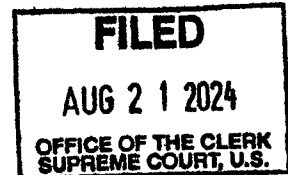


ORIGINAL

No. 24-6257



IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 2024

Willie Cory Goodbolt — PETITIONER
(Your Name)

vs.

State of Mississippi — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Mississippi Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Willie Cory Goodbolt
(Your Name)

P.O. Box 1057
(Address)

Parchman, Ms 38738
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1). Whether a news reporter's First Amendment privilege to shield her source trumps a criminal defendant's Sixth Amendment right to confrontation and Fourteenth Amendment due process right to the fair administration of criminal justice?
- 2). Did failure to recognize and complete a psychiatric/examination and mental/evaluation of court order deny Due Process, which the ~~fourteenth~~ and eighth amendment requires?
- 3). Was defective and deficient performance of counsel of defendant a violation of Sixth Amendment?
- 4). Does the general right of access of evidence of exculpatory value and the Fourteenth Amendment require preservation of cell phone and all contents within?
- 5). Whether a confession was obtained in violation of the Fifth, Sixth and Fourteenth Amendment of the United States Constitution?
- 6). Was admitting into evidence contents of an illegal search and seizure a violation of Fourth Amendment?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

State of Mississippi v. Willie Cory Goelbalt, Circuit Court of Lincoln County, Mississippi, Case No. 43C11: 18-cr-00064-1 (Trial court case in proceedings on review in instant matter. Judgments of conviction on Capital murder and other counts and sentence of death on capital murders entered March 4, 2020. Motion for New Trial denied August 6, 2020)

Willie Cory Goelbalt v. State of Mississippi, Mississippi Supreme Court Case Number, 2020-Dp-00440-SCT (Appellate court case in proceedings on review in the instant matter. Affirmance of conviction and death sentences entered March 07, 2024 rehearing denied May 23, 2024. mandate issued June 11, 2024) docket entries and all filings available at Images\Opinions\CO173126.pdf (ms.gov)

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Petition For writ of Certiorari To The Supreme Court of The State of Mississippi

The Petitioner, Willie Cory Godbolt, prays for a writ of certiorari to review the judgment of the Supreme Court of Mississippi affirming, on direct appeal, his convictions of capital murder and sentences of death.

Opinion Below

The opinion of the Mississippi Supreme Court is *Godbolt v. State*, No. Miss. 2020-Dp-00440 SCT (March 27, 2024) (Pet. App. A) and is not yet reported. That Court's order denying rehearing on May 23, 2024 (Pet. App. B) is unpublished, as is the mandate issued June 4, 2024 (Pet. App. C).

Jurisdiction

The judgment of the Supreme Court of Mississippi was entered on March 27, 2024, and rehearing was denied on May 23, 2024. This Petition is filed within 90 days of the latter event. The jurisdiction of the Supreme Court is invoked under 28 U.S.C. § 1257 on the ground that a right or privilege of the defendant claimed under the Constitution of the United States has been denied by the State of Mississippi.

Constitutional and Statutory Provisions Involved

The Sixth Amendment to the United States Constitution provides in relevant part:

In all criminal prosecutions, the accused shall enjoy the right... to be confronted with the witnesses against him.

The Fourteenth Amendment to the United States Constitution provides in relevant part:

No state shall... deprive any person of life, liberty, or property without due process of law.

The Eighth Amendment to the United States Constitution provides in relevant part:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The Fourth Amendment to the United States Constitution provides in relevant part:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Statement of The Case

The defense and record is consistent with the hypothesis that Godbolt's was a crime of passion, not a crime that was meant to be deliberately and extraordinarily painful. Godbolt's emotionally charged, desperate, frustrated desire to protect his one and only daughter is sufficient to render the death's penalty disproportional punishment in this instance. On May 28, 29, 2017 Godbolt experienced a trauma reaction to nearly two decades of relational stress and retraumatization with the "tipping point" being multiple sexual assaults of his only daughter. And a family of in-laws who had refusal to acknowledge it or prevent it. These events as a collective prove to be the contention from which this fatal night happened. Godbolt is a known devoted family man. His wife and kids are his reason for living. He profess this all the way to the time he was arrested. Godbolt was arrested by Lincoln County Sheriffs. Whom he was in the custody of until his trial. He was served a warrant on 5/30/17 affidavits were written on 5/29/17. Godbolt was served both the documents in his initial appearance on 5/30/17. Godbolt was appointed counsel that day as well. Paul Luckett and Gus Sermos did in fact represent Godbolt. And on 6/19/17 from a motion they jointly filed. An agreed order was so signed by them and the prosecutor Granting Motion for Psychiatric Examination / Mental Evaluation of Godbolt. And that a report of said Examination / Evaluation be provided to all parties.

Godbolt was indicted in a single indictment on twelve felony counts, including four counts of Capital murder (Counts 1, 7, 8 and 12.) four counts of First degree murder (Counts 2, 3, 4 and 11) two counts of Kidnapping (Counts 6, and 9) one count of armed robbery (Count 10) and one count of attempted murder (Count 5). Many of Godbolt's pretrial motions were denied, including, inter alia, a motion to sever, and motions for continuance and appointment of competent replacement counsel. Replacement counsel was sought after the abrupt withdrawal of Jason Tate, the assistant public defender of Lincoln County who had been representing Godbolt a little while before his arraignment, and who withdrew without advance notice less than six months before the scheduled trial. Despite this abrupt change and over the objection of Godbolt's remaining trial counsel, the trial of all twelve counts commenced on February 10, 2020. On Tuesday, February 25, 2020 Godbolt was found guilty of all four counts of Capital murder all four counts of first degree murder, both counts of kidnapping (Count 6 with a sentencing verdict of less than life, Count 9 with a sentencing verdict of life) the single of armed robbery (with a sentencing of less than life) and one count of attempted murder (with a sentencing verdict of life). On Thursday February 27, 2020 Pursuant to sentencing verdicts by the jury in a penalty phase trial on the

Capital murder convictions, Goolbalt was sentenced to death on each of the four counts of capital murder (Count 1, 7, 8 and 12). Better that 10 guilty persons escape than that one innocent suffer (Sir William Blackstone - 1765-). The state never proved Intent, because culpability was never established, consequently due process was never served.

