

IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

Circuit Case No. 2007-0139-CV1
Mississippi Supreme Court Case No. 2007-DR-01363-SCT

MACK ARTHUR KING
Petitioner

v.

STATE OF MISSISSIPPI
Respondent

FILED

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**SUPPLEMENT TO PETITION FOR POST-CONVICTION RELIEF
WITH EXHIBITS**

Submitted by:

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IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

Circuit Case No. 2007-0139-CV1
Mississippi Supreme Court Case No. 2007-DR-01363-SCT

MACK ARTHUR KING
Petitioner

v.

STATE OF MISSISSIPPI
Respondent

SUPPLEMENT TO PETITION FOR POST-CONVICTION RELIEF WITH EXHIBITS

COMES NOW the Petitioner **MACK ARTHUR KING**, by and through the Mississippi Office of Capital Post-Conviction Counsel, Petitioner's attorneys of record pursuant to Miss. Code Ann. § 99-39-27, as well as the Due Process Clause and the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments of the United States Constitution; Article 3, §§ 8, 14, 17, 21, 22, 23, 24, 25, 26, 27, 28, and 31 of the Mississippi Constitution; *Banks v. Dretke*, 124 S.Ct. 1256 (2004); *Wiggins v. Smith*, 539 U.S. 510, 123 S.Ct. 2527 (2003); M.R.A.P. 22, and the additional state and federal authorities cited herein, files this his Supplement to Petition for Post-Conviction Relief. Herein Petitioner incorporates by reference all issues raised in the original Petition for Post-Conviction Relief and in his Supplement to Petition for Post-Conviction Relief. Petitioner requests this Court to order that post-conviction relief be granted on those issues as well as the following issue:

The relevant procedural background and grounds for post-conviction relief are as follows:

REQUIRED INFORMATION AND PROCEDURAL HISTORY

Mr. King was convicted and sentenced to death for the 1980 murder of Lela Patterson. The Mississippi Supreme Court affirmed both his conviction and sentence on or about October 27, 1982. *King v. State*, 421 So.2d 1009 (Miss. 1982). King then filed his petition for writ of certiorari in the United States Supreme Court. Same was denied on or about May 2, 1983. *King v. Mississippi*, 461 U.S. 919, 103 S.Ct. 1903 (1983).

King then filed an Application for Leave to File a Petition for Writ of Error Coram Nobis in the Circuit Court of Lowndes County. The Mississippi Supreme Court remanded for a hearing regarding King's claim of ineffective assistance of counsel. *King v. Thigpen*, 446 So.2d 600 (Miss. 1984). The circuit court denied King relief. The Mississippi Supreme Court affirmed the circuit court's decision on or about February 18, 1987. *King v. State*, 503 So.2d 271 (Miss. 1987).

King then filed a writ of habeas corpus in the United States District Court Northern District of Mississippi. The district court denied relief. King next filed a writ of habeas corpus in the United States Court of Appeals for the Fifth Circuit. The Fifth Circuit vacated the sentence and remanded back to the state for reconsideration of the death sentence in light of *Clemons v. Mississippi*, 494 U.S. 738, 110 S.Ct. 1441(1990). *King v. Puckett*, 1 F.3d 280 (5th Cir. 1993).

The Mississippi Supreme Court vacated the sentence and remanded for a new sentencing hearing. *King v. State*, 656 So.2d 1168 (Miss. 1995). King was again sentenced to death on or about April 9, 1998. He again filed an appeal with the Mississippi Supreme Court. King's sentence was vacated and remanded back to circuit court. *King v. State*, 784 So.2d 884 (Miss. 2001).

On or about March 28, 2003, King was again sentenced to death. He filed his appeal with the Mississippi Supreme Court which affirmed his sentence on or about May 31, 2007. Rehearing was denied on or about August 2, 2007. *King v. State*, 960 So.2d 413(Miss. 2007).

The Mississippi Supreme Court by order dated September 24, 2007, appointed the Mississippi Office of Capital Post-Conviction Counsel, hereinafter MOCPCC, to represent King during his post-conviction endeavors upon a finding of indigence. On or about November 2, 2007, the Circuit Court of Lowndes County determined King to be indigent and appointed MOCPCC to represent King in his post-conviction proceeding.

PRESERVATION OF ISSUES

Miss. Code Ann. § 99-39-21 (6), requires the petitioner to allege in his petition such facts as are necessary to demonstrate that his claims are not procedurally barred under that section. These claims are not barred for the following reasons:

“Post-Conviction proceedings are for the purpose of bringing to the trial court’s attention facts not known at the time of judgment.” *Williams v. State*, 669 So.2d 44, 52 (Miss. 1996) (quoting *Smith v. State*, 477 So.2d 191, 195 (Miss. 1985)); see also Miss. Code Ann. § 99-39-5. Furthermore, post-conviction proceedings afford the Court an opportunity “to review those matters which, in practical reality, could not or should not have been raised at trial or on direct appeal.” Miss. Code Ann. § 99-39-3 (2); see also *Brown v. State*, 798 So.2d 481 (Miss. 2001). Post-conviction proceedings also afford a petitioner an opportunity to ask a reviewing court to reconsider issues raised on direct appeal in light of intervening decisions of the Mississippi Supreme Court and the United States Supreme Court. Miss. Code Ann. § 99-39-27 (9).

Ordinarily, a petitioner would be barred from re-litigating claims that were raised and considered on direct appeal under the principles of *res judicata*. Miss. Code Ann. § 99-39-21 (2). Despite this provision, however, the Supreme Court will reconsider an issue in light of an intervening decision that overrules law existing at the time of the direct appeal. Miss. Code Ann. § 99-39-23 (6) and Miss. Code Ann. § 99-39-27 (9).

With respect to death sentences, the Mississippi Supreme Court's statutory responsibility requires it to go beyond the specific points raised on direct appeal, and determines whether the sentence of death was imposed under influence of "passion, prejudice, or any other arbitrary factor." Miss. Code Ann. § 99-19-105(3)(a). Because the Court must go beyond the specific points raised on direct appeal to fulfill this responsibility, it may not refuse to review a claim simply because of any procedural defect associated with direct appeal.

