistol from his desk drawer. reloaded it, spent the cylinder around and laid the pistol on his desk, he started telling me what he wanted me to say in the tape recorder and that he had a written statement for me to sign. Again, I told Sheriff Wilson, I'm not going to confess nor sign anything; you mightest well lock me up in the jail.

Sheriff Wilson started threatening me and made threats towards my wife and children, "You black-ass nigger, black-ass S.O.B., you are going to do what I said before you leave this room." He reached on the side of his desk and pulled up a .12 gauge shotgun, loaded it with buck shots, released the safety, placed the shotgun under my chin and the loaded .38 revolver pistol with the hammer cocked to my forehead and said, "Nigger you are going to do what I said now, or else I'm going to blow your goddamn black-ass brains out of your head, take your body and dump it on one of these back roads, and tell everybody you escaped; because you are already considered armed and dangerous."

As a black-man in Mississippi, I was conscious that if I didn't confess to what he wanted and sign his (Sheriff Wilson) written statement, Sheriff Wilson would have shot me. As the old cliché says, "a leopard never changes his spots, he just disguise them." Even after being out of office as Sheriff for several years, he was still up to his old tactics

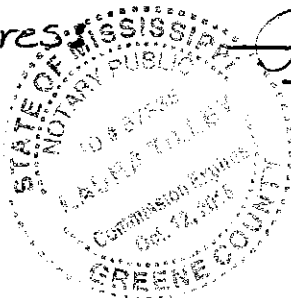
and tricks. See article (attached). Also, See Copy of interview of Mr. Ralph Walker, by Ms. Moriah Berger, of INNOCENCE Project New Orleans, (enclosed).

The Appellant's facts in this Affidavit is true and correct, and is Stated under the penalty of perjury. "Further Affiant sayeth Not."

Charles Edward Wilson
— AFFICANT —

SWORN AND SUBSCRIBED before Me this the 18, day of Mar, 2015.

My Commission Expires



Laura Talley
— NOTARY PUBLIC —

i p n o

Mr. Charles E. Wilson
#44482 CMCF 3A-2
P.O. Box 88550
Pearl, MS 39288-8550

March 2, 2007

Dear Charles,

I am glad I had the opportunity to visit with you a couple weeks ago. I met Mr. Walker shortly after our visit and shared with him the details you provided me about your delivery trips to California and Oregon.

As promised, I write now to update you on my trip to see Mr. Walker. Though Mr. Walker is no longer a young man, he has a remarkable memory. He spoke fondly of you and remembers that you were a hard and reliable worker. He also remembers a few details about your arrest. For example, Mr. Walker told me he remembers sending an employee to Pike County to retrieve your truck after you had been arrested on the highway. I talked with Mr. Walker about the deliveries you remember making in Los Angeles, Oakland, and Sacramento. I mentioned the repair stop you made outside of Turlock as well as the phone calls you remember placing. I asked Mr. Walker if he has any delivery receipts, bills of lading, log books, fuel reports, pay records, or telephone records from this time. He told me he is almost sure the documents are too old and thus he disposed of them long ago. While this is unfortunate, Mr. Walker did assure me he would have a look around his office and through his paperwork, in the hopes that helpful records will turn up. I wrote down all of the information you provided me so that he would know exactly what to look for. I left him with the IPNO phone number and he in turn gave me his business card.

Charles, I received the copies of the letters and court orders you sent. Thank you for updating me on your case. Sadly, today is my final day with IPNO. I must return to Boston to continue with my law school course work. To ask about investigation developments in your case, write to Richard Davis at the IPNO address. Richard will know who at IPNO has been trying to track down information in your case. Take good care of yourself, Charles.

Sincerely,

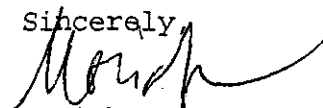

Moriah Berger

Exhibit "Article 1"

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(Continued from Page 1A)

cized in letters to the editor — including one describing the citizen's arrest and faulting the sheriff's department for not investigating the burglary more thoroughly.

"I don't have one thing against Mr. Fred Johnson. As a matter of fact, we've been friends for years," said Wilson. "But there were things going on in the sheriff's department I took issue with, and I spoke up."

Wilson also scoffed at Bates' suggestion that he plans to run again for sheriff: "That's ridiculous, counsel. No, that's over with. I'm 72 years old," Wilson said.