Reason for Granting the writ

A capital defendant's constitutional right to fair

administration of justice must outweigh a news reporter's

First Amendment privilege to confidential communications.

In holding that "whether or not Apel's source came from a law enforcement officer is irrelevant," the Mississippi Supreme Court tacitly validates the claim that a journalist enjoys a First Amendment privilege to withhold evidence from a criminal defendant. The Court is wrong. Indeed, absent identifying Apel's source and establishing the nature of her communication with the same, Godbolt cannot know whether the state is responsible for Apel's conduct. The pronounced difference of death from all other punishments "requires a correspondingly greater degree of scrutiny of the capital sentencing determination." *California v. Barnes*, 463 U.S. 912 (1983). The penalty of death differs from all other forms of criminal punishment, not in degree but in kind. It is unique in its total irrevocability. It is unique in its rejection of rehabilitation of the convict as a basic purpose of criminal justice. And it is

unique, finally, in its absolute renunciation of all that is embodied in our concept of humanity. *Furman v. Georgia*, 408 U.S. 238, 306 (1972). Godbolt's rights to due process, to the witnesses against him, and to fully present a defense are guaranteed under the federal constitution.

U.S. Const. amend. VI; U.S. Const. amend. XIV. "The right of an accused in a criminal trial to due process is, in essence, the right to a fair opportunity to defend against the state accusations. The rights to confront and cross-

examine witnesses and to call witnesses in one's own behalf have long been recognized as essential to due process." *Chambers v. Mississippi*, 410 U.S. 284, 294, 93 S.Ct. 1038, 1045 (1973). It is now axiomatic that a defendant in a criminal case is deprived of due process of law if his conviction is founded in whole or in part upon an involuntary confession, without regard for the truth or falsity of the confession, and even though there is ample evidence aside from the confession to support the conviction. *Jackson v. Denno*, 378 U.S. 368, 376, 84 S.Ct. 1794, 1799, 12 L.Ed. 2d 908 (1964) (citing *Rogers v. Richmond*, 365 U.S. 534, 81 S.Ct. 135, 5 L.Ed. 2d 760 (1961)). *Malinski v. New York*, 324 U.S. 401, 65 S.Ct. 781, 89 L.Ed. 1029 (1945). The trial court - and by endorsement, the Mississippi Supreme Court - erred in finding that the First Amendment insulated Apel from cross-examination concerning her communications with law enforcement.

To this end, this Court has squarely held that the First Amendment does not relieve a reporter of the obligation to reveal her sources and testify relevant to a criminal investigation. (*Branzburg v. Hayes*, 408 U.S. 665, 667, 92 S.Ct. 2646, 2649-50, 33 L.Ed.2d 626 (1972).) ("The issue in these cases is whether requiring newsmen to appear and testify before State or federal grand juries abridges the freedom of speech and press guaranteed by the First Amendment. We held that it does not"). In *Branzburg*, the Court found "no basis for holding that the public interest in law enforcement and in ensuring effective grand jury proceedings is insufficient to override the burden on news gathering that is said to result from insisting that reporters, like other citizens, respond to relevant questions put to them in the course of a valid grand jury investigation or criminal trial." *Id.*, at 690-91, 92 S.Ct. 2646. Indeed, there is "no reason to hold that these reporters... should be excused from furnishing information that may help the grand jury in arriving at its initial determinations." *Id.* at 702. *Apel is not above the Law.* The public interest in ensuring a criminal defendant's fundamental rights to due process, a fair trial, and to confront the witnesses against him is equally, if not more grave than the public interest in law enforcement and effective grand jury proceedings. see *United States v. Nixon*, 418 U.S. 683, 711, 94 S.Ct. 3090, 3109, 41 L.Ed.2d 1039 (1974). (holding that even a claim of Presidential privilege of confidentiality does not override a criminal defendant's due process and confrontation rights). In rejecting the President's claim of executive privilege over communications with his advisors, the Court in *Nixon* explained that: "This presumptive privilege must be considered in light of our historic commitment to the rule of law. This is nowhere more profoundly manifest than in our view that 'the twofold aim (of criminal justice) is that guilt shall not escape or innocence suffer.' (*Berger v. United States*, 295 U.S., at 88, 55 S.Ct., at 633. We have elected to employ an adversary system of criminal justice in which the parties contest all issues before a court of law, the need to develop all relevant facts in the adversary system is both fundamental and comprehensive. The ends of criminal justice would be defeated if judgments were to be founded on a partial or speculative presentation of the facts.

The very integrity of the judicial system and public confidence in the system depend on full disclosure of all the facts, within the framework of the rules of evidence. To ensure that justice is done, it is imperative to the function of courts that the compulsory process be available for the production of evidence needed either by the prosecution or by the defense. (Nixon, 418 U.S. at 708-09, 94 S.Ct. 3090.) In Nixon, the President challenged a subpoena requiring the production of evidence for use in a criminal prosecution; a challenge based on a privilege against disclosing Confidential Communications. Id. at 710. Acknowledging the significance of preserving confidentiality, this Court then "weighed the importance of the general privilege of confidentiality of Presidential communications in performance of the President's responsibilities against the inroads of such a privilege on the fair administration of criminal justice." Id. at 712-713. Significantly, "when the ground for asserting privilege as to subpoenaed materials sought for use in a criminal trial is based only on the generalized interest in confidentiality, it cannot prevail over the fundamental demands of due process of law..." Id. at 713. Similarly, Apel refused to reveal who, exactly, advised her of the crime scene; a refusal based on First Amendment privilege to protect Confidential Communications. Accordingly, the interest in preserving confidentiality must be weighed against the "constitutional dimensions" of the right to the production of all relevant evidence. Id. at 711. From the outset, a local news reporter interest in protecting confidentiality alone is not as weighty as preserving executive privilege. Apel's objection was rooted in First Amendment privilege; her attorney testified to that effect. In that light, and in step with Nixon and Branzburg, Apel's privilege of confidentiality with her source must be outweighed by Goodbalt's right to due process. This Court should not be moved by fears that future news sources will "temper the candor of their remarks by the infrequent occasions of disclosure because of the possibility that such conversations will be called for in the context of a criminal prosecution." Id. at 712. Moreover, consider the breadth of the rejection of the claimed First Amendment privilege in Branzburg: "We cannot accept the argument that the public interest in possible future news about crime from undisclosed,

