

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2018-KA-00837-SCT

ANTWUNE WASHINGTON

v.

STATE OF MISSISSIPPI

DATE OF JUDGMENT:	06/01/2018
TRIAL JUDGE:	HON. DAL WILLIAMSON
TRIAL COURT ATTORNEYS:	JOHN ANTHONY PIAZZA DENNIS LEE BISNETTE
COURT FROM WHICH APPEALED:	CIRCUIT COURT OF THE SECOND JUDICIAL DISTRICT OF JONES COUNTY
ATTORNEYS FOR APPELLANT:	OFFICE OF STATE PUBLIC DEFENDER BY: GEORGE T. HOLMES PHILLIP W. BROADHEAD ANTWUNE WASHINGTON (PRO SE)
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: BARBARA BYRD
DISTRICT ATTORNEY:	ANTHONY J. BUCKLEY
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 12/05/2019
MOTION FOR REHEARING FILED:	
MANDATE ISSUED:	

BEFORE KITCHENS, P.J., BEAM AND ISHEE, JJ.

KITCHENS, PRESIDING JUSTICE, FOR THE COURT:

¶1. Antwune Washington was indicted in the Circuit Court of the Second Judicial District of Jones County on counts of aggravated assault and possession of a firearm by a felon. The jury acquitted Washington of aggravated assault, but found him guilty of felony possession of a firearm. Washington appealed. His appellate counsel filed a brief in accordance with

¶6. Officer Stewart also said that he obtained a revolver-type handgun from inside the residence. He observed that the weapon could hold eight rounds, that this revolver contained eight rounds, and that none of the cartridges had been fired. Even though this weapon was not shown to have had any relevance to the offense charged, the revolver and its ammunition—without objection—were entered into evidence at trial.

¶7. Officer Stewart testified that he did not find another firearm at Shadowood Apartments. He identified the shell casings that he collected as “small caliber shell casing[s] belonging to a .22 handgun.”¹ At trial, Officer Stewart described the locations where he had found the spent shell casings and those items also were entered into evidence.

¶8. Officer Stewart stated that he did not see a possible assailant at the scene; however Antwune Washington “turned himself in [to law enforcement officers] days later.” Washington signed a waiver of rights form and agreed to an interview with Officer Stewart. In the interview, Washington said that he had shot Drummond in self-defense during an altercation on October 1, 2016, at Shadowood Apartments. Washington also identified a location where he claimed to have put the handgun he had wielded during the shooting; but, according to Officer Stewart, after “[going] to Shadowood and look[ing] [at] the place [he] and other officers [were] unable to locate the gun.”

¶9. On June 16, 2017, a Jones County, Mississippi, grand jury indicted Washington for possession of a firearm by a felon under Mississippi Code Section 97-37-5. The indictment, in pertinent part, stated that Washington did

¹The officer was not asked, and he did not explain, how he could tell that the shells were not fired in a .22 rifle.

STANDARD OF REVIEW

¶13. “[O]ur review of the legal sufficiency of an indictment is an issue of law, and therefore is reviewed de novo.” *Berry v. State*, 996 So. 2d 782, 785 (¶ 8) (Miss. 2008) (internal quotation marks omitted) (quoting *Quang Thanh Tran v. State*, 962 So. 2d 1237, 1240 (¶ 12) (Miss. 2007)).

DISCUSSION

¶14. When an indigent defendant’s appellate counsel files a brief representing that the client’s case presents no arguable issues for appeal, this Court applies the procedures outlined in *Lindsey*. *Lindsey*, 939 So. 2d at 748. Counsel must file a brief in compliance with the Mississippi Rules of Appellate Procedure. *Id.* In the brief,

counsel must certify that there are no arguable issues supporting the client’s appeal, and he or she has reached this conclusion after scouring the record thoroughly, specifically examining: (a) the reason for the arrest and the circumstances surrounding arrest; (b) any possible violations of the client’s right to counsel; (c) the entire trial transcript; (d) all rulings of the trial court; (e) possible prosecutorial misconduct; (f) all jury instructions; (g) all exhibits, whether admitted into evidence or not; and (h) possible misapplication of the law in sentencing.

Id. “Counsel must send a copy of the brief to the defendant, inform the defendant that counsel could find no arguable issues in the record, and advise the client that he or she has the right to file a *pro se* brief.” *Neely v. State*, 264 So. 3d 755, 758 (Miss. 2019) (citing *Lindsey*, 939 So. 2d at 748). If the *pro se* brief raises an arguable issue or if this Court identifies an arguable issue from its review of the record, then the Court must, if warranted by the circumstances, require counsel to brief the issue. *Lindsey*, 939 So. 2d at 748-49.