Sephus testified that he stopped at the vacant trailer because Brown Sugar needed to use a bathroom.

He claimed the trailer looked like a "shop" and the door was open, so he went in.

When he came back to the door, he noticed the woman had driven off and was returning. "She motioned to me that there was a lady (White) on the side there," Sephus said, so the two left.

He denied taking anything, walked in empty-handed and turned empty-handed.

The next morning he was taking Weatherspoon to Baertown when Wilson ran him off the road, he testified.

Sephus said Wilson "rushed over with a wild look in his eyes and cocking his pistol and raising it up as if to come down and shoot you... Mr. Wilson had that killer look in his eyes, if you please. He wanted to shoot somebody."

After Weatherspoon left, "he (Wilson) seriously cocked his gun and put it right in my face," Sephus claimed.

As Wilson drove him toward his house, he stopped by his wood-yard and questioned him about a stolen air conditioner there.

"He put his pistol in my left temple, it was, and told me I was going to admit taking that air conditioner out of that window," Sephus claimed. "I said, 'Whatever you say, I took it.' That was to save my life."

Sephus said his confession to Chadwick was false. "I was under duress from former Sheriff Wilson," he said.

In rebuttal, Hedgepeth and Mrs. Wilson testified that Sephus had admitted to the theft at the Wilsons' house, and said Wilson did not threaten him.

Man convicted of burglarizing Wilson's trailer

By Ernest Herndon
Staff Writer

A man collared by former Pike County sheriff Dick Wilson in a citizen's arrest last year was found guilty Tuesday of breaking into Wilson's vacant mobile home.

A Pike County Circuit Court jury took an hour and a half to convict Stephen M. Sephus, 51, 1020 Gertman Hill Road, McComb, of burglary of a building. Sentencing is scheduled for Feb. 12 before Judge Keith Starrett. Maximum sentence is seven years.

Testimony in the one-day trial centered around Sephus' earlier confession of the July 27 crime and Wilson's method of arresting him.

Prosecutor Bill Goodwin let the jury hear the taped confession, which was made to chief deputy Charles Chadwick the day of the arrest. In it, Sephus detailed how he and a woman known only as "Brown Sugar" scouted out the vacant trailer on Adams Road south of McComb, then Sephus stole one window unit air conditioner and dislodged another.

"I went through the same window the air conditioner was in," Sephus said on the tape.

Rebecca White, who lived in a neighboring trailer, testified she saw Sephus at the vacant trailer in a white and brown van around 5 p.m.

Mrs. Dick Wilson testified that White phoned her and told her about the intruder. Mrs. Wilson then went and got her husband, who was working in a nearby gravel pit.

By then the van was gone, and after making a report to a sheriff's deputy, the Wilsons rode around for hours seeking the burglar.

The next morning they were drinking coffee with Mrs. Wilson's brother, Mack Hedgepeth, when they saw the van cruise by.

Wilson grabbed a .38-caliber revolver and jumped into his Mazda pickup truck. He pulled the van over on Holden Road and jumped out with the gun.

I never held a gun to his head.
... I said, 'Hoss, we're going to the telephone, so don't make me kill you between here and the house.'

Dick Wilson

"He (Sephus) threw his hands up like this inside the vehicle," Wilson testified, demonstrating. "He said, 'Mr. Dick, I've never done this before. I can put it back.'"

Sephus' passenger, Johnny Weatherspoon, pleaded for his life.

"I realized I had three men and two seats," Wilson said. "I said, 'OK, hoss, take a trip.' So I let him go on down the road."

Wilson said he then took Sephus to his house and called the sheriff's office.

In the meantime, Wilson said Sephus told him he was on crack cocaine and tried to work out a deal.

"He told a pitiful story, and I sympathized with him," Wilson said. "But he was tearing up my property."

Wilson denied claims by defense attorney Dewitt Bates Jr. that he terrorized Sephus.

"I never held a gun to his head, never came close to holding a gun to his head," Wilson said. "I said, 'Hoss, we're going to the telephone, so don't make me kill you between here and the house.'"

Wilson also denied Bates' suggestions that the incident was designed to shame Sheriff Fred Johnson, whom Wilson had criti-

(See Wilson, Page 7A)

Exhibit - "Article 2"