Unverified sources must take precedence over the public interest in pursuing and prosecuting those crimes reported to the press by informants... (Branzburg, 408 U.S. at 695). Apel's refusal to disclose her source doomed Goodbolt's state actor theory just as the same took shape. State action exists when the "State provides 'significant encouragement, either overt or covert'"; or when there is "a close nexus between the State and the challenged action. (Brentwood Academy v. Tennessee Secondary School Athletic Ass'n, 531 U.S. 288, 295-296 (2001) (citing Blum v. Yaretsky, 457 U.S. 991, 1004 (1982)).) The evidence in this case - that the trial court did allow - established a close nexus between Apel and the state. Recall, it was not yet dawn when someone with uniquely intimate knowledge of ongoing events contacted Apel and advised her of a crime in progress en route to the scene, she was messaging someone who told her exactly where to go as the situation evolved; Apel knew many law enforcement officers in Lincoln County; she received tips from law enforcement "every day"; her sources of information were often from law enforcement officers and, she considered several of the officers she knew as personal friends. As a matter of common sense, it is implausible that someone other than law enforcement would have such knowledge of an ongoing and evolving crime situation / investigation, particularly during the early morning hours. Further still, when she arrived at the scene of a multiple homicide crime spree, and as the suspect was being detained, law enforcement simply let her walk right into the heart of the scene to question and film the suspect as he was being arrested. This too established a close connection between the state and Apel's conduct, notwithstanding Apel's testimony that law enforcement did not "direct" her or order her to come to the scene and / or question Goodbolt. "A defendant objecting to the admission of a confession is entitled to a fair hearing in which both the underlying ~~factual~~ issues and the voluntariness of his confession are actually and reliably determined." (Jackson, 378 U.S. at 380, 84 S.Ct. 1774. "Only a reliable determination" on the admissibility of the confession will satisfy the defendant's constitutional rights and allow the jury's consideration of the confession in deciding the defendant's guilt or innocence. Id. at 387, 84 S.Ct. 1774

Here, the trial court deprived Goodbolt of both a fair hearing and a reliable determination on the suppression issue by protecting Apel and the State from cross-examination aimed at exposing her communications with law enforcement. From questions concerning who contacted her and who messaged her where to go as the situation unfolded to the particulars surrounding Apel's testimony that law enforcement did not "direct" her to do anything, the courts have defined Apel's right to confidentiality as absolute. Goodbolt's case on the suppression issue / state actor issue stood to improve radically, had the trial court properly allowed questions and Apel admitted that it was, in fact, law enforcement who contacted her and told her exactly where to go as the situation evolved. Moreover, had the defense been able to explore the point that law enforcement did not "direct" her to anything, the defense may have been able to establish that Apel and law enforcement had other communications or understandings (short of "directing" her to do something) that further strengthened the already close connection between Apel's conduct and that of the police. "The right to the production of all evidence at a criminal trial... has constitutional dimensions.... The allowance of the privilege to withhold evidence that is demonstrably relevant in a criminal trial would cut deeply into the guarantee of due process of the law and gravely impair the basic function of the courts." *Nixon*, 418 U.S. at 711-12, 94 S.Ct. 3090. Here, the allowance of general confidentiality between a news reporter and a source to suppress the development of critical evidence violated Goodbolt's fundamental rights to due process and to confront the witnesses against him.

Reasons For Granting Writ The Trial Denial of Due Process Not Enforcing Court Order.

In this present case Goodbalt contends that his right to "Due Process" was violated. Prior to his indictment, Goodbalt's counsel filed a motion for a psychiatric evaluation of Goodbalt, which was granted by the justice court judge. That was signed by his attorney at the time, and then was sign by the prosecutor. An order was issued by Roger Martin on June 19, 2017. That Goodbalt undergo a psychiatric examination and mental evaluation. That would be provided by Lincoln County which Goodbalt was in the custody of on that day, and remained there until his trial. Order - (1) is a Command, direction, or instruction. (2) A written direction or Command delivered by a court or judge. (Black's Law Dictionary). Trial court never respected Goodbalt's Due Process (Tr. 16) "Line 16 (I believe that was just a matter that was made by a justice court judge") by Mr. Adams. That order is a legal document that refers to mandatory action. Generally with words like Shall, Must, and will. On the 12th of March in 2018. The State made its intention to seek the Death Penalty in this case on all of the Capital counts (Tr. 8). Goodbalt contends that the denial to fulfill this order was never his or his counsel duty. Trial Court "failure is not to be passed along to the defense." (James v. State, (2012) 86 So. 3d 286. This is and was the duty of the Court whom has a legal obligation to act. This to be clear is "not a delegable" duty to be transferred to another to perform. The failure of the duty to act makes the Court liable not Goodbalt nor his counsel. The Court of Lincoln County is and was legally obligated to fulfill that order. Goodbalt and counsel fulfilled what was then required of them, with the filing of the motion. After it was granted due process requires that it happens. The Supreme Court of Mississippi, has held that under rule 906. A trial court order for the defendant to undergo a mental evaluation to determine competence is a "per se" showing that the trial court had reasonable grounds to believe the defendant was incompetent to stand trial.

Additionally they held that the appropriate remedy for failure to hold a competency hearing is a new trial, not a retrospective competency hearing. If reasonable grounds exist to doubt the defendant's competence to stand trial, the procedures in Rule 12.2 through 12.6 should be followed (MRCrP). The core determination of the defendant's mental competency "should be made at the earliest practicable date." This Supreme Court has held that the failure to make a determination of competency when there are reasonable grounds to doubt such is fundamental and constitutional error. The court failure to follow established procedure should not and can not be transferred to Godbolt nor his counsel. Trial court failed to provide Godbolt with the expert mental health assistance the constitution requires a clearly established Federal law. "28 U.S.C. § 2254 (d)(1). The Supreme Court's statement in *Caldwell v. Mississippi*, 472 U.S. 320, 105 S.Ct. 2633, 86 L.Ed.2d 231 (1985) implies that the government's refusal to provide nonpsychiatric expert assistance could, in a given case deny a defendant a fair trial. The implication is questionable, however in light of the Court's subsequent statement that it had "no need to determine as a matter of federal constitutional law what if any showing would have entitled a defendant to assistance of the type [Caldwell] sought". *Id.* (emphasis added). We nonetheless assume for sake of argument, that the due process clause could require the government, both state and federal, to provide nonpsychiatric expert assistance to an indigent defendant upon a showing of need. In *Ake v. Oklahoma*, 470 U.S. 68, 105 S.Ct. 1087, 84 L.Ed.2d 53 (1985), the Supreme Court held that the state must provide an indigent defendant with a competent psychiatrist to conduct an appropriate examination "646 provided the defendant demonstrates to the trial judge that his sanity at the time of the offense is to be a significant factor at trial."

