

**SYNOPSIS OF CRIMINAL OPINIONS IN THE COURT OF APPEALS OF THE STATE
OF MISSISSIPPI HANDED DOWN APRIL 26, 2016**

Timmy Davis v. State, No. 2014-KA-01230-COA (Miss.Ct.App. April 26, 2016)

CASE: Armed Robbery

SENTENCE: 20 years with 5 suspended

COURT: Tunica County Circuit Court

TRIAL JUDGE: Hon. Charles E. Webster

APPELLANT ATTORNEY: W. Daniel Hinchcliff

APPELLEE ATTORNEY: Barbara Wakeland Byrd

DISTRICT ATTORNEY: Brenda Fay Mitchell

DISPOSITION: Affirmed. Lee, C.J., for the Court. Irving and Griffis, P.JJ., Barnes, Ishee, Carlton, Fair, James, Wilson and Greenlee, JJ., Concur.

ISSUE: Whether there were any arguable issues for appeal.

FACTS: Timmy Davis and his cousin Melvin Davis negotiated with a CI to sell \$40 worth of drugs. This was a controlled drug buy and the CI was wired. Instead of selling the drugs to the CI, Melvin pulled a gun and Timmy demanded his wallet. The CI gave the two men his wallet and the \$40 of buy money. Tunica County deputies, who had been observing the buy from a distance, drove to the scene. Timmy, Melvin, and another man fled the scene. Timmy ultimately turned himself in to the authorities. Appellate counsel filed a *Lindsey* brief asserting there was no arguable errors for appeal. Timmy did not file a pro se brief.

HELD: “After an independent review of the record, we agree with Davis's appellate counsel that no reversible error occurred.”

To read the full opinion, click here:

<http://courts.ms.gov/Images/Opinions/CO111356.pdf>

Melvin Chandler v. State, No. 2014-CP-01248-COA (Miss.Ct.App. April 26, 2016)

CASE: PCR – Aggravated Assault with a Firearm Enhancement

SENTENCE: 20 years for aggravated assault, with 5 years suspended, and 5 years for the firearm enhancement, to run consecutively

COURT: Hinds County Circuit Court

TRIAL JUDGE: Hon. William A. Gowan, Jr.

APPELLANT ATTORNEY: Melvin Chandler (Pro Se)

APPELLEE ATTORNEY: Laura Hogan Tedder

DISPOSITION: Dismissal of PCR Affirmed. James, J., for the Court. Lee, C.J., Irving and Griffis, P.JJ., Barnes, Ishee, Carlton, Fair, Wilson and Greenlee, JJ., Concur.

ISSUES: (1) Whether he was subjected to double jeopardy; (2) whether his right to a speedy trial was violated; (3) whether he received ineffective assistance of counsel; (4) whether his sentence exceeds the statutory maximum; (5) whether he was prejudiced by the prosecutor's "false statements" at the plea hearing; (6) whether he acted in self-defense; (7) whether the Uniform Mississippi Post-Conviction Collateral Relief Act (UPCCRA) was violated.

FACTS: Melvin Chandler pled guilty in 2012 to the aggravated assault of his daughter. Apparently, Chandler was angry that she was feeding his horses. He fired his gun twice into the ground and then shot his daughter. On July 13, 2012, Chandler filed a PCR raising several issues. After a hearing, the court denied his claims, with the exception of removing the post-release supervision from his sentence. Chandler appealed, but his appeal was dismissed as untimely. Chandler filed another PCR in the circuit court. On June 2, 2014, the circuit court entered an order dismissing the motion as a successive writ. Chandler appealed.

HELD: (1) It was not a double jeopardy violation to receive separate sentences for aggravated assault under §97-3-7(2)(b) and for the firearm enhancement under §97-37-37(1).

(2) Chandler waived his right to a speedy trial upon the entry of his valid guilty plea.

(3) Chandler contends that his attorney failed to investigate his case, failed to raise a double-jeopardy argument, induced him to enter an open plea, and failed to appeal his conviction. Because the circuit court has previously denied a PCR motion filed by Chandler, his PCR is barred as a successive writ. Notwithstanding the bar, Chandler merely asserted his ineffective-assistance claim in his brief and did not provide any supporting affidavits attesting to his claim. Chandler's remaining arguments in support of his claim are belied by the record.

(4) Chandler argues that his amended sentence is illegal because it exceeds the statutory maximum. However, Chandler's amended sentence of 20 years for aggravated assault under §97-3-7(b), with 5 years suspended and 5 years for a firearm enhancement §97-37-37(1), to run consecutively, is within the statutory limits.

(5) Chandler alleges that the prosecutor falsely stated that Chandler shot his daughter in the chest. Chandler responded that he shot her in her side. "Certainly, Chandler was not prejudiced by the prosecutor's statement even if it was inaccurate."

(6) Chandler argues he was acting in self-defense when he admittedly shot his daughter. This is claim was waived when Chandler entered a voluntary and intelligent guilty plea.

(7) Chandler's amended sentence does not violate the UPCCRA.

To read the full opinion, click here:

<http://courts.ms.gov/Images/Opinions/CO111819.pdf>

Eric Jones v. State, No. 2014-CP-01250-COA (Miss.Ct.App. April 26, 2016)

CASE: PCR – Murder and Armed Robbery

SENTENCE: Life for the murder and 20 years for the armed robbery

COURT: Pike County Circuit Court

TRIAL JUDGE: Hon. David H. Strong, Jr.

