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Supreme Court – Civil

Brown v. State - Post-Conviction Relief - Successive Petition - Ineffective Assistance of Counsel - Procedural Bars – In August 1992, Joseph Brown and his girlfriend entered the Charter Food Store in Natchez, shot and killed the cashier, Martha Day, and stole the cash register. During trial, the State called Larry Bernard, an inmate who was jailed on the same jail block as Brown. Bernard testified that Brown confessed to him about the robbery and shooting. Brown was convicted, sentenced to death by a jury, and has been on death row since his conviction in 1994. His conviction was affirmed on direct appeal. The Supreme Court granted Brown's first petition for post-conviction relief on the issue of ineffective assistance of trial counsel. Upon remand, the trial judge found that the attorneys had not been ineffective, which the Supreme Court affirmed. Brown then filed a Successive Petition for Post-Conviction Relief and raised fifteen issues, most of which were procedurally barred.

Notwithstanding the procedural bars, all of Brown's claims failed on the merits. First, Brown did not show that a key witness's testimony was false in any material respect, nor did he show that the State improperly put on any false evidence. Next, because Brown did not make a showing that the evidence in Bernard's file was favorable to the defense or that it would have led to a different outcome, the Supreme Court did not find a *Brady* violation regarding the jailhouse file and this claim was subject to several procedural bars. Also, Brown claimed that his trial counsel was ineffective for failing to prepare for Bernard's testimony. This claim was subject to the procedural bars and failed on the merits because Brown did not show by a reasonable probability that the outcome of his trial would have been any different if his trial counsel had interviewed more witnesses or investigated witnesses in greater depth. Additionally, because Brown did not show an abuse of discretion and any claim regarding the trial judge's evidentiary decisions should have been raised at trial and on direct appeal, this claim was subject to the procedural bars and was waived. Further, Brown claimed that his rights were violated when he was briefly represented by the same attorney that represented Bernard. Brown failed to show that his temporary counsel's performance was in any way affected by the conflict of interest, Brown was also represented by an unconflicted attorney during that period, and the issue could have been raised to the trial judge or on direct appeal. As a result, the issue was waived. Sixth, because Brown's *Batson* claims were discussed extensively in Brown's previous post-conviction petition, *Brown II*, res judicata applied and the claims were subject to the procedural bars. Further, the trial judge found no purposeful discrimination in the State's use of its jury strikes and Brown failed to show that his claim was excepted from the procedural bars based on newly discovered evidence. Furthermore, Brown's claim that his trial attorneys failed to investigate and present adequate mitigating evidence also should have been raised earlier, was raised substantially in Brown's first post-conviction proceedings, and the Supreme Court again concluded that Brown did not show that his trial attorneys were ineffective. Although Brown's claim that post-conviction counsel was ineffective was not barred, Brown failed to demonstrate that there was a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different. Moreover, the Supreme Court found no

significant error in any of Brown's claims and declined to grant relief on a cumulative relief basis. Finally, the Supreme Court found that Brown's fourth request for discovery should be denied and reaffirmed that Miss. R. App. P. 22(c) does not apply to successive petitions for post-conviction relief. Most of Brown's claims were subject to the time bar, successive-writ bar, and res judicata, and Brown's ineffective assistance of post-conviction counsel claim was without merit. Therefore, the Supreme Court denied Brown's successive petition for post-conviction relief.

Justice Coleman concurred, arguing that the Court should overturn *Rowland v. State*, in which the Court held that certain fundamental-rights exceptions may be applied to avoid application of the post-conviction-relief statute of limitations and other statutory bars to relief.

Briefed by [Jennifer Lee](#)

State v. Yazaki North America, Inc. - Antitrust – Pleading Requirements – Dismissal – In 2015, the Mississippi Attorney General, on behalf of the State of Mississippi, sued nine automotive component-parts manufacturing companies in the Hinds County Chancery Court under a price fixing theory. The State based its complaint on several federal prosecutions of the defendants from three years earlier. All nine defendants responded to the complaints with motions to dismiss. Two years later, the trial court dismissed all nine complaints, citing failure to state a claim because the State failed to allege “wholly intrastate conduct” under the Mississippi Antitrust Act (“MAA”), and the unfair trade practices were too remote under the Mississippi Consumer Protection Act (“MCPA”). The trial court also cited personal jurisdiction and venue issues, all raised in the defendants’ motions to dismiss. On appeal, the State argued that the chancery court misapplied the appropriate venue statute, failed to conduct a proper personal jurisdiction analysis, and failed to conduct a proper Miss. R. Civ. P. 12(b)(6) analysis.