This court has held that the trial of a mentally incompetent defendant is a due process violation. All criminal defendants have a fundamental right to due process and a fundamental fair trial. The constitution "requires" that criminal defendants be provided with a fair trial, not merely a "good faith" try at a fair trial. Once a mental evaluation is ordered, a competency hearing is mandatory. It is the trial court's "responsibility" to determine competency during an open-court hearing. When competency is placed at issue, the court should weigh all the evidence and determine whether the defendant is competent to stand trial. The trial court failed to comply in the strictest technical sense with "Rule 9.06", which mandates that a competency hearing be conducted following a court-ordered mental examination. Goodbalt submitted (Exhibit A) in his appellant brief "pro se". A motion and an agreed order for a psychiatric examination and a mental evaluation to be provided by Lincoln County. This in and of itself was a "per se" showing that the court had reasonable grounds to believe the defendant was incompetent to stand trial. If that was not sufficient for the trial court, then the State filed a motion for Goodbalt to undergo psychiatric evaluation. The motion was opposed by the defense, and the trial court did not order the evaluation to take place. (Tr. 51) The argument was, Your Honor, the only other thing the State would bring up I know the motion to --- the deadline to file motions has passed however the State will be re-urging the motion for a psychological evaluation on the "22nd". Due to some recent events that speaks to his competency and should have triggered the court to act. The proceedings in this case cannot be characterized as a mental competency hearing. Considering the history of competency hearings in this state, Goodbalt made a sufficient showing that the expert would be "a significant benefit to the truth-seeking function of the trial." It also was established that Goodbalt was an indigent defendant made known by the order as well.

In *Ake v. Oklahoma*, 470 U.S. 68, 105 S. Ct. 1084, 84 L. Ed. 2d 53 (1985), The Supreme Court held that when a defendant has made a preliminary showing that his sanity at the time of the offense is likely to be a significant factor at trial, the Constitution requires that a state provide access to a psychiatrist's assistance on this issue if the defendant cannot otherwise afford one. *Id.* at 74, 105 S. Ct. at 1091-92. The conditions that trigger Ake's application are present. Goodbolt is and was an indigent defendant, and his "mental condition" was both "relevant to the punishment he might suffer and seriously in question. Goodbolt was entitled to an evaluation by the Federal Constitution. Federal Government, have decided either through legislation or judicial decision that indigent defendants are entitled, under certain circumstances, to the assistance of a psychiatrist's expertise. For example, in subsection (e) of the Criminal Justice Act, 18 U.S.C. § 3006 A, Congress has provided that indigent defendants shall receive the assistance of all experts "necessary for an adequate defense." Numerous State statutes guarantee a reimbursement for expert services under a like standard. And in many States that have not assured access to psychiatrists through the legislative process, State courts have interpreted the State or Federal Constitution to require that psychiatric assistance be provided indigent defendants when necessary for an adequate defense, or when insanity is at issue. These statutes and court decisions reflect a reality that we recognize today, namely, that when the State has made the defendant's mental condition relevant to his criminal culpability and to the punishment he might suffer, the assistance of a psychiatrist may well be crucial to the defendant's ability to marshal his defense.

In this role psychiatrists gather facts, through professional examination, interviews, and elsewhere, that they will share with the judge or jury; they analyze the information gathered and from it draw plausible conclusions about the defendant's mental condition, and about the effects of and disorder on behavior; and they offer opinions about how the defendant's mental condition might have affected his behavior at the time in question. They know the probative questions to ask of the opposing party's psychiatrists and how to interpret their answers. Unlike lay witnesses, who can merely describe symptoms they believe might be relevant to the defendant's mental state. (Tr. 2219) Psychiatrists can identify the "elusive and often deceptive" symptoms of insanity. (Scales v. Balkcom, 339 U.S. 9, 12, 70, S.Ct. 457, 458, 94 L. Ed. 604 (1950). And tell the jury why their observations are relevant. Modern Civilization, with its complexities of business, science, and the professions, had made expert and opinion evidence a necessity. This is true where the subject matter involved are beyond the general knowledge of the average juror. "Without the assistance of a psychiatrist to conduct a professional examination on issues relevant to the defense, to help determine whether the defense is viable, to present testimony, and to assist in preparing the cross examination of a state witnesses, the risk of an inaccurate resolution of the issues is extremely high. A defendant's mental condition is not necessarily at issue in every criminal proceeding, however, and it is unlikely that psychiatric assistance of the kind described would be of probable value in cases where it is not. The risk of error from denial of such assistance, as well as its probable value, is most predictably at its height when the defendant's mental condition is seriously in question. It is in such case that a defense may be devastated by the absence of a psychiatric examination and testimony with such assistance, the defendant might have a reasonable chance of success.

Reason For Granting The Writ Ineffective Assistance of Counsel

To prevail on a claim of ineffective assistance of counsel, defendant must satisfy the two-prong standard set forth in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Defendant must first demonstrate that his counsel's performance was constitutionally deficient in that it fell below an objective standard of reasonableness. *Id.* 466 U.S. at 688, 104 S.Ct. 2052. The first standard must be satisfied within the "Strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance" *Id.* 466 U.S. at 689, 104 S.Ct. 2052. Second the defendant must show that counsel deficient performance prejudiced his defense. *Id.* 466 U.S. at 692, 104 S.Ct. 2052. To make this showing, defendant must establish that there is reasonable probability that but for counsel alleged errors the outcome of the proceeding would have been different. *Id.* 466 U.S. at 694, 104 S.Ct. 2052. Trial counsel's has a duty to familiarize himself with regard to the specific scientific area in which an expert is needed; however he need not become an expert himself, but he must conduct a minimal amount of background work in order that he may intelligently move the court for the need of an expert. (*Stephens v. Kemp*, 846 F.2d 642 (11th Cir. 1988)) No conceivable defense strategy or tactic would justify not to perform a pretrial evaluation.