Likewise, the Mississippi Supreme Court has a venerable tradition, continuing to the present, of relaxing procedural rules in death penalty cases such as this to insure the interests of justice and in an "awareness of the uniqueness and finality of the death penalty." *Williams v. State*, 445 So.2d 798, 810 (Miss. 1984); *see also Randall v. State*, 806 So.2d 185 (Miss. 2001); *Conerly v. State*, 760 So.2d 737, 740 (Miss. 2000) ("This Court has recognized an exception to procedural bars where a fundamental constitutional right is involved."); *Gilliard v. State*, 614 So.2d 370, 375 (Miss. 1992) ("This Court has looked beyond a procedural bar in instances where the error was of constitutional dimensions."); *Smith v. State*, So.2d 191 (Miss. 1995); *Cole v. State*, 666 So.2d 767, 782 (Miss. 1995); *Pinkney v. State*, 602 So.2d 1177 (Miss. 1992); *Clemons v. State*, 593 So.2d 1004, 1005 (Miss. 1992).

The Mississippi Supreme Court has held that procedural bars will not prevent consideration of issues on the merits “when errors at trial affect fundamental rights.” *Gallion v. State*, 469 So.2d 1247, 1249 (Miss. 1985), citing *Brooks v. State*, 46 So.2d 97 (Miss. 1950). Many of the claims raised in this motion implicate “fundamental rights” – particularly the right not to be sentenced to death except in accordance with legal and constitutional principles. *Furman v. Georgia*, 408 U.S. 238 (1972).

The claims in this petition, when considered by themselves and in light of the fact that they arise in the context of a death sentence, are so serious as to constitute “plain error” of the sort which is routinely reviewed by the Mississippi Supreme Court even in the absence of procedural preservation.

The provisions of the Post-Conviction Collateral Relief Act regarding procedural bar are an unconstitutional invasion of the Mississippi Supreme Court’s rule-making powers in that they constitute a legislatively created limitation on this Court’s scope of review of post-conviction petitions.

Alternatively, the issues presented in this petition are not procedurally barred because failure to consider these issues would result in a fundamental miscarriage of justice. See *Smith v. Murray*, 477 U.S. 527, 538 (1986); *Murray v. Carrier*, 477 U.S. 478, 496 (1986); *Sawyer v. Whitley*, 505 U.S. 333 (1992).

Alternatively, the claims presented in this petition are not procedurally barred because it is the first time that the Petitioner has had an opportunity to raise them, and therefore these claims, including but not limited to ineffective assistance of counsel, are viable in post-conviction proceedings. *Wiley v. State*, 750 So.2d 1193, 1198 (Miss. 1999); *Woodward v. State*, 635 So.2d 805, 807-08 (Miss.1993).

STANDARD OF REVIEW

The Mississippi Supreme Court has recognized "that post-conviction efforts, though collateral, have become an appendage, or part, of the death penalty appeal process at the state level." *Jackson v. State*, 732 So.2d 187, 190 (Miss. 1999); *see also Id.* at 191 (finding that in capital cases, state post-conviction efforts, though collateral, have become part of the death penalty appeal process at the state level). The Mississippi Supreme Court's well-established standard for review of capital convictions and sentences is "one of 'heightened scrutiny' under which all bona fide doubts are resolved in favor of the accused." *Flowers v. State*, 773 So.2d 309, 317 (Miss. 2000) (internal citations omitted); *see also Randall v. State*, 806 So.2d 185 (Miss. 2001) ("... the rule in this State is clear: death is different. In capital cases, all bona fide doubts are resolved in favor of the defendant"). The Supreme Court recognizes that "what may be harmless error in a case with less at stake becomes reversible error when the penalty is death." *Flowers v. State*, 773 So.2d at 317.

GROUND FOR REVIEW WITH SUPPORTING FACTS

SUPPLEMENT TO GROUND V

MACK ARTHUR KING IS MENTALLY RETARDED AS DEFINED BY THE COURT IN *CHASE V. STATE*, AND THUS HE IS INELIGIBLE FOR THE DEATH PENALTY.

As stated in Ground II of Mr. King's Petition for Post-Conviction Relief, Mr. King was previously tested by Dr. Whelan and Dr. King with full-scaled scores of 71 and 69 respectively; however a full mental retardation examination was not performed by either psychologist. Mr. King was evaluated on May 30, 2008 at the Mississippi State

Penitentiary by Dr. Marc Zimmerman. *See Affidavit of Marc Zimmerman attached hereto as Exhibit 21.*

Dr. Zimmermann performed the Screening test for the Luria-Nebraska Neuropsychological Battery which indicated Mr. King would be found to “have significant neuropsychological deficits if administered the full Luria-Nebraska Neuropsychological Battery.” *Id.* Mr. King was also given the WAIS-III. He was found to have a verbal score of 71, a performance score of 68 and a full scale of 67 which is below the criteria for mental retardation. Dr. Zimmerman also administered the Benton Visual Retention Test which indicated that Mr. King “performs at a level that predicts he has no perceptual-motor deficits.” *Id.* The Rey 15-Item Test was administered and an attempt to administer the Structured Inventory of Malingered Symptomology was made. *Id.* Mr. King scored on the Rey 15-Item test within the range that “might reflect malingering”. *Id.* He was not able “to read the items on the Structured Inventory of Malingered Symptoms” nor was he “able to understand the items read to him” by Dr. Zimmerman “and the test was discontinued.” *Id.*

In addition to intelligence testing, Dr. Zimmerman reviewed affidavits, court testimony and medical records. *Id.* These materials provide evidence of Mr. King’s sub average general intellectual functioning and limitations in adaptive functioning in at least two areas of adaptive functioning all of which occurred prior to age eighteen.