The Supreme Court held that because the State's allegations of price fixing were too remote in time, the State failed to state a claim under the MCPA. The Supreme Court also held that because the State failed to allege wholly intrastate conduct, the State failed to state a claim under the MAA. The Supreme Court decided the personal jurisdiction and venue issues raised were moot because of the failure to state a claim. Therefore, the Supreme Court affirmed the judgment of the Madison County Circuit Court.

Briefed by [Joshua Crownover](#)

Young ex rel. Tewksbury v. Air Masters Mech. Inc. - Workers' Compensation – Death Benefits – Statutory Dependents – Daniel Tewksbury and Bobbie Young were previously married and are the parents of two minor children, Lane and Emma. The couple divorced in 2006, and Daniel was ordered to pay child support. Daniel stopped making child support payments in 2008. Bobbie later married Gerald Young, Jr., who later adopted Lane and Emma, and Daniel's parental rights were terminated. As of that termination, Daniel owed Bobbie \$34,759 for child support. In April 2015, Daniel died in an automobile accident while in the course and scope of his employment with Air Masters. Bobbie filed a petition with the Workers' Compensation Commission (“the Commission”) on Lane and Emma's behalf, claiming that they were entitled to Daniel's workers' compensation death-benefit proceeds and sought the payment of the \$35,759 in outstanding child support. The Workers' Compensation Commission Administrative Judge (“AJ”) determined that the question was whether the child support lien should be paid from Daniel's death benefit proceeds under the workers' compensation

statute. The AJ held that the child support lien of \$34,759 was valid and payable under Miss. Code Ann. § 71-3-129. Air Masters and Associated General Contractors filed a petition for review with the Commission, and the Commission reversed, concluding that Lane and Emma were not entitled to Daniel's death benefits because they were not his statutory dependents. The Court of Appeals reversed, concluding that the child-support lien was valid under § 71-3-129, and the Commission was without authority to discharge a lien for delinquent child support filed under § 71-3-129. Air Masters and Associated General Contractors appealed.

Because an employee's natural child is no longer considered a dependent entitled to receive death benefits under the Workers' Compensation Act once the child has been adopted and the employee's parental rights have been terminated, there were no benefits to which the \$34,759 child-support lien could attach. Further, because § 71-3-129(1) provides that the lien only applies to benefits payable to a delinquent employee, the lien could not apply to death benefits because death benefits are not payable to the employee. Therefore, the Supreme Court reversed the judgment of the Court of Appeals and reinstated and affirmed the judgment of the Mississippi Workers' Compensation Commission.

Presiding Justice Kitchens dissented, arguing that because the child support lien accrued prior to adoption, the adoption did not extinguish their right to the unpaid child support payments. For that reason, Justice Kitchens asserted that the children were partial dependents at the time of Daniel's death.

Briefed by [John Forrest Kelly](#)

Supreme Court – Orders

Cooper v. State - Post-Conviction Relief – Frivolous Filing – Sanctions – Warning – Manual Cooper filed an Application for Leave to Proceed in the Trial Court (“the Application”). The Supreme Court held that the Application was time barred. Furthermore, because the Court denied Cooper's previous petition for post-conviction relief, the Court determined that this filing was successive. The Court found that Cooper presented no arguable basis for his claims and the petition was frivolous. Additionally, the Supreme Court issued a warning that future frivolous filings could result in monetary sanctions or restrictions on his ability to file motions for post-conviction relief. Therefore, the Supreme Court ordered the dismissal of the Application for Leave to Proceed in the Trial Court.

Presiding Justice King objected to the order in part, disagreeing with the finding that the Application was frivolous and with the sanctions warning.

Briefed by [Philip Lott](#)

Supreme Court – Criminal

Saddler v. State - Ineffective Assistance of Counsel – Evidence – *Miranda* Rights – Johnny Sadler was convicted in the Lowndes County Circuit Court for fondling a minor. Shortly after Sadler's arrest, he confessed to the crime. On appeal, Saddler argued that his constitutional and procedural due process rights were violated during the trial court proceedings. First, Saddler argued that because he invoked his right to counsel and his right to silence, the trial court erred by denying the motion to suppress his confession. Saddler further argued

that his trial counsel was constitutionally inadequate and that the trial court erred by allowing the State to present improper lay opinion evidence from law enforcement.