To (1) examine Goolbalt's mental state at the time of the alleged offense. (2) to determine his Competency to stand trial, (3) to evaluate whether he suffered from intellectual disability and, (4) To provide any mitigating circumstances related to the alleged offense. Security of rights vested in accused is not diminished in proportion to his or her guilt; all persons accused of a crime are entitled to a fair trial, the innocent as well as the not so innocent. (Fisher v. State, Miss. 1985 481 So.2d 203) Goolbalt should have had an evaluation and examination. Counsel failed to present a complete defense for him. In Loyd v. Smith, 899 F.2d 1416 (6th Cir. 1990). Where Loyd's counsel was found to be ineffective for failure to obtain an independent psychiatrist, where Loyd had actually been treated in a mental hospital and his hospital treatment records showed symptoms of diminished capacity and brain dysfunction. Goolbalt's motion for a psychiatric evaluation and a mental examination read (line #3) Based upon information and belief, the defendant, Willie Cory Goolbalt has previously been treated for some mental ailments. Wherefore premises considered, the Defendant, moves this honorable Court for an Order for psychiatric evaluation. Goolbalt made a "Heat of Passion Defense". Heat of passion means any intense and fervent emotional state of mind would be one such as would cause an ordinary person to act on impulse and without reflection. (Tr. 3306)

"Mental illness"-(1) is a disorder in thought or mood so substantial that it impairs judgment, behavior, perceptions of reality, or the ability to cope with the ordinary demands of life. (2) Mental disease that is severe enough to necessitate care and treatment for the afflicted person's own welfare or the welfare of others in the community. "Emotional insanity"-(1) Insanity produced by a violent excitement of emotions or passions, although reasoning faculties may remain unimpaired; a passion that for a period creates complete derangement of intellect. (2) Emotional insanity is sometimes described as an irresistible impulse to do an act. (Black's Law Dictionary)

Trial counsel is not blameless in this matter. Goolbalt did in fact chose a defense stance before trial counsel was appointed. Goolbalt has an protected autonomy right and counsel can't usurp control of an issue within Goolbalt sole prerogative. This case was twelve counts eight in which deaths occurred. And throughout this entire case his Goolbalt's mental state was a real question. (Tr. 3219, Tr. 51)

A question that only a certified psychiatrist or psychologist could answer. This Court has always insisted that the need for procedural safeguards is particularly great where life is at stake. Long before the Court established the right to counsel in all felony case (Gideon v. Wainwright, 372 U.S. 335, 83 S.Ct. 792 9 L.Ed. 2d 799 (1963);

it recognized that right in capital cases. In *Powell v. Alabama*, 287 U.S. 45, 71-72, 53 S.Ct. 55, 65, 77 L.Ed. 158 (1932). Time and again the Court has condemned procedures in capital cases that might be completely acceptable in an ordinary case. see, e.g., *Beck v. Alabama*, 447 U.S. 625, 100 S.Ct. 2382, 65 L.Ed. 2d 392 (1980); *Green v. Georgia*, 442 U.S. 95, 99 S.Ct. 2150, 60 L.Ed. 2d 238 (1979) (per curiam); *Lockett v. Ohio*, 438 U.S. 586, 98 S.Ct. 2954, 57 L.Ed. 2d 973 (1978); *Gardner v. Florida*, 430 U.S. 349, 97 S.Ct. 1197, 51 L.Ed. 2d 393 (1977); *Woodson v. North Carolina*, 428 U.S. 280, 96 S.Ct. 2978, 49 L.Ed. 2d 944 (1976).

Because of the basic difference between the death penalty and all other punishments, this Court has consistently recognized that there is 'a corresponding difference in the need for reliability in the determination that death is the appropriate punishment in a specific case.' (*Barefoot v. Estelle*, 463 U.S. 880, 913-914, 103 S.Ct. 3383, 3405, 77 L.Ed. 2d 1090 (1983)) In short this Court has taken special care to minimize the possibility that death sentences are "imposed out of whim, passion, prejudice, or mistake." (*Eddings v. Oklahoma*, 455 U.S. 104, 118, 102 S.Ct. 869, 878, 71 L.Ed. 2d 1 (1982). In the sentencing phase of a capital case, "what is essential is that the jury hear before it all possible relevant information about the individual defendant whose fate it must determine." (*Jurek v. Texas*, 428 U.S. 262, 276, 96 S.Ct. 2950, 2958, 49 L.Ed. 2d 929 (1976))

Trial court had reasonable grounds to believe defendant was incompetent, and therefore its failure to conduct a competency hearing was both a procedural due process violation and a violation of rule governing competency evaluations and hearings. From that motion and other evidence it's apparent and obvious, that this case couldn't be tried without one. For all the question surrounding Goolbolt's state of mind at the time of the alleged crime. (Tr. 2741) Even the state raised the issue. (Tr. 51) The criminal trial of an incompetent defendant violates due process. Trial counsel's failure to secure an independent psychological analysis of defendant and present evidence that defendant had a mental condition during the time he committed the crime constituted ineffective assistance. *Cloyd v. Whitely*, 977 F.2d 149 (5th Cir. 1992). Goolbolt state of mind was of relevance especially relating to prosecution establishing manslaughter a lesser included offense as to which the jury was instructed on in the Death at Lee Drive the first scene. Supreme Court must determine on a case-by-case basis whether the denial of expert assistance for an accused is in fact prejudicial to the assurance of a fair trial. (*Evans v. State*, Miss. 2013) 109 So. 3d 1044) Fundamental fairness required an examination be done.