Mr. King had “trouble learning to tie his shoes”. *See Affidavit of Ethel Conner attached hereto as Exhibit 22.* Mr. King’s clothing often did not match. *Id.* “Mack’s hair was never groomed, nor cut.” *See Affidavit of Lizzie Walker attached hereto as Exhibit 25.* School records indicated that he received a “D” in hygiene. *See School*

Records attached hereto as Exhibit 23. Mr. King wet the bed until he was 12 or 13 years old. *See Affidavit of Robert Bluitt attached hereto as Exhibit 24; See also as Exhibit 22.*

Mr. King did not learn his alphabet until he was seven or eight years old. *See Exhibit 22.* His sister was unsure “how old he was when he could say them in order”. *Id.* Mr. King has been described as “not smart”, “special child”, and slow” not only by his classmates but also by his family members. *See Affidavits of Lizzie Walker, Edward Johnson and Mary Smith attached hereto as Exhibits 25, 26, & 27 respectively.* Mr. King was “much bigger than the other students”. *See Exhibit 26.*

According to school records, Mr. King was 5’3”, 110lbs in the third grade. *See Exhibit 23.* A note by Mrs. Brownridge, his third grade teacher, indicated that he was fourteen years old in 1971¹. *Id.* She did not retain him but advanced him to the next grade. However, Mr. King dropped out after attending only twenty-six days of school. *Id.* Mr. King repeated first, second and third grades. *Id.* Mr. Johnson stated that “all of us thought that he was retarded”. *See Exhibit 26.*

Mr. King had to be given simple instructions. *See Exhibits 24 and 26.* Mr. King was easily misled. *Id. see also Exhibit 22.* Mr. King was consistently described as “quiet” and “distant”. *See Exhibits 24,25,26 and 27.*

While not determinative of Mr. King’s intellectual functioning, it should be noted that he has a sibling with profound mental retardation who is institutionalized at Ellisville State School. *See Exhibit 21.* Profound mental retardation is defined as individuals who have IQs below 20. *Id.* Mental retardation may be familial. *Id.*

¹ Ms. Brownridge’s calculation has Mac Arthur being 14 years old. However, it would appear that his age should have been 12 or 13.

With regard to the possibility of malingering, Dr. Zimmerman considered Mr. King's previous test scores, the absence of any indication of malingering by Dr. King and Dr. Whelan, and Mr. King's absence of any attempt to malingering when administered the WAIS-III. "The consistency of his score on three tests over a 25-year period would argue the validity of these scores." *Id.* It is Dr. Zimmerman's opinion to a "reasonable degree of certainty, that the poor response in the performance on the Rey-15 Item Test and the Structured inventory of Malingered Symptoms is a result of his intellectual deficits and not as a result of malingering." *Id.*


Base on his evaluation and review of materials, Dr. Zimmerman opined "to a reasonable psychological certainty, Mr. King meets the definitions of mental retardation as defined by the DSM-IV-TR and the AAMR and accepted by the federal and state courts in *Atkins* and *Chase*." *Id.*

This Court has held that "we cannot constitutionally deny [a petitioner] the opportunity to present the issue of his possible mental retardation to the trial court. It is at the trial court that all the arguments presented by the State as well as those of the [petitioner] shall be heard and weighed in accord with the standards and procedures set forth in *Chase*." *Carr v. State*, 873 So.2d 991 (Miss. 2004). Thus, *Chase* and the cases that follow it make clear that a defendant is entitled to a hearing on the issue of mental retardation when he submits an affidavit that meets *Chase's* threshold. Mr. King avers that he has submitted documentation to meet this threshold.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, the Court should find that King is entitled to post-conviction relief and that his conviction and sentence of death should be reversed and vacated, or alternatively, remand for a new trial.

RESPECTFULLY SUBMITTED,
MACK ARTHUR KING, *Petitioner*

By: 
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CERTIFICATE OF SERVICE

I, Louwlynn Vanzetta Williams, counsel for Petitioner, Mack Arthur King, hereby certify that I have caused a true and correct copy of the foregoing Petition for Post-Conviction Relief via hand-delivery to:

Honorable Jim Hood
Attorney General
Post Office Box 220
Jackson, Mississippi 39205-0220

This 8th day of August, 2008.

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LIST OF EXHIBITS

EXHIBIT 21:	AFFIDAVIT OF MARC ZIMMERMANN
EXHIBIT 22:	AFFIDAVIT OF ETHEL CONNER
EXHIBIT 23:	SCHOOL RECORDS
EXHIBIT 24:	AFFIDAVIT OF ROBERT BLUITT
EXHIBIT 25:	AFFIDAVIT OF LIZZIE WALKER
EXHIBIT 26:	AFFIDAVIT OF EDWARD JOHNSON
EXHIBIT 27:	AFFIDAVIT OF MARY SMITH

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EXHIBIT 21

AFFIDAVIT OF DR. MARC
ZIMMERMANN

IN THE SUPREME COURT OF MISSISSIPPI

Mack Arthur King

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STATE OF MISSISSIPPI.

RESPONDENT

AFFIDAVIT OF MARC L. ZIMMERMANN, PH.D., M.P.

PERSONALLY APPEARED BEFORE ME, the undersigned authority, the witness named Marc L. Zimmerman who being first duly sworn, deposed and said:

1. My name is Marc L. Zimmermann. I am over the age of eighteen and the information set forth in this Affidavit is based on my personal knowledge and belief.
2. I am a licensed psychologist with a private practice in Baton Rouge, LA. My business address is 4701 Bluebonnet Boulevard, Suite B, Baton Rouge, LA 70809-2650.
3. I received my B.A. in psychology from the North Texas State University in 1967, my M.Ed. in counseling psychology from Our Lady of the Lake University in 1971, my M.S. in psychology from Texas A & M University-Commerce in 1976, my Ph.D. in psychology from Texas A & M University-Commerce in 1977 and my Postdoctoral M.S. in clinical psychopharmacology from the California School of Professional Psychology in 1999. I have been a licensed psychologist in the State of Louisiana since 1979. I hold Board Certifications in Forensic Psychology from the American College of Forensic Psychology and the American Board of Psychological Specialities.