The Supreme Court decided that because Saddler was procedurally barred from arguing that his right to counsel has been violated, his *Miranda* Rights were not violated, and he effectively waived his rights. Therefore, the trial court did not err in denying the motion to suppress his confession. Also, because counsel's choice of whether or not to file certain motions, call witnesses, ask certain questions, or make certain objections fall within the ambit of trial strategy, Saddler's counsel was constitutionally adequate. Finally, because admission of the law enforcement officer's testimony fell under the discretion of the trial court, and, furthermore, did not prejudice Saddler's rights, the trial court did not err by allowing the State to present the evidence. Therefore, the Supreme Court affirmed the judgment of the Lowndes County Circuit Court.

Presiding Justice Kitchens concurred in part and in result. He disagreed with the admission of expert testimony by the law enforcement officer. Instead of arguing that the witness should have been a fact witness; however, he further argued that this was a harmless error as Saddler's rights were not prejudiced by the admission.

Briefed by [Cristofor Taylor](#)

Court of Appeals – Civil

Banks v. City of Jackson - Administrative Law – Commission Decisions – Statutory Requirements – Certification – After concluding that Lieutenant Sequerna Banks of the Jackson Police Department had violated several rules and procedures, the City of Jackson (“the City”) suspended Banks without pay for thirty days. Banks appealed to the Jackson Civil Service Commission (“the Commission”), which upheld her suspension but failed to set forth any written findings regarding its determination. Banks then appealed to the Hinds County Circuit Court, which also affirmed her suspension. On appeal, Banks argued that: (1) the City failed to prove the alleged violations by substantial evidence and (2) the Commission failed to certify its findings in writing as required by statute.

The Court of Appeals held en banc that the Commission's order failed to set forth sufficient findings to support its decision to uphold Banks's suspension. Therefore, the Court of Appeals reversed and remanded the judgment of the Hinds County Circuit Court.

Briefed by [Allison Middleton](#)

Bridgeman v. SBC Internet Servs. Inc. - Worker's Compensation – Procedural Authority – Fee Statutes – Contractual Ambiguity – Upon injuring his right arm and shoulder, Craig Bridgeman was awarded partial permanent disability benefits equivalent to two-thirds of his average weekly wage for 100 weeks. Bridgeman appealed, arguing that he was entitled to increased compensation. This appeal was rejected, and the Court of Appeals affirmed the Mississippi Workers' Compensation Commission's (“Commission”) decision.

While this dispute was on appeal, a conflict arose between Bridgeman and Morgan & Morgan, PLLC. Christopher Neyland, the lawyer assigned to Bridgeman's case, signed the legal contract on behalf of the law firm in the blank designated for “Morgan & Morgan, PLLC Signature.” Before the Commission, Neyland

sought to withdraw from representing Bridgeman. Because the Commission had rendered its order, the firm also sought to withdraw representation and enforce its lien. Neyland's withdrawal request was granted, as well as 25% of the lien. However, the order referenced only Neyland, and not the entire law firm. Bridgeman filed a Motion for Clarification with the Commission, arguing that he viewed the order as permitting Neyland to withdraw as the attorney and that the attorney fee lien was on Neyland's behalf. Bridgeman also believed that the order permitted Morgan & Morgan to withdraw and that the attorney fee lien was on Morgan & Morgan's behalf. The Administrative Judge ruled on this Motion for Clarification and determined that the motion was without merit and should be dismissed. Ultimately, the Commission held that because Neyland was an agent of Morgan & Morgan, both he and the firm were permitted to withdraw their representation. Bridgeman appealed.

The issue on appeal was whether it was within the Commission's authority to modify the order, attach liens and fix fees, and to declare Neyland as an agent of Morgan & Morgan. The Court of Appeals found that the Commission was deemed to have the authority to amend, modify, or reconsider its prior order, since it was within the scope of their authority to effectively discharge the duties of their office. Furthermore, because the Commission had the power to attach liens and approve and fix legal fees, the Commission was within its express statutory authority when it approved the contract and lien. In addition, the Commission had the authority to declare that Neyland was an agent of Morgan & Morgan and the fee ran with the firm because Bridgeman's contract was with Morgan & Morgan, and not Neyland. Therefore, the Court of Appeals affirmed the judgment of the Mississippi Workers' Compensation Commission.