Reason For Granting The Writ Destruction of Cell Phone

The Due Process Clause of The Fourteenth Amendment requires a State to disclose to criminal defendant's favorable evidence that is material either to guilt or to punishment. (*Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194, 10 L.Ed. 2d 215 (1963)). This encompasses a general right of access to evidence. *United States v. McClelland* 141 F.3d 967, 971 (10th Cir. 1998). The right of an accused in a criminal trial to due process is, in essence, the right to a fair opportunity to defend against the State's accusations. The right to confront and cross-examine witnesses and to call witnesses in one's own behalf have long been recognized as essential to due process. (*Chambers v. Mississippi*, 410 U.S. 284, 294, 93 S.Ct. 1058, 35 L.Ed. 297 (1973)). "Bad Faith" is not a prerequisite to finding that a defendant's right to due process has been violated. To safeguard the criminal defendant's right to present a "complete defense," the United States Supreme Court has developed, and the Mississippi Supreme Court has adopted "what might loosely be called the area of constitutionally guaranteed access to evidence". Taken together, this group of constitutional privileges delivers exculpatory evidence into the hands of the accused, thereby protecting the innocent from erroneous conviction and ensuring the integrity of our criminal justice system". (*Freeman v. State*, 12 So. 3d 888, 895 (Miss. 2013)) (Quoting *Trombetta*, 467 U.S. at 485). Goodbolt contends that the prosecution's failure to fulfill this obligation in his trial resulted in a miscarriage of justice.

Not disclosing contents from his cell phone prejudiced his defense. Goolbalt argues that had this evidence been presented it could have influenced the outcome of the trial and potentially led to a different verdict. Goolbalt argue that communications between him and these witnesses have been misinterpreted and misrepresented, especially cause they were influenced by personal relationships and biases. Evidence related to prior relationship would have been impactful information. Specifically that of his one and only daughter, whom had been "sexually assaulted" multiple times. And a thorough investigative review would have revealed this, and the mental state at the time, maybe a potential motive. Goolbalt ask this Court not to be blinded by the nature of the case. And would ask the court for their heightened thoroughness and intensity in this case. The state case centered around Goolbalt being extremely controlling in his personal relationship particularly with his wife and children. That Goolbalt feeling a lack of control over his relationship, decided to punish Sheena his wife by harming the people closest to her. Goolbalt in (Exhibit F) in his "pro se" brief showed that Sheena was indeed in possession of her own phone on the night that's in question. The state claim Goolbalt sent threatening messages from Sheena's phone thru "Facebook". Goolbalt was never in possession of Sheena's phone we know this from her call logs from 5/25/17 - 5/29/17.

Goelbalt with his extraction data, if given the same analysis that all the other phones in this case was given, could show evidence that was favorable to his defense. Goelbalt could not contest or challenge or deny the State adverse claim against him nor assert a defense to it in this case without his phone. Goelbalt argue that this compromised his ability to present a "complete defense". Goelbalt argue and emphasizes a fundamental principle of "Due Process" and his right to a fair trial. The State sought and got a search warrant for Goelbalt's phones. The devices was submitted for data collection related to alleged homicides. We know now that two identical warrants were issued for the two devices. Yet different and separate methods were taken on these two phones. Outside the requirement of the warrants. And not to give Goelbalt access to this evidence deprived him of the opportunity to present a robust defense and that really undermined the integrity of the judicial process. Goelbalt points to all of the precedents of preservation and handling of digital evidence. The state has the duty to preserve evidence.

...which "might be expected to play a significant role in the suspect's defense. (Tolbert v. State, 511 So.2d 1368, 1372 (Miss. 1987) (quoting Trombetta 467 U.S. at 488))

This duty equally applies to impeachment evidence. (Freeman, 121 So.3d at 895 (citing United States v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 3380 (1985))

On makhylah extraction report (pg 1262 in a clear exchange between Sheena and Goelbalt. The messages read (Everybody said u was hitting me, but u wasn't but u prove the whole world wrong and beat me so bad (sms message #17107) And goes on to (sms #17123) Hope he wanted me to his self I'm so in love with "u" I will never trade "u" don't want shit on the streets...

I have a new number tho... and u don't want me tho. These are not similarities to the state theory. Yet Sheena had testified that Goelbalt beat her all the time "that's all he did was beat me. (Tr. 2185) She claimed they were divorced, that she never loved him among a lot of other things. This picture was crafted by the state and aided by the court. Who allowed the prosecution to be the architect of this trial. (which does not comport with standards of justice. Under this method of review, all bona fide doubts are to be resolved in favor of the accused because "what may be harmless error in a case with less at stake becomes reversible error when the penalty is death".

(*Irving v. State*, 361 So.2d 1360, 1363 (Miss. 1978) see also (*Fisher v. State*, 481 So.2d 203, 211 (Miss. 1985)) The Due Process Clause of the Fourteenth Amendment requires a State to disclose to criminal defendant's favorable evidence that is material either to guilt or to punishment.

(*Brady v. Maryland*, 373 U.S. 83, 83, S.Ct. 1194 L.Ed.2d 215 (1963))

The Government inexplicably did not analyze Goodbolt's cell phone. This is akin or similar to a "plane crash". And the "FAA" immediately retrieve and recover the "Black Box". To find out why the crashed happened. But to never complete the process to properly analyze the box. This would be catastrophic and a utter fail to an investigation which calls to inquire into and examine. One would investigate to expose the truth in why something happened. The State of Mississippi Cyber Crime Center has and had the full capacity to analyze extracted data. We know this to be a fact. Because two other phones in this case was processed and analyzed differently. Goodbolt defense received data, pictures, and text messages even internet history. Also videos, deleted items, and call logs along with calendar entries and voice communications. All of this "But none or nothing from his "Galaxy Note 5". A phone that was in his possession at the time of his arrest. The Note 5 being the only phone in service that night and that was even functional at that time. The state was commanded the authority to seize all the above items described. Also to give a receipt for the things taken and to bring the seized before the Court. Not then nor now has the state addressed the preservation of certain evidence. Specifically "The Galaxy Note 5".