4. In my professional work, I have been extensively involved with forensic psychology, including evaluations of individuals in the criminal justice system. I have frequently been qualified as an expert to testify in the Circuit Courts of the State of Mississippi and the District Courts of Louisiana, and have previously been involved as a witness in capital litigation.
5. I have been retained by the Mississippi Office of Capital Post-Conviction Counsel, attorneys representing MacArthur King to conduct a psychological evaluation to assess mental retardation.
6. I interviewed Mr. King at Unit 32 at Mississippi State Penitentiary at Parchman on May 30, 2008. Conditions were satisfactory for testing and I administered a battery of psychological tests that are typically used and relied upon in assessment of intellectual disorders by psychologists which included:
 7. A. Benton Visual Retention Test. The Benton Visual Retention Test is an instrument designed to measure visual, perceptual, and reproductive skills. It consists of three sets of ten cards with designs on each card. These three forms are considered to be equivalent. The subject is to reproduce the designs on the cards in one or more of the standardized administrations. The performance on this test is usually considered to be indicative of the presence or absence of certain types of neurological dysfunction.
 - B. Screening Test for the Luria-Nebraska Neuropsychological Battery. The Screening Test for the Luria-Nebraska Neuropsychological Battery is a short test of approximately 20 minutes which assesses the probability of an individual demonstrating significant neuropsychological pathology on the Luria-Nebraska

Neuropsychological Battery. It is composed of 15 items. Error scores are counted.

An error score of eight (8) or higher is considered significant.

- C. Wechsler Adult Intelligence Test-III. The Wechsler Adult Intelligence Scale - III is an individually administered intelligence test which measures intellectual ability in the Verbal and Performance areas. The Verbal component consists of six (6) subtests and the Performance section includes five (5) subtests. The combination of Verbal and Performance abilities yields an overall measure of mental aptitude, the Full Scale. Some parts of the test require verbal responses, while others require the physical manipulation of materials.
 - D. Rey 15-Item Test. The Rey 15 item test is a measure designed to help determine the presence of malingering. It involves a stimulus card with 15 different items. The card is exposed for 10 seconds and then the subject is asked to reproduce the card. The extent to which the card is correctly reproduced is a measure of whether the subject is attempting impression management.
 - E. Structured Inventory of Malingered Symptomology. The Structured Inventory of Malingered Symptomatology is a screening measure for the detection of malingering across a variety of clinical and forensic settings. It measures attempts to malingere psychotic symptoms, neuropsychological impairment, amnesic disorders, low intelligence, and affective disorders. It is self administered and requires the respondent to answer 75 items either true or false.
8. In addition to the above tests I reviewed the following materials upon which I rely in reaching these conclusions.

- A. Affidavit of Robert Bluit
 - B. Affidavit of Edward Johnson
 - C. Affidavit of Dr. Robin King
 - D. Affidavit of Caroline Everington, Ph.D.
 - E. Affidavit of Claesa king
 - F. Affidavit of Sammy Conner
 - G. Affidavit of Thomas Gilchrist, M.D.
 - H. School Records of MacArthur King
 - I. Testimony of Sammy Townsend, Superintendent
 - J. Testimony of Michael Whelan, Ph.D.
 - K. Testimony of Ethel Conner
 - L. Testimony of Carshena Conner
 - M. Testimony of Tion Conner
 - N. Testimony of Claessa King
 - O. Testimony of Robin King, Ph.D.
 - P. Testimony of Ben Martin, M.D., Pathologist
 - Q. Tests administered by Robin King, Ph.D.
 - R. Medical Records of MackArthur King Mississippi State Hospital
 - S. Records Delores DiGaetano, M.D., Mississippi Department of Corrections
9. The Benton Visual Retention Test indicated that Mr. King performs at a level that predicts he has no perceptual-motor deficits.

10. His performance on the Screening Test for the Luria-Nebraska Neuropsychological Battery indicates that he will be found to have significant neuropsychological deficits if administered the full Luria-Nebraska Neuropsychological Battery.
11. His performance on the Wechsler Adult Intelligence Test-III is similar to previous evaluations with other Wechsler series intelligence tests. He has a Verbal score of 71, the 3rd percentile; a Performance score of 68, the 2nd percentile, and a Full Scale score of 67, the 1st percentile. All of these scores are indicative of an individual who may be diagnosed with mental retardation.
12. On the Rey-15 item test, his performance is in the range which might reflect malingering.
13. He was unable to read the items on the Structured Inventory of Malingered Symptoms, which is consistent with his reading level as reported in his school records and as measured by Dr. Robin King. He was not able to understand the items read to him by myself and the test was discontinued.
14. The definition of Mental Retardation put forth in the Diagnostic and Statistical Manual-IV-Text Revised (DSM IV TR) (published 2000) requires: 1. An IQ of 70+/- 5. 2. Significant deficits in adaptive functioning. 3. The disability must occur before the age of 18. The American Psychiatric Association publishes a manual which defines mental disorders, the Diagnostic and Statistical manual of Mental Disorders (DSM). The DSM IV (published 1994), the DSM III-R (published 1987), and the DSM III (published 1980) all have the same definition of mental retardation as the DSM IV TR. Impairment of adaptive functioning is broken down into the areas of communication, self care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure,

health, and safety.