Briefed by [Brittany Brewer](#)

Carter v. Spears - Family Law – Failure to Prosecute – Dismissal with Prejudice – Aggravating Factors – Rita Spears Carter appealed the chancery court's dismissal of her petition for contempt against Damon S. Spears for unpaid child support and medical bills for which he was responsible under their divorce decree. The chancery court dismissed her petition with prejudice for failure to prosecute under Miss. R. Civ. P. 41(b). The couple divorced in 2001 and Carter filed her first contempt motion in March 2011. After no activity in the case for over a year, the chancery clerk issued a notice of dismissal in June 2013 advising that the case would be dismissed if no further action was taken within thirty days. Carter took no further action and the case was dismissed for want of prosecution in August 2013. In June 2014, Carter filed another, similar "Petition for Contempt and Enforcement of Judgment" against Spears, again alleging unpaid child support and medical bills. As with the previous petition, Carter again took no action for over a year, and the chancery clerk issued another notice of dismissal. In response, Carter filed a motion for a trial setting four days after the clerk filed the notice. The chancery court set a hearing and Spears responded to Carter's petition and served her with discovery requests. At the hearing, the chancery court set the matter for trial on January 20, 2016, ordering the parties to complete discovery by the December 2015 pretrial conference. Carter did not respond to Spears' discovery requests. When the parties appeared before the chancery court in January 2016, Carter still had not responded to the discovery requests, and the chancellor continued the trial and ordered Carter to provide responses. The chancellor also suspended Spears's further child support obligations pending a trial on the merits. Following the January ruling, the matter again fell dormant for over a year, and the clerk again filed a notice of dismissal. In response, Carter filed a motion for trial setting in April 2017. No activity in the case occurred again until Carter served incomplete, unverified responses to Spears's discovery requests in late March 2018. Spears replied by filing motions to compel Carter's discovery responses and to dismiss the petition. In December 2018, the chancery court granted Spears's motion to dismiss pursuant to Miss. R. Civ. P. 41(b). In its dismissal, the

chancery court noted that the record demonstrated a “clear record of delay,” that the “lengthy delays demonstrate[d] dilatory conduct” by Carter in prosecuting her claims, and that lesser sanctions would not suffice. The chancellor also considered whether any aggravating factors or prejudice to Spears existed, finding the “prejudice caused by fading memories due to the passage of time can be presumed to support the dismissal of this action under Miss. R. Civ. P. 41(b).”

The Court of Appeals held that the chancellor did not abuse her discretion in dismissing the case with prejudice, noting the total delay of four years and seven months due to Carter’s inactivity was itself sufficient for dismissal and that repeated failures to comply with discovery warrant dismissal with prejudice. Additionally, lesser sanctions would not be sufficient because they could not cure the prejudice to Spears caused by fading memories over time. The Court of Appeals also noted Carter did not even provide justification for these delays, and by the time the chancery court dismissed Carter’s claims, both children were over the age of twenty-one and thus emancipated. Because the chancellor found a clear record of delay, determined lesser sanctions would not suffice, and weighed aggravating factors to Spears, she did not abuse her discretion in dismissing Carter’s petition with prejudice. Therefore, the Court of Appeals affirmed the judgment of the Lamar County Chancery Court.

Briefed by [Charles Ellzey](#)