Even in the absence of a specific request the prosecution has a constitutional duty to turn over exculpatory evidence that raise a reasonable doubt about the defendant guilt. (United States v. Agurs, 427 U.S. at 112, 96 S.Ct. at 2401) However, the nature of the destroyed evidence, not the degree of the State culpability determines whether defendant's right to due process has been violated. (Agurs, 427, U.S. at 110, 96 S.Ct. at 2400-01) Once the phone was destroyed Goolbalt lost his one and sole statutory defense. His one opportunity to defend himself in this action. It was vital to Goolbalt's defense of "Heat of Passion Manslaughter". The phone was objective evidence of what occurred that night was imperative to Goolbalt's defense. And the State had followed different, and proper procedures in handling other cell phones in this case. The knowledge of one government officer will be imputed to the prosecutor, for purposes of determining whether state failed to disclose discoverable evidence, regardless of the good or bad faith of that particular individual. (Haper v State, 2003, 853 So.2d 1286) Goolbalt's due process right to present a complete defense was irretrievably violated by the destruction of his phone. In order to use his defense, Goolbalt contends that a forensic examination of his phone was essential.

Reasons For Granting Writ

Did Trial Court Err In Admitting Into Evidence A Confession obtained in violation of the Fifth, Sixth and Fourteenth Amendment rights of the United States Constitution as well as rights secured by Article 3, Section 26 of Mississippi Constitution of 1890.

In determining whether confession was freely and voluntarily given, Circuit Court sits as fact finder; trial judge first must determine whether the accused has been adequately warned, and under the totality of circumstances, Court must then determine if accused voluntarily and intelligently waived privilege against self-incrimination U.S.C.A. Const Amend 5. *Layne v. State* 542 So.2d 237, 239 (Miss. 1989) *Pinkney v. State* 538 So.2d 329, 342 (Miss. 1988) *Gavin v. State* 473 So.2d 952, 954 (Miss. 1985) Accord *Edwards v. Arizona* 451, U.S. 477, 486, 101 S.Ct. 1880, 1885 68 L.Ed.2d 378, 387 (1981). State has burden of proving all facts prerequisite to admissibility of defendant's confession beyond reasonable doubt, where defendant claimed he made no confession or admission. *Gavin*, 473 So.2d at 954. Much deference is placed on trial judge's full discharge of his or her responsibility to make findings of fact as to question of whether Miranda rights have been intelligently knowingly and voluntarily waived U.S.C.A. Const Amend 5. (*Gavin supra* at 955) It is undisputed that Goodbolt was subjected to custodial interrogation on three separate occasions.

Theres contradictory testimony concerning all three. LCSO claimed that Goolbolt never requested an attorney yet while explaining his rights to him. That Goolbolt repeatedly interjected (Tr. 289) Several witnesses testified that he talked but none to exactly what he was saying (Tr. 268) Goolbolt maintains it was consantly for an attorney. Goolbolt was physically detained with officers holding him down. One being on his back with his knees holding down Goolbolt's hands. (Tr. 269) His hand that was injured, and needed to be surgically repaired shortly after. Yet the State contends that even tho Goolbolt said, "If You Get This Person Off Me Me I'll Talk To You", And at the direction of (Damian Gattin) (Tr. 215) officer case released his hold. That theres was no evidence of a coercion or threat. This scenario pose a problem.

The officer case creates it when he ~~unasked~~, chose to apply pressure to an injured and already subdued suspect. Goolbolt attempted to relieve himself of the officer by any means. But deny ever waiving his rights. The United States Supreme Court has explained why a defendant's right to counsel is so important, stating: "Embodying a realistic recognition of the obvious truth that the average defendant does not have the professional legal skill to protect himself." (Johnson v. Zerbst, 304 U.S. 458, 462-463, 58 S.Ct. 1019, 1022, 82 L. Ed. 1461 (1938))

The right to counsel safeguards the other rights deemed essential for the fair prosecution of a criminal proceeding (*Maine v. Moulton*, 474 U.S. 159, 1169, 106 S.Ct. 477, 483, 88 L.Ed.2d 481 (1985)). The prosecutor and police have an affirmative obligation not to act in a manner that circumvents and thereby dilutes the protection afforded by the right to counsel." (*Moulton*, 474 U.S. at 171, 106 S.Ct. 477. The Supreme Court explained: The sixth amendment is not violated whenever — by luck or happenstance — the state obtains incriminating statements from the accused after the right to counsel has attached. However, knowing exploitation by the state of an opportunity to confront the accused without counsel being present is as much a breach of the state's obligation not to circumvent the right to the assistance of counsel as is the intentional creation of such an opportunity. *Id.* at 176, 106 S.Ct. 477 (citation omitted).

Reason For Granting The Writ
The Trial Court Erred In Admitting Into
Evidence Contents of an Illegal search and
seizure U.S. Constitution Amendment IV
and Mississippi Constitution Article 3, Section 23

States that people shall be secure in their
persons, houses and possessions from unreasonable
searches and seizures; and no warrants shall issue, but
upon probable cause supported by oath or affirmation
specifically describing the place and person or thing to
be seized. Searches conducted outside the judicial process,
without prior approval by judge or magistrate, are per se
unreasonable under Fourth Amendment, subject only to a
few specifically established and well delineated exceptions.

(Katz v. United States, 389 U.S. 347 (1967)). In connection
with their investigation law enforcement officers collected
evidence from Godbolt's residence from his vehicle, from his
cellular telephones, and from his person, and from multiple
electronic devices collected during the afore mentioned
searches. They also used the information so obtained to
obtain other items and pieces of potential evidence
that would not otherwise have been discovered in
the absence of the subject evidence. All of these
places and his person were searched, and the seized
items seized, in violation of the Fourth Amendment
without a warrant improperly obtained solely on the
basis of information obtained by a warrantless
search and otherwise without probable cause.

It is well established that no amount of probable cause can justify a warrantless search or seizure absent exigent circumstances. (Coolidge v. New Hampshire 403 U.S. 445, 468 (1971); see also (Thompson v. Louisiana, 469 U.S. 17 (1984)). (no "murder scene" exception to the warrantless requirement) (Mincey v. Arizona, 437 U.S. 385 (1978) (evidence recovered in processing homicide scene suppressed because there was no warrant); Michigan v. Tyler, 436 U.S. 499 (1978) (evidence suppressed where there were repeated searches without warrants days after fire in search of evidence of arson). The search here does not fit into one of the jealously and carefully drawn exceptions to the warrant requirement. (United States v. Jeffers 342 U.S. 48, 51 (1953)) The Mississippi Supreme Court holds that a defendant's place of residence is the most sacrosanct of the places protected by the Fourth Amendment from warrantless searches and seizures, and that a warrantless search of a defendant's home is "presumptively unreasonable" under the Fourth Amendment of the United States Constitution. (Elkins v. McKenzie, 865 So.2d 1065, 1083-84 (Miss. 2003) (quoting Payton v. New York, 445 U.S. 573, 576 (1980)). Where a place of residence has been searched without a valid warrant, the state bears a heavy burden to overcome the presumption of unreasonableness and exclusion of the evidence. (Welch v. Wisconsin, 466 U.S. 740, 750 (1984)).