15. The American Association of Mental Retardation (AAMR) definition of Mental Retardation is similar and requires: (1) Significantly subaverage intellectual functioning; (2) limitations in two or more of the following adaptive skill areas -communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work; and (3) the disability must manifest before age 18.
16. The above definitions of mental retardation are those cited by the United States Supreme Court in *Atkins v. Virginia* and by the Mississippi Supreme Court in *Chase v. Mississippi*.
17. While the cause of mental retardation probably has multiple etiologies, there is clear evidence that some types of mental retardation are inherited. These would include, but not be limited to Down's Syndrome, Tay-Sach's Disease, and Fragile X Syndrome. However, we often find mental retardation to be familial, that is, it runs in families. This may be from an inherited genetic disorder or from subtle undiagnosed problems caused by prenatal, perinatal, or postnatal etiologies. Review of records indicate that Mr. King has a sibling who is profoundly mentally retarded and institutionalized at Ellisville State School. Individuals with IQs below 20 or considered profoundly mentally retarded.
18. Mr. King has had his intelligence tested three times. He was tested twice in 1983. On April 15, 1983, Dr. Robin King administered the Wechsler Adult Intelligence Test-Revised (WAIS-R) and found Mr. King to have an I.Q. of 71. However, he later found an error in his scoring and found Mr. King's I.Q. to be 69. On June 23, 1983, Mr. King was tested by Dr. Michael Whelan using the Wechsler Adult Intelligence Scale (WAIS). He found Mr. King to have an I.Q. of 71. On May 30, 2008, I administered the Wechsler Adult Intelligence

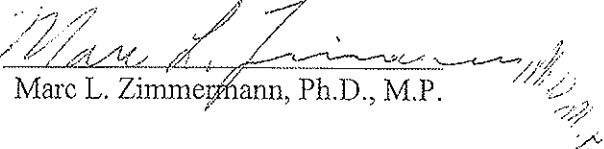
Scale-III (WAIS-III). On this instrument he is measured to have an I.Q. of 67.

19. In addressing the issue of the possibility of malingering, it should be noted that neither Dr. King nor Dr. Whelan indicated that they thought Mr. King was not being honest in his attempts to complete the tasks on the WAIS-R and WAIS respectively. Nor is it my impression that he was attempting to malingering when administered the WAIS-III. The consistency of his score on three tests (a four point difference) over a 25-year period would argue the validity of these scores. If one were to allow for the Flynn Effect there would be a three point difference between the scores with the adjusted scores being 67 for Dr. King's WAIS-R, 63 for Dr. Whelan's WAIS, and 64 for the WAIS-III. It is my opinion to a reasonable degree of certainty, that the poor response in the performance on the Rey-15 Item Test and the Structured inventory of Malingered Symptoms is a result of his intellectual deficits and not as a result of malingering.
20. His school records indicate that he repeated the first, second and third grades. Achievement tests administered in school consistently show him as functioning at the first grade level in vocabulary, reading, and language. In Dr. King's evaluation of Mr. King, he found that Mr. King's academic abilities are essentially the same as when he was evaluated in school.
21. An affidavit by Robert Bluitt, a childhood friend of Mr. King, relates that Mr. King was easily misled (gullible). He also indicates Mr. King could not leave the neighborhood. He was unable to cook other than boiling smoked sausage and bologna. He relates that Mr. King's only jobs "required 'muscle'." Further, Mr. King's father had to make sure that he awoke on time and got to work.
22. An affidavit by Edward Johnson, a former classmate of Mr. King relates that Mr. King was

"not smart." He states that Mr. King could not leave the neighborhood and that he could not read nor follow directions. He indicated that Mr. King worked on a farm and this work was basic in that it did not require him to "use his brain." He had to be given simple instructions. Moreover, he did not handle money.

23. It appears that Mr. King meets all of the criteria to be diagnosed as Mentally Retarded. All measures of I.Q. have placed his intellectual abilities at a score of less than 75. He has deficits in his adaptive functioning/activities of daily living. His academic abilities clearly are deficient as measured by his academic record and testing by Dr. King. Further, his vocational abilities are deficient as attested to by two individuals who have known him since school. He is also unable to access the community as he could not leave his neighborhood. And he was unable to effectively deal with money. Based on the above, to a reasonable psychological certainty, Mr. King meets the definitions of mental retardation as defined by the DSM-IV-TR and the AAMR and accepted by the federal and state courts in *Atkins* and *Chase*.

Further affiant sayeth not.


Marc L. Zimmermann, Ph.D., M.P.

Sworn to and subscribed to before me
this 8th day of August, 2008


NOTARY PUBLIC
My Commission Expires: 11-1-10

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EXHIBIT 22

AFFIDAVIT OF ETHEL CONNER

STATE OF MISSISSIPPI
COUNTY OF LOWNDES

AFFIDAVIT OF ETHEL CONNER

Personally appeared before me, the undersigned authority in and for the county and state aforesaid, Ethel Conner, who after having been duly sworn, stated as follows:

1. My name is Ethel Conner. I am over 21 years of age and have personal knowledge of the facts set forth herein.
2. I am Mack Arthur King's sister.
3. Mack Arthur grew up in and around the Lowndes County area.
4. Both of his parents abused alcohol prior to and after his birth.
5. Mack Arthur did not learn his alphabet until he was 7 or 8 years old. I am not sure how old he was when he could say them in order.
6. Mack Arthur had trouble learning to tie his shoes. Often his clothing did not match.
7. Mack Arthur was pretty much a loner. He did not approach other children on his own initiative.
8. He was easily influenced.
9. If he was upset, he would go and sit by himself. Sometime he would sit in the woods.
10. I remember him still wetting the bed after he reached school age.

Further affiant sayeth not.

Ethel Conner
ETHEL CONNER

SWORN TO AND SUBSCRIBED before me, this the 4th day of June 2008.