Cobb v. Cobb - Wills & Estates – Beneficiary – Undue Influence – Robert Cobb passed away, leaving his two sons, Bruce and Zach Cobb, and his wife, Daphne Cobb, as beneficiaries to the distribution of his investment-account proceeds. Initially, Bruce and Zach were the sole beneficiaries, but four days before Robert’s death, he signed a new beneficiary form adding Daphne, Bruce and Zach’s stepmother. Prior to his death, Robert was diagnosed with cancer and decided to retire. Daphne was told to pick up the retirement paperwork for Robert to sign. When she arrived, the paperwork was ready, but it did not state who the beneficiaries were. Subsequently, Milner, the representative for Robert’s plans, talked to Robert on the phone with Daphne present. Robert told Milner that he wanted to list Daphne, Bruce, and Zach as the beneficiaries. Two days later, Robert signed the change of beneficiary form with Bruce and Daphne present. Robert died four days later. Bruce and Zach filed suit against Daphne, alleging that the beneficiary change was null and void due to her exertion of undue influence on Robert. The chancery court ruled that Bruce and Zach did not show clear and convincing evidence that the change was the result of Daphne’s undue influence. This led Bruce and Zach to file a motion for a new trial, which the chancery court denied. Bruce and Zach appealed, arguing that the chancery court should have placed the burden of proof on Daphne to show evidence that the beneficiary change was not the result of her undue influence. Further, they argued that the chancery court erred in admitting testimony from Robert’s spiritual advisor, Rev. Victor Chatham, that Robert had mentally deteriorated.

There was no medical evidence that Robert had been diagnosed with any mental deterioration. In fact, the observations of disinterested parties showed his mind was as sharp as usual. It was also clear that Robert initiated the change in his beneficiaries, not Daphne. As a result, the chancery court properly placed the burden of proof on Bruce and Zach. Additionally, Chatham’s testimony was not barred by Miss. R. Evid. 505. Therefore, the Court of Appeals affirmed the judgment of the Harrison County Chancery Court.

Briefed by [Haley Nutt](#)

Demoney v. Gateway Rescue Mission - Torts – Premises Liability – Negligence – Summary Judgment – In 2015, Matthew Demoney entered a drug rehabilitation program at Gateway Rescue Mission (“Gateway”), a non-profit, faith-based organization, and signed a “Release from Liability Form.” Demoney’s initial stay lasted for four months. In August 2016, he voluntarily enrolled in Gateway’s rehab program again. In September 2016, Forea Ford, Gateway’s program manager, observed Demoney walking in the middle of Highway 149, which Demoney claimed he was doing because ditches and high grass prevented him from walking on the side of the road. Ford slowed down, honked her horn, and Demoney moved over. After Ford left, she looked in her review mirror and saw Demoney return to the middle of the highway, where he was subsequently struck by a van. Demoney brought a suit against Gateway for injuries he suffered, alleging negligence by Gateway. The circuit court granted Gateway’s motion for summary judgment and dismissed the claim, holding Gateway did not owe a duty to Demoney and that Gateway qualified for immunity as a volunteer agency under Miss. Code Ann. § 95-9-1. Demoney appealed and did not claim that there were genuine issues of material fact that would preclude summary judgment. Rather, Demoney argued that Gateway was not entitled to judgment as a matter of law because Gateway was negligent and that Gateway did not have statutory immunity that precluded lawsuits against it.

In his appeal, Demoney argued that because Gateway allowed its residents to walk outside its premises, Gateway undertook a duty to fashion policies that adequately protected them on these walks and that the policies Gateway wrote did not protect them. Demoney presented no evidence to show that Gateway’s policies were deficient or failed to meet any national minimum standard. Furthermore, because Demoney could show no evidence of any duty that Gateway owed to him or breached, there was no basis for the claim and the circuit court properly granted Gateway’s summary judgment. Finally, the Court of Appeals found it was unnecessary to address the immunity issue. Therefore, the Court of Appeals affirmed the judgment of the Hinds County Circuit Court.

Presiding Judge Carlton concurred with the majority’s finding that the circuit court did not err in granting summary judgment in favor of Gateway. She argued separately that the Court of Appeals’ discussion and analysis should end upon its finding that Gateway owed no duty to Demoney, without including any extra discussion about the remaining elements of negligence.

Briefed by [Winston Hudson](#)

Court of Appeals – Post-Conviction Relief

Miles v. State - Post-Conviction Relief – Time-Bar – Ineffective Assistance of Counsel – A grand jury indicted William James Miles for statutory rape, sexual battery, and exploitation of a child. Miles, who was represented by counsel, pled guilty to the felony of statutory rape in exchange for the State dropping the sexual battery and exploitation charges. Miles received a sentence of twenty years in custody of the Mississippi Department of Corrections (“MDOC”), with ten years suspended and ten years to serve, and was placed on five years of reporting probation under the MDOC’s supervision in exchange for the guilty plea. Prior to accepting the guilty plea, the trial court questioned Miles under oath regarding the consequences of his plea, including: (1) whether he understood the charges; (2) whether Miles voluntarily and intelligently waived his rights associated with a trial; and (3) whether he received effective assistance of counsel. Miles affirmed that he understood all of these consequences. On September 1, 2015, the trial court accepted the guilty plea and sentenced Miles. Miles prepared a motion for post-conviction collateral relief (“PCR”), claiming ineffective assistance of counsel