(Stating that the Court hesitates in finding exigent circumstances, especially when warrantless arrests in the home are at issue).

Prior to invading or entering a home, the government has the burden to demonstrate exigent circumstances to "overcome the presumption of unreasonableness that attaches to all warrantless home entries." *Welch*, 466 U.S. at 750 (citing *Payton*, 445 U.S. at 586).

Elkins 865 So.2d at 1083.

Moreover, there are very few such circumstances applicable to home searches at all, and these that are narrow in scope and must exist independently of law enforcement action. see (*Minnesota v. Olson*, 495 U.S. 91 (1990)). The Mississippi Court noted in *Elkins* that "examples of the types of exigent circumstances that may justify warrantless entry include hot pursuit of a suspected felon, the possibility that evidence in the residence may be destroyed or removed, and danger to the lives of officers or others in the residence."

(*Kirkpatrick v. Butler*, 870 F.2d 276, 281 (5th cir. 1989))

The officers, however cannot deliberately create the exigent circumstances in an attempt to circumvent the requirement of the Fourth Amendment (*United States v. Thompson*, 700 F.2d 944, 950 (5th cir. 1983);

(United States v. Scheffer, 463 F.2d 867, 874-5 (5th cir. 1972) Further, the mere presence of weapons or destructible evidence does not alone create exigent circumstances (United States v. Munoz-Guerra, 788 F.2d 295, 298 (5th cir. 1986) (Elkins, 865 So.2d at 1083-84 (quoting United States v. Capote-Capote 946 F.2d 1100, 1102-03 (5th cir. 1991). None of the possible exigent circumstances applicable to the search of the residence apply. Any and all evidence seized from these searches from such places and/or any evidence deriving from these searches seized from such places as it is exactly what is at the core of the Fourth Amendment, and suppression is required to deter police misconduct of a similar nature, and vindicate the rights of the accused here. see (Weeks v. United States, 232 U.S. 383 (1914) (Mapp v. Ohio, 367 U.S. 643 (1961) and others Fourth Amendment jurisprudence providing for the exclusion of evidence. Nor did the search and seizure of the vehicle, and the subsequent searches of that vehicle and or electronic devices recovered from it, either without a warrant or on the basis of a warrant only obtained on the basis of information obtained in violation of the Fourth Amendment meet any of the exigent circumstances for a warrantless search permitted under the United States Constitution by (Coolidge v. New Hampshire, 403 U.S. 443 (1971) and its progeny, see (Fields v. State 382 So.2d 1048, 1101 (Miss. 1980)

(reversing conviction and excluding evidence where "there was ample time to obtain a warrant and no probability that the automobile could be removed beyond the reach of the officers".) see (Towensend v. State, 681 So.2d 497, 501 (Miss. 1996) (finding Fields to remain valid law, but distinguishing it on the facts). see also (Jackson v. State, 689 So.2d 760 (Miss. 1997).

Interest in preventing destruction of evidence did not justify dispensing with warrant requirement for search of car. Anna Saurack testified under oath, that she was dispatched to the scene by a ranking officer. She was called about 3:11 in the morning, that morning. (Tr. 324) She was searching the house with a warrant, when the exigent circumstances arose, and she thought she should go retrieve the evidence out of the vehicle, because the back of it was open and she was afraid it was going to get wet and be damaged. She testified that she did sort of a first pass of all of the exterior of the house, and including all of the vehicles. She took pictures. She then examined everything, and that happened early on. She said she arrived there at 5:40, and she did all of that almost immediately upon her arrival. (Tr. 324)

If she had identified something that she wanted to search, that she wanted to search the vehicles. She had four hours, give or take before it rained, she where she could have gotten a search warrant.

She could have called someone else to get a search warrant. She could have simply closed the window. The fact that it rained four hours after they saw what they thought was evidence is not sufficient to establish an exigency in this case, when they actually was afforded plenty of time to get a search warrant. The search and seizure may have been lawful on the legal basis, The inventory of an impounded vehicle. see (Patterson v. State supra, 413 So.2d 1036, 1038)... "A [warrantless] search made in connection with an inventory where a car is impounded by police is a reasonable one, within the meaning of Section 23 and the Fourth Amendment." (South Dakota v. Opperman, 428 U.S. 364, 96 S.Ct. 3092, 49 L.Ed.2d 1000 (1976). Goodbolt car was impounded but after it was searched. (Tr. 560) Goodbolt contends that the search does not fall under the "automobile exception" to the Fourth Amendment, because the car was not searched incident to a lawful arrest. He further contends that the car could not be searched under the "Plain view exception" to the Fourth Amendment, because no incriminating characteristic was immediately apparent plus the car was inoperable. (Arizona v. Grant, 556 U.S. 332, 129 S.Ct. 1710, 173 L.Ed.2d 485, which permits searches of a car where the arrestee is unsecured and within reaching distance of the passenger compartment, or where it is reasonable to believe that evidence of the crime of arrest might be found in the vehicle, Id,

at 343, 94 S.Ct. 494 pp. 2482-2484. Goelbalt was apprehended 15 to 20 minutes away. (Tr. 172) The State claimed Goelbalt abandoned the car. (Tr. 601) And as a result had no Fourth Amendment protection in regard to the vehicle. When in fact the State knew that Brenda May, a victim had communicated with Shonda May, a witness that she had taken the keys out of the car without the instruction or knowledge of Goelbalt. And a "judicial decision" was made in this case absent that crucial information. Constitutional protection from unreasonable searches and seizures should be liberally construed in favor of citizens and strictly construed against the State. Const Art. 3. section 23.