Pamela D. Hannah
NOTARY PUBLIC

My Commission Expires:

April 29, 2011



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EXHIBIT 23

SCHOOL RECORDS

NAME: King, Mae (Last) (First) (Middle)		Race: Negro - M		Birth Certificate File No: 345622 or Reg. No.		Verified by: M. Davis	
Address: 14603 Columbus, Miss.		Phone: (Area) (Number)		Place of Birth: Columbus, Miss.		Date of Birth: 6-25-59	
Entrance Record		Transfer - Withdrawal Record		Guardian: Father: Pearl King, Mother: Marie Dean Carter		Migrant or Season Worker: Public Work	
Date	Gr.	Name and Address of School	Date	Gr.	Transferred to: Or Reason for Withdrawal:		
3-5-61	1	Concord St. 4, Columbus, Miss.					
6-7	2						

Year	1965-1966	1966-1967	1967-1968	1968-1969	1969-1970	1970-1971	1971-1972	1972-1973	1973-1974	1974-1975	1975-1976	1976-1977	1977-1978	1978-1979	1979-1980	1980-1981	1981-1982	1982-1983	1983-1984	1984-1985	1985-1986	1986-1987	1987-1988	1988-1989	1989-1990	1990-1991	1991-1992	1992-1993	1993-1994	1994-1995	1995-1996	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027	2027-2028	2028-2029	2029-2030	2030-2031	2031-2032	2032-2033	2033-2034	2034-2035	2035-2036	2036-2037	2037-2038	2038-2039	2039-2040	2040-2041	2041-2042	2042-2043	2043-2044	2044-2045	2045-2046	2046-2047	2047-2048	2048-2049	2049-2050	2050-2051	2051-2052	2052-2053	2053-2054	2054-2055	2055-2056	2056-2057	2057-2058	2058-2059	2059-2060	2060-2061	2061-2062	2062-2063	2063-2064	2064-2065	2065-2066	2066-2067	2067-2068	2068-2069	2069-2070	2070-2071	2071-2072	2072-2073	2073-2074	2074-2075	2075-2076	2076-2077	2077-2078	2078-2079	2079-2080	2080-2081	2081-2082	2082-2083	2083-2084	2084-2085	2085-2086	2086-2087	2087-2088	2088-2089	2089-2090	2090-2091	2091-2092	2092-2093	2093-2094	2094-2095	2095-2096	2096-2097	2097-2098	2098-2099	2099-2100	2100-2101	2101-2102	2102-2103	2103-2104	2104-2105	2105-2106	2106-2107	2107-2108	2108-2109	2109-2110	2110-2111	2111-2112	2112-2113	2113-2114	2114-2115	2115-2116	2116-2117	2117-2118	2118-2119	2119-2120	2120-2121	2121-2122	2122-2123	2123-2124	2124-2125	2125-2126	2126-2127	2127-2128	2128-2129	2129-2130	2130-2131	2131-2132	2132-2133	2133-2134	2134-2135	2135-2136	2136-2137	2137-2138	2138-2139	2139-2140	2140-2141	2141-2142	2142-2143	2143-2144	2144-2145	2145-2146	2146-2147	2147-2148	2148-2149	2149-2150	2150-2151	2151-2152	2152-2153	2153-2154	2154-2155	2155-2156	2156-2157	2157-2158	2158-2159	2159-2160	2160-2161	2161-2162	2162-2163	2163-2164	2164-2165	2165-2166	2166-2167	2167-2168	2168-2169	2169-2170	2170-2171	2171-2172	2172-2173	2173-2174	2174-2175	2175-2176	2176-2177	2177-2178	2178-2179	2179-2180	2180-2181	2181-2182	2182-2183	2183-2184	2184-2185	2185-2186	2186-2187	2187-2188	2188-2189	2189-2190	2190-2191	2191-2192	2192-2193	2193-2194	2194-2195	2195-2196	2196-2197	2197-2198	2198-2199	2199-2200	2200-2201	2201-2202	2202-2203	2203-2204	2204-2205	2205-2206	2206-2207	2207-2208	2208-2209	2209-2210	2210-2211	2211-2212	2212-2213	2213-2214	2214-2215	2215-2216	2216-2217	2217-2218	2218-2219	2219-2220	2220-2221	2221-2222	2222-2223	2223-2224	2224-2225	2225-2226	2226-2227	2227-2228	2228-2229	2229-2230	2230-2231	2231-2232	2232-2233	2233-2234	2234-2235	2235-2236	2236-2237	2237-2238	2238-2239	2239-2240	2240-2241	2241-2242	2242-2243	2243-2244	2244-2245	2245-2246	2246-2247	2247-2248	2248-2249	2249-2250	2250-2251	2251-2252	2252-2253	2253-2254	2254-2255	2255-2256	2256-2257	2257-2258	2258-2259	2259-2260	2260-2261	2261-2262	2262-2263	2263-2264	2264-2265	2265-2266	2266-2267	2267-2268	2268-2269	2269-2270	2270-2271	2271-2272	2272-2273	2273-2274	2274-2275	2275-2276	2276-2277	2277-2278	2278-2279	2279-2280	2280-2281	2281-2282	2282-2283	2283-2284	2284-2285	2285-2286	2286-2287	2287-2288	2288-2289	2289-2290	2290-2291	2291-2292	2292-2293	2293-2294	2294-2295	2295-2296	2296-2297	2297-2298	2298-2299	2299-2300	2300-2301	2301-2302	2302-2303	2303-2304	2304-2305	2305-2306	2306-2307	2307-2308	2308-2309	2309-2310	2310-2311	2311-2312	2312-2313	2313-2314	2314-2315	2315-2316	2316-2317	2317-2318	2318-2319	2319-2320	2320-2321	2321-2322	2322-2323	2323-2324	2324-2325	2325-2326	2326-2327	2327-2328	2328-2329	2329-2330	2330-2331	2331-2332	2332-2333	2333-2334	2334-2335	2335-2336	2336-2337	2337-2338	2338-2339	2339-2340	2340-2341	2341-2342	