amongst several other errors. Specifically, Miles alleged his counsel inaccurately told him he would receive a 150-year sentence if he did not plead guilty and such information coerced him into pleading guilty, producing an involuntary plea. The PCR motion was dated September 4, 2018, but the cover letter was dated September 6, 2018. The trial court found the motion was time-barred under Miss. Code Ann. § 99-39-5(2) because it was filed in excess of three years after the entry of the judgment of his conviction. Additionally, the trial court found Miles failed to provide any evidence or authority to support his constitutional claims or any other exceptions to the time-bar. Therefore, the Clarke County Circuit Court denied and dismissed Miles's PCR motion. Miles appealed.

Because Miles did not file his PCR motion within three years after entry of the judgment of conviction, his motion was procedurally barred unless his claim fell under an exception. Furthermore, because the trial court corrected any misinformation that counsel may have provided, and because Miles did not provide any supporting affidavits, Miles failed to demonstrate that his plea was involuntary or that his trial attorney's performance was deficient. Additionally, because Miles was facing over 100 years of imprisonment if he were convicted of all three charges, pleading guilty resulted in a favorable outcome considering the maximum sentence. Thus, his argument of ineffective assistance of counsel was without merit. Finding Miles's PCR motion time-barred and that he failed to prove ineffective assistance of counsel or that any other applicable exceptions applied, the trial court properly denied Miles's PCR motion. Therefore, the Court of Appeals affirmed the judgment of the Clarke County Circuit Court.

Briefed by [Nicole Broussard](#)

Peterson v. State - Post-Conviction Relief – Time Bar – Successive-Writ Bar – Fundamental-Rights Exception – On March 5, 2012, Justin Peterson pled guilty to one count of armed robbery. Seven days after he pled guilty, the Pearl River County Circuit Court sentenced him to twenty-five years in custody with twenty years to serve and five years post-release supervision. On March 3, 2014, he filed his first post-conviction collateral relief (“PCR”) motion, claiming his plea was involuntary and induced by his attorney's alleged guarantee of an eight-year sentence. The circuit court denied Peterson's first PCR motion and, on appeal, the Court of Appeals affirmed. On March 3, 2017, Peterson filed his second PCR motion, which the circuit court denied because the motion was both time-barred and successive-writ barred. Peterson appealed, arguing his claims should be excepted because his fundamental rights to due process and to confront the witnesses against him were violated at sentencing.

The Court of Appeals held that Peterson's motion was time barred because he filed five years after his conviction, which is outside the three-year statute of limitations. Also, the Court of Appeals held that the motion was successive-writ barred because Peterson had previously filed an unsuccessful PCR motion and Mississippi statutory law prohibits movants from filing a second PCR motion. Further, the Court of Appeals held Peterson's claims lacked merit because he failed to substantiate his allegation that a fundamental-rights exception existed. Therefore, the Court of Appeals affirmed the judgment of the Pearl River County Circuit Court.

Briefed by [Kaitlin Bethay](#)

Pruitt v. State - Post-Conviction Relief – Guilty Plea – Competence – Ineffective Assistance of Counsel – Michael Pruitt pled guilty to sexual battery, kidnapping, and aggravated assault and was sentenced to a total of life plus fifty years in the custody of the Department of Corrections. In Pruitt’s first motion for post-conviction relief (“PCR”), he alleged that his guilty pleas were involuntary because he was under the influence of anti-depressants, which rendered him incompetent to plead guilty. Further, he argued that he received ineffective assistance of counsel because he was coerced by his attorney and the district attorney to accept a “bad plea bargain”. The circuit court denied the motion, and the Court of Appeals affirmed on appeal. Pruitt filed a second PCR motion, asserting claims similar to those advanced in his first PCR motion. His second motion realleged his first motion’s claim that he was coerced by his attorney and the district attorney; therefore, he argued that he received ineffective assistance of counsel. He further alleged that his guilty plea was invalid because the circuit court failed to hold an on-the-record competency hearing prior to accepting his guilty plea. The circuit court dismissed his PCR motion as being both time barred and an impermissible successive motion. Pruitt appealed.