APPELLANT ATTORNEY: Eric Jones (Pro Se)

APPELLEE ATTORNEY: Lisa L. Blount

DISPOSITION: Denial of PCR Affirmed. James, J., for the Court. Lee, C.J., Irving and Griffis, P.JJ., Barnes, Ishee, Carlton, Fair, Wilson and Greenlee, JJ., Concur.

ISSUE: Whether the trial judge erred in dismissing the PCR as procedurally barred.

FACTS: Eric Jones pled guilty to murder and armed robbery in 1987. Jones filed a PCR in 1997, which was dismissed as time-barred. The COA affirmed on appeal. *Jones v. State*, 738 So. 2d 271 (Miss. Ct. App. 1999). In 2002, Jones filed separate motions for relief of both convictions. Again, the motions were dismissed as “an ongoing series of meritless fishing expeditions.” The dismissals were upheld on appeal. *Jones v. State*, 897 So. 2d 195 (Miss. Ct. App. 2004). On September 18, 2013, Jones filed yet another PCR claiming he was never indicted for armed robbery. He argued that the claim was not procedurally because since this was a violation of a fundamental constitutional right. The trial court found that Jones waived his right to complain about the indictment since he pled guilty. The trial court dismissed Jones's PCR as time barred and successive writ barred, finding that he failed to demonstrate that a fundamental right had been violated. Jones appealed.

HELD: Jones was initially indicted for capital murder, with the underlying felony of robbery. On March 13, 1987, Jones withdrew his plea of not guilty, and pled guilty to the lesser charges of armed robbery and murder. Jones bargained for the lesser charges of murder and armed robbery and entered a knowing, voluntary, and intelligent guilty plea to the lesser charges. Jones waived his right to an indictment for armed robbery when he bargained for that charge and pled guilty to the crime. The trial judge did not err in dismissing the PCR.

To read the full opinion, click here:

<http://courts.ms.gov/Images/Opinions/CO113018.pdf>

Armstrong Knight v. State, No. 2013-CP-01621-COA (Miss.Ct.App. April 26, 2016)

CASE: PCR – Manslaughter, Felon in Possession of a Firearm x2, and Carrying a Concealed weapon after a felony conviction.

SENTENCE: 20 years for manslaughter, consecutive to 2½ years for each count of felon in possession of a firearm, consecutive to 5 years for the concealed weapon

COURT: Harrison County Circuit Court

TRIAL JUDGE: Hon. Lisa P. Dodson

APPELLANT ATTORNEY: Armstrong Knight (Pro Se)

APPELLEE ATTORNEY: Barbara Wakeland Byrd

DISPOSITION: Denial of PCR Affirmed. Greenlee, J., for the Court. Lee, C.J., Irving and Griffis, P.JJ., Ishee, Carlton, Fair, James and Wilson, JJ., Concur. Barnes, J., Concur in Result Only Without Separate Written Opinion.

ISSUE: Whether Knight's guilty plea to two felon in possession charges waives a double jeopardy claim.

FACTS: In 2003, Armstrong Knight negotiated a plea deal to avoid a life sentence for murder. He pled guilty to manslaughter, two counts of felon in possession of a firearm, and one count of carrying a concealed weapon after a felony conviction for a total of 30 years. Knight was accused of firing into a mobile home, killing Charles Dawson. As part of the plea deal, he agreed to plead guilty to a bill of information specifically charging him with felon in possession of a firearm – an SKS rifle, and a second bill of information charging him with felon in possession of a firearm – a shotgun. Knight subsequently filed an unsuccessful PCR. But, on appeal, the COA vacated his concealed weapons conviction. [*Knight v. State*](#), 983 So. 2d 348 (Miss. Ct. App. 2008). In February 2013, Knight filed another PCR, claiming his two convictions for felon in possession of a firearm violate the prohibition against double jeopardy. Knight reasoned that because the SKS rifle and the shotgun were both in the same U-Haul when he was arrested, he had been punished twice for the same offense, so one of his convictions had to be vacated. The circuit court found the PCR procedurally barred and without merit. Knight appealed.

HELD: First, since Knight raised a double jeopardy claim, his PCR is not barred by time or the fact that he raised it in a successive PCR motion. However, the COA found the issue to be whether a guilty plea operated as a waiver of a double-jeopardy claim.

Knight pled guilty to two separate bills of information. On their face, the two bills of information describe separate crimes. Further, Knight benefitted from his guilty pleas because he avoided the possibility of being convicted of murder and sentenced to life. Knight seeks to selectively dismantle the plea agreement from which he benefitted. The proper remedy would therefore be to vacate the manslaughter plea as well, but Knight did not request that. The COA found the double jeopardy claim waived by the plea.

Even if Knight had not waived his claim by pleading guilty, the Court found it was without merit. Looking to other states and federal law, multiple convictions have been upheld when two different firearms were recovered in two different vehicles. The record indicates that Knight had the SKS in the van with him, and the shotgun was in the trailer. So, there was evidence that Knight stored or possessed the SKS and the shotgun separately at times. “So even if we adopted Knight's interpretation of the statute and the allowable unit of prosecution for simultaneous possession of multiple firearms, we would still find that his two separate guilty pleas do not result in double jeopardy.”

To read the full opinion, click here:

<http://courts.ms.gov/Images/Opinions/CO112925.pdf>

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