2342-2343	2343-2344	2344-2345	2345-2346	2346-2347	2347-2348	2348-2349	2349-2350	2350-2351	2351-2352	2352-2353	2353-2354	2354-2355	2355-2356	2356-2357	2357-2358	2358-2359	2359-2360	2360-2361	2361-2362	2362-2363	2363-2364	2364-2365	2365-2366	2366-2367	2367-2368	2368-2369	2369-2370	2370-2371	2371-2372	2372-2373	2373-2374	2374-2375	2375-2376	2376-2377	2377-2378	2378-2379	2379-2380	2380-2381	2381-2382	2382-2383	2383-2384	2384-2385	2385-2386	2386-2387	2387-2388	2388-2389	2389-2390	2390-2391	2391-2392	2392-2393	2393-2394	2394-2395	2395-2396	2396-2397	2397-2398	2398-2399	2399-2400	2400-2401	2401-2402	2402-2403	2403-2404	2404-2405	2405-2406	2406-2407	2407-2408	2408-2409	2409-2410	2410-2411	2411-2412	2412-2413	2413-2414	2414-2415	2415-2416	2416-2417	2417-2418	2418-2419	2419-2420	2420-2421	2421-2422	2422-2423	2423-2424	2424-2425	2425-2426	2426-2427	2427-2428	2428-2429	2429-2430	2430-2431	2431-2432	2432-2433	2433-2434	2434-2435	2435-2436	2436-2437	2437-2438	2438-2439	2439-2440	2440-2441	2441-2442	2442-2443	2443-2444	2444-2445	2445-2446	2446-2447	2447-2448	2448-2449	2449-2450	2450-2451	2451-2452	2452-2453	2453-2454	2454-2455	2455-2456	2456-2457	2457-2458	2458-2459	2459-2460	2460-2461	2461-2462	2462-2463	2463-2464	2464-2465	2465-2466	2466-2467	2467-2468	2468-2469	2469-2470	2470-2471	2471-2472	2472-2473	2473-2474	2474-2475	2475-2476	2476-2477	2477-2478	2478-2479	2479-2480	2480-2481	2481-2482	2482-2483	2483-2484	2484-2485	2485-2486	2486-2487	2487-2488	2488-2489	2489-2490	2490-2491	2491-2492	2492-2493	2493-2494	2494-2495	2495-2496	2496-2497	2497-2498	2498-2499	2499-2500	2500-2501	2501-2502	2502-2503	2503-2504	2504-2505	2505-2506	2506-2507	2507-2508	2508-2509	2509-2510	2510-2511	2511-2512	2512-2513	2513-2514	2514-2515	2515-2516	2516-2517	2517-2518	2518-2519	2519-2520	2520-2521	2521-2522	2522-2523	2523-2524	2524-2525	2525-2526	2526-2527	2527-2528	2528-2529	2529-2530	2530-2531	2531-2532	2532-2533	2533-2534	2534-2535	2535-2536	2536-2537	2537-2538	2538-2539	2539-2540	2540-2541	2541-2542	2542-2543	2543-2544	2544-2545	2545-2546	2546-2547	2547-2548	2548-2549	2549-2550	2550-2551	2551-2552	2552-2553	2553-2554	2554-2555	2555-2556	2556-2557	2557-2558	2558-2559	2559-2560	2560-2561	2561-2562	2562-2563	2563-2564	2564-2565	2565-2566	2566-2567	2567-2568	2568-2569	2569-2570	2570-2571	2571-2572	2572-2573	2573-2574	2574-2575	2575-2576	2576-2577	2577-2578	2578-2579	2579-2580	2580-2581	2581-2582	2582-2583	2583-2584	2584-2585	2585-2586	2586-2587	2587-2588	2588-2589	2589-2590	2590-2591	2591-2592	2592-2593	2593-2594	2594-2595	2595-2596	2596-2597	2597-2598	2598-2599	2599-2600	2600-2601	2601-2602	2602-2603	2603-2604	2604-2605	2605-2606	2606-2607	2607-2608	2608-2609	2609-2610	2610-2611	2611-2612	2612-2613	2613-2614	2614-2615	2615-2616	2616-2617	2617-2618	2618-2619	2619-2620	2620-2621	2621-2622	2622-2623	2623-2624	2624-2625	2625-2626	2626-2627	2627-2628	2628-2629	2629-2630	2630-2631	2631-2632	2632-2633	2633-2634	2634-2635	2635-2636	2636-2637	2637-2638	2638-2639	2639-2640	2640-2641	2641-2642	2642-2643	2643-2644	2644-2645	2645-2646	2646-2647	2647-2648	2648-2649	2649-2650	2650-2651	2651-2652	2652-2653	2653-2654	2654-2655	2655-2656	2656-2657	2657-2658	2658-2659	2659-2660	2660-2661	2661-2662	2662-2663	2663-2664	2664-2665	2665-2666	2666-2667	2667-2668	2668-2669	2669-2670	2670-2671	2671-2672	2672-2673	2673-2674	2674-2675	2675-2676	2676-2677	2677-2678	2678-2679	2679-2680	2680-2681	2681-2682	2682-2683	2683-2684	2684-2685	2685-2686	2686-2687	2687-2688	2688-2689	2689-2690	2690-2691	2691-2692	2692-2693	2693-2694	2694-2695	2695-2696	2696-2697	2697-2698	2698-2699	2699-2700	2700-2701	2701-2702	2702-2703	2703-2704	2704-2705	2705-2706	2706-2707	2707-2708	2708-2709	2709-2710	2710-2711	2711-2712	2712-2713	2713-2714	2714-2715	2715-2716	2716-2717	2717-2718	2718-2719	2719-2720	2720-2721	2721-2722	2722-2723	2723-2724	2724-2725	2725-2726	2726-2727	2727-2728	2728-2729	2729-2730	2730-2731	2731-2732	2732-2733	2733-2734	2734-2735	2735-2736	2736-2737	2737-2738	2738-2739	2739-2740	2740-2741	2741-2742	2742-2743	2743-2744	2744-2745	2745-2746	2746-2747	2747-2748	2748-2749	2749-2750	2750-2751	2751-2752	2752-2753
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Name: Mind Maack Wattm
(Last) (First) (Middle)