Because Pruitt was deemed competent to plead guilty by a clinical psychologist, the trial judge found him competent to plead guilty. Further, Pruitt presented no evidence to overturn the trial court’s ruling that he was competent to plead guilty. Additionally, because Pruitt’s claim of ineffective assistance of counsel was not supported by any evidence, and because it did not present any extraordinary circumstances, this claim was time barred and failed on the merits. Therefore, the Court of Appeals affirmed the judgment of the Marshall County Circuit Court.

Briefed by [David Boydston](#)

Roney v. State - Post-Conviction Relief – New Felony – Sufficiency of Evidence – While on post-release supervision, William Doug Roney was arrested and charged with possession of a controlled substance (a misdemeanor) and possession of a firearm by a felon (a felony). After a post-release supervision revocation hearing, the trial court found by a preponderance of the evidence that Roney had committed the new criminal offenses charged. The trial court revoked Roney’s post-release supervision and ordered him to serve three years of his previously suspended ten-year sentence. Roney filed a PCR motion, claiming the trial court erred in sentencing him to serve these three years. The trial court denied his PCR motion, relying on Miss. Code Ann. § 47-7-37.1, which provides that if a court finds by a preponderance of the evidence that a probationer or person under post-release supervision has committed a felony, the court may revoke his probation and impose any or all of the sentence. On appeal, Roney argued that the trial court improperly revoked his post release supervision in violation of Miss. Code Ann. § 47-7-37(5); the trial court lacked sufficient evidence to find by a preponderance of the evidence that he committed a felony; and his due process rights were violated.

Because Miss. Code Ann. § 47-7-37(5)(a) provides for revocation due to post-release supervision violations and punishment for technical violations, and because Roney did not commit a technical violation, but a new felony, the trial court properly applied § 47-7-37.1 and properly revoked his post-release supervision. Additionally, because the State had to prove that Roney constructively possessed the firearm, and because there was sufficient evidence presented at the revocation hearing to show by a preponderance of the evidence that Roney did have constructive possession of a firearm, the trial court did not err on this issue. And finally, because Roney did not raise any due process claims in his PCR motion, the argument that his due process rights had been violated was waived. Therefore, the Court of Appeals affirmed the judgment of the Jones County Circuit Court.

Briefed by [Melissa Fenwick](#)

Court of Appeals – Criminal

Phillips v. State - Evidence – In-Court-Identification – Insufficient Evidence – In April 2015, Suzette Chambers was robbed at gunpoint in the driveway of her home. Chambers testified that the man who robbed her was wearing a mask, and that she could not see his face except for his eyebrows and eyes. Roosevelt Phillips Jr. was subsequently arrested after video footage was discovered of him using Chambers’s credit card at a store. In November 2017, Phillips was found guilty for credit card fraud. After the jury was unable to reach a conclusion on the charges of armed robbery and aggravated assault, these charges were placed back on the docket for trial. At the conclusion of the first trial, Chambers told the State that after she stepped down from the witness stand, she was certain that Phillips was her attacker. The State informed defense counsel that Chambers intended to identify Phillips as her attacker at the second trial. Phillips submitted a motion in limine to request the exclusion of the in-court-identification, but the trial court ruled it was a prior inconsistent statement that would be subject to cross-examination by defense counsel. At trial, Phillips was found guilty on both charges and was sentenced to a total of twenty-five years in the custody of the Mississippi Department of Corrections. Phillips appealed.

Phillips argued that the in-court-identification was made under circumstances so unnecessarily suggestive and conducive of misidentification that it gave rise to an irreparable misidentification of him at trial as the perpetrator of the crimes charged in the indictment. As a result, he argued that the trial court erred in not granting his motion in limine. Because Chambers did not participate in a pretrial identification procedure, the trial court did not abuse its discretion in denying the motion in limine. Further, because the jury heard more testimony other than just Chambers’s, and because, viewing the evidence in the light most favorable to the prosecution, there was sufficient evidence to convict Phillips for aggravated assault and armed robbery, the evidence was not found to be insufficient. Therefore, the Court of Appeals affirmed the judgment of the Coahoma County Circuit Court.

Briefed by [Jack Byrd](#)

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