

APPENDIX-A (2-pages)

Serial: 235605

IN THE SUPREME COURT OF MISSISSIPPI

No. 2011-M-00193

SAM BRADFORD

Petitioner

v.

STATE OF MISSISSIPPI

Respondent

ORDER

The instant matter is before the Court on the Application for Leave to File Motion for Post-Conviction Collateral Relief filed by Sam Bradford. The Court finds that the petition is untimely. Miss. Code Ann. § 99-39-5 (Rev. 2015). The Court further finds that Bradford has sought post-conviction relief on numerous previous occasions and that the present filing is successive. Miss. Code Ann. § 99-39-27 (Rev. 2015). Finally, the Court finds that the illegal sentence claim raised in the petition has been rejected in prior proceedings. After due consideration, the Court finds that Bradford has presented no arguable basis for his claims, that no exception to the procedural bars exists, and that the petition should be denied. *See Means v. State*, 43 So. 3d 438, 442 (Miss. 2010).

The Court further finds that Bradford has previously been warned that future filings deemed frivolous could result in restrictions on his ability to file applications for post-conviction relief *in forma pauperis*. We find that this application is frivolous and that sanctions are warranted.

IT IS THEREFORE ORDERED that the Application for Leave to File Motion for Post-Conviction Collateral Relief is denied.

IT IS FURTHER ORDERED that Bradford is hereby restricted from filing further applications for post-conviction collateral relief (or pleadings in that nature) that are

related to this conviction and sentence in forma pauperis. The Clerk of this Court shall not accept for filing any further applications for post-conviction collateral relief (or pleadings in that nature) from Bradford that are related to this conviction and sentence unless he pays the applicable docket fee.

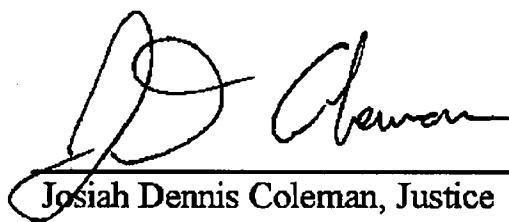
SO ORDERED.

TO DENY WITH SANCTIONS: RANDOLPH, C.J., COLEMAN, MAXWELL, BEAM, CHAMBERLIN, ISHEE, AND GRIFFIS, JJ.

TO DENY: KITCHENS AND KING, P.JJ.

KING, P.J., OBJECTS TO THE ORDER IN PART WITH SEPARATE WRITTEN STATEMENT JOINED BY KITCHENS, P.J.

DIGITAL SIGNATURE
Order#: 235605
Sig Serial: 100003196
Org: SC
Date: 02/02/2021



Josiah Dennis Coleman, Justice

APPENDIX - B (4 pages)

IN THE SUPREME COURT OF MISSISSIPPI

No. 2011-M-00193

SAM BRADFORD

v.

STATE OF MISSISSIPPI

**KING, PRESIDING JUSTICE, OBJECTING TO THE ORDER WITH
SEPARATE WRITTEN STATEMENT:**

¶1. Today, this Court prioritizes efficiency over justice and bars Sam Bradford from its doors. Because the imposition of monetary sanctions against indigent defendants and the restriction of access to the court system serve only to punish those defendants and to violate rights guaranteed by the United States and Mississippi Constitutions, I strongly oppose this Court's order restricting Bradford from filing further petitions for post-conviction collateral relief *in forma pauperis*.

¶2. This Court seems to tire of reading motions that it deems "frivolous" and imposes monetary sanctions on indigent defendants. The Court then bars those defendants, who in all likelihood are unable to pay the imposed sanctions, from future filings. In choosing to prioritize efficiency over justice, this Court forgets the oath that each justice took before assuming office. That oath stated in relevant part, "I . . . solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich. . . ." Miss. Const. art. 6, § 155. Yet this Court deems the frequency of Bradford's filings to be too onerous a burden and decides to restrict Bradford from filing subsequent applications

for post-conviction collateral relief. *See In re McDonald*, 489 U.S. 180, 186–87, 109 S. Ct. 993, 997, 103 L. Ed. 2d 158 (1989) (Brennan, J., dissenting) (“I continue to find puzzling the Court’s fervor in ensuring that rights granted to the poor are not abused, even when so doing actually increases the drain on our limited resources.”).