CONCLUSION

¶17. Washington has presented no arguable issues for appeal and this Court has found none after careful review of the record. Accordingly, we affirm the judgment of the Circuit Court of the Second Judicial District of Jones County.

¶18. **AFFIRMED.**

**RANDOLPH, C.J., KING, P.J., COLEMAN, MAXWELL, BEAM,
CHAMBERLIN, ISHEE AND GRIFFIS, JJ., CONCUR.**

**IN THE CIRCUIT COURT FOR THE SECOND JUDICIAL DISTRICT
OF JONES COUNTY, MISSISSIPPI**

STATE OF MISSISSIPPI

VS

CAUSE NO. 2017-138-KR2

ANTWUNE WASHINGTON

JURY INSTRUCTION D-6

In order for the defendant to have acted in self-defense, the defendant must (1) have believed that he was in actual danger; (2) have reasonably believed that Eric Drummond intended to kill the defendant; or (3) have reasonably believed that Eric Drummond intended to cause great bodily harm to the defendant and that the defendant reasonably believed that Eric Drummond was about to carry out his actions against the defendant. The defendant does not have to prove that he acted in self-defense. The state has the burden of proving beyond a reasonable doubt that the defendant did not act in self-defense. If you find that the State did not prove beyond a reasonable doubt that the defendant did not act in self-defense, then you shall find the defendant not guilty of aggravated assault.

Given

*EXHIBIT
"A" 1*

MULTI COUNT INDICTMENT
AGGRAVATED ASSAULT
MCA §97-3-7(2)
POSSESSION OF FIREARM BY FELON
MCA § 97-37-5

THE STATE OF MISSISSIPPI
JONES COUNTY
SECOND JUDICIAL DISTRICT

CIRCUIT COURT

The Grand Jury for the State of Mississippi, taken from the body of good and lawful men and women of Jones County, Second District in the State of Mississippi, elected, impaneled, sworn and charged to inquire in and for said county and district, in the State aforesaid, in the name and by the authority of the State of Mississippi upon their oaths present that:

ANTWUNE WASHINGTON

Count I: Aggravated Assault

in said County, District and State, on or about the 1st day of October, 2016 A.D., did unlawfully, willfully, recklessly and feloniously, cause serious bodily injury to another, Eric Drummond, by shooting him in the chest with a .22 caliber handgun, a deadly weapon, or means likely to produce death or serious bodily harm;

Count II: Possession of Firearm by Felon

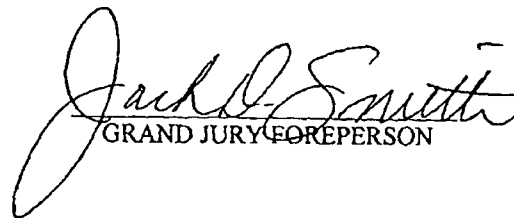
as part of a common plan or scheme or as part of the same transaction or occurrence in said County, District and State, on or about the 1st day of October, 2016 A.D., did willfully, unlawfully, feloniously and knowingly possess and/or carry, in whole or in part, a firearm, a .22 caliber handgun, after having been previously convicted and sentenced of the felony crime of Possession of Cocaine (77.3 grams) on the 19th day of January, 2011 in Cause No. 2008-257-KR2 in the Second Judicial Circuit Court of Jones County, Mississippi (see "Exhibit A"), and has received no pardon or relief therefrom;

in violation of Mississippi Code Annotated Section 97-3-7 and 97-37-5 (1972), and contrary to the form of the statute in such cases made and provided and against the peace and dignity of the State of Mississippi.

A TRUE BILL:



DENNIS L. BISNETTE
ASSISTANT DISTRICT ATTORNEY



GRAND JURY FOREPERSON

CAUSE No. 2017-138-172 **FILED**

CHARGE: AGGRAVATED ASSAULT
POSSESSION OF FIREARM BY FELON

JUN 16 2017

CONCETTA BROOKS
CIRCUIT CLERK
JONES COUNTY, MS

Where is the proof to indict or found guilty of possessing or carry a .22 caliber handgun. (false accusation)

- (1) No bullet from victim body
- (2) No weapon from Washington
- (3) No ballistics from investigators

EXHIBIT-B

where is the bullet to show he was shot with a .22 caliber handgun?

Indicted for No weapon to show (Hear say)

Where is the firearm to show Washington possessed a .22 caliber handgun?