¶3. Article 3, section 25, of the Mississippi Constitution provides that “*no person* shall be debarred from prosecuting or defending *any civil cause for or against him or herself*, before any tribunal in the state, by him or herself, or counsel, or both.” Miss. Const. art. 3, § 25 (emphasis added). Mississippi Code Section 99-39-7 provides that actions under the Uniform Post-Conviction Collateral Relief Act *are civil actions*. Miss. Code Ann. § 99-39-7 (Rev. 2015). Therefore, this State’s Constitution grants unfettered access in civil causes to any tribunal in the State. The Court’s decision to deny Bradford’s filing actions *in forma pauperis* is a violation of his State constitutional right to access to the courts.

¶4. The decision to cut off an indigent defendant’s right to proceed *in forma pauperis* is also a violation of that defendant’s fundamental right to vindicate his constitutional rights, for

Among the rights recognized by the Court as being fundamental are the rights to be free from invidious racial discrimination, to marry, to practice their religion, to communicate with free persons, to have due process in disciplinary proceedings, and to be free from cruel and unusual punishment. As a result of the recognition of these and other rights, the right of access to courts, which is necessary to vindicate all constitutional rights, also became a fundamental right.

Joseph T. Lukens, *The Prison Litigation Reform Act: Three Strikes and You're Out of Court-It May Be Effective, but Is It Constitutional?*, 70 Temp. L. Rev. 471, 474–75 (1997).

As United States Supreme Court Justice Thurgood Marshall stated,

In closing its doors today to another indigent litigant, the Court moves ever closer to the day when it leaves an indigent litigant with a meritorious claim out in the cold. And with each barrier that it places in the way of indigent litigants, and with each instance in which it castigates such litigants for having “abused the system,” . . . the Court can only reinforce in the hearts and minds of our society’s less fortunate members the unsettling message that their pleas are not welcome here.

In re Demos, 500 U.S. 16, 19, 111 S. Ct. 1569, 1571, 114 L. Ed. 2d 20 (1991) (Marshall, J., dissenting). Instead of simply denying or dismissing those motions that lack merit, the Court seeks to punish Bradford for arguing his claims.

¶5. Although each justice took an oath to do equal right to the poor and rich, this Court does not deny access to the court defendants who are fortunate enough to have monetary resources. Those defendants may file endless petitions, while indigent defendants are forced to sit silently by. An individual who, even incorrectly, believes that she has been deprived of her freedom should not be expected to sit silently by and wait to be forgotten. “Historically, the convictions with the best chances of being overturned were those that got *repeatedly reviewed on appeal* or those chosen by legal institutions such as the Innocence Project and the Center on Wrongful Convictions.” Emily Barone, *The Wrongly Convicted: Why more falsely accused people are being exonerated today than ever before*, Time, <http://time.com/wrongly-convicted/> (last visited Nov. 17, 2020) (emphasis added). The Washington Post reports that

the average time served for the 1,625 exonerated individuals in the registry is more than nine years. Last year, three innocent murder defendants in Cleveland were exonerated 39 years after they were convicted—they spent their entire adult lives in prison—and even they were lucky: We know without doubt that the vast majority of innocent defendants who are convicted of crimes are never identified and cleared.

Samuel Gross, Opinion, *The Staggering Number of Wrongful Convictions in America*, Washington Post (July 24, 2015), http://wapo.st/1SGHcyd?tid=ss_mail&utm_term=.4bed8ad6f2cc.

¶6. Rather than violating Bradford's fundamental rights by restricting his access to the courts, I would simply dismiss his petition for post-conviction relief.

KITCHENS, P.J., JOINS THIS SEPARATE WRITTEN STATEMENT.

1 Mr. Bradford, you have been convicted by a
2 jury of your peers of the offense of murder. Is
3 there anything you wish to say prior to the Court
4 pronouncing sentence?

5 THE DEFENDANT: (Shakes head negatively.)

6 THE COURT: Counsel, anything you wish to
7 say?

8 MS. FERRINGTON: No, sir.

9 THE COURT: All right, for the offense of
10 murder, I will sentence you to spend the rest of your
11 natural life in the Mississippi Department of
12 Corrections.

13 MR. MARTIN: If it pleases the Court, I
14 wasn't here yesterday, but the defendant entered a
15 plea to the second count in the indictment.

16 THE COURT: Oh, that is true. Well, for
17 that offense, I'll sentence you to a period of three
18 years, and I'll allow that to run concurrent with the
19 sentence that you're now serving for -- on the murder
20 charge. I'll allow those two sentences to run
21 concurrent.

22 Exhibit 2
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