HEALTH RECORD

Date of Birth: 6 25 57
(Mo.) (Day) (Year)

PHYSICAL CONDITION (By Teacher)												PHYSICAL OR EMOTIONAL SYMPTOMS		DISEASE EXPERIENCE			
Grade	1	2	3	4	5	6	7	8	9	10	11	12	Date	Condition needing attention	Referral or action taken	Disease	Year
Height	44 3/4	46	57 1/2													Tuberculosis	
Weight	61	64	71 1/2													Measles	
Hearing			8													Mumps	
Vision			8													Whooping C.	
Dental Certif.																Rheumatic F.	

[illegible]

CODE: S = Satisfactory; NA = Needs Attention

STANDARDIZED TESTS - GRADES 1 - 12

ACHIEVEMENT TESTS (Use Stanines or Percentiles)

List Subject Areas, etc.										
Date	Age	Gr.	Title of Test	Voc	Comp	Read	Fund	Sp	Eng	Math
4-67	1		Calculus	1.3	0	1.2	9.0	1.2	9.0	1.1
12-67	2		1.1	1.2	0	1.0	1.7	1.9	0	0
4-68	3		1.1	0	0	0				
0-68	3		1.1	1.2	1.3	1.3	1.1	1.2	1.9	1.2
10-70	3		Stanford	1.4	1.0	1.3	1.6	3.4	1.3	2.5

Accepts Responsibility

Initiative

Leadership

Personal Grooming

Works Well With Others

Other

Check (X) this narrative section

SCHOLASTIC APTITUDE TESTS (Indicate Whether Percentiles or Quotients Used)

[illegible]

OTHER TESTS (Occupational Interests, Aptitude, etc.)

[illegible]

Vocational Plans	Gr.	Educational Plans
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[illegible]

MISSISSIPPI CUMULATIVE PERMANENT SCHOOL RECORD — GRADES 1 - 12
Prepared and provided by the State Board of Education in accordance with Chapter 24, General Laws of Mississippi, Extraordinary Session of the Legislature, 1953, as amended by Chapter 226, Regular Session, 1954.

h. Certificate File No.: _____ or Reg. No.: 26562 Verified By: _____ (Initials)

Birth: Columbus (City) Leander (County) Miss (State) Date of Birth: 6 (Mo.) 25 (Day) 59 (Yr) Race: N Sex: M Pupil's Name: King (Last) Mahe (First) Autman (Middle)

Address: 404 Rogers St Phone: _____ Address: _____ Phone: _____ Address: _____ Phone: _____
Columbus, Miss

ENTRANCE RECORD

Date	Gr.	Name & Address of School	Date	Gr.	TRANSFER - WITHDRAWAL RECORD
9-3-65	1	Concord Pk-Hy Columbus, Miss			

ELEMENTARY SCHOOL PROGRESS

Year	1965	1966	1967	1968	1969	1970	1971	1972	1973	19	19	19	19
Grade	1st	1st	2nd	2nd	3rd	3rd	4th	4th	4th				
Subjects	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.	Yr. Av.
Arith.	D	F	F	F	C	F	F	F	F				
Algebra	D	D	F	D	D	F	F	F	F				
English	D	D	D	D	D	F	F	F	F				
Spelling	D	D	D	D	D	F	F	F	F				
Writing	D	D	D	D	D	F	F	F	F				
Science	D	D	D	D	D	F	F	F	F				
Social	D	D	D	D	D	F	F	F	F				
Read.	F	D	F	D	D-	F	F	F	F				

SECONDARY SCHOOL PROGRESS

Gr.	19	19	19	19	19	19	19	19	19	19	19	19	19
Passing Marks													
Length of Session													
Subjects	Sem. 1	2	3	4	5	6	7	8	9	10	11	12	
Gr.	19	19	19	19	19	19	19	19	19	19	19	19	19

SUMMARY OF HI-SCH. UNITS

Subjects	Gr.	Days	Gr.	Days
English	1	36		
Mathematics	1	36		
Science	2	16		
Soc. Studies	2	25		
Vocational	3	66		
Total	3	138		

GRADUATION FACTS

Graduated:	(Mo.)	(Day)	(Year)
Ranked of In Class			
Rank in			
Quartiles			

ATTENDANCE RECORD

Gr.	Days	Gr.	Days
1	36		
2	16		
3	25		
4	66		
5	138		

ACTIVITIES

(Major activities for which school credit is not given)

WORK EXPERIENCES

Activity	7	8	9	10	11	12	Activity	7	8	9	10	11	12

ACHIEVEMENT TESTS (Use Percentiles or Grade Placement)

Date	Age	Gr.	Title of Test	100m	200m	400m	800m	1600m	3200m	6400m	12800m	25600m	51200m	102400m	204800m	409600m	819200m	1638400m	3276800m	6553600m	13107200m	26214400m	52428800m	104857600m	209715200m	419430400m	838860800m	1677721600m	3355443200m	6710886400m	13421772800m	26843545600m	53687091200m	107374182400m	214748364800m	429496729600m	858993459200m	1717986918400m	3435973836800m	6871947673600m	13743895347200m	27487790694400m	54975581388800m	109951162777600m	219902325555200m	439804651110400m	879609302220800m	1759218604441600m	3518437208883200m	7036874417766400m	14073748835532800m	28147497671065600m	56294995342131200m	112589990684262400m	225179981368524800m	450359962737049600m	900719925474099200m	1801439850948198400m	3602879701896396800m	7205759403792793600m	14411518807585587200m	28823037615171174400m	57646075230342348800m	115292150460684697600m	230584300921369395200m	461168601842738790400m	922337203685477580800m	1844674407370955161600m	3689348814741910323200m	7378697629483820646400m	14757395258967641292800m	29514790517935282585600m	59029581035870565171200m	118059162071741130342400m	236118324143482260684800m	472236648286964521369600m	944473296573929042739200m	1888946593147858085478400m	3777893186295716170956800m	7555786372591432341913600m	15111572745182864683827200m	30223145490365729367654400m	60446290980731458735308800m	120892581961462917470617600m	241785163922925834941235200m	483570327845851669882470400m	967140655691703339764940800m	1934281311383406679529881600m	3868562622766813359059763200m	7737125245533626718119526400m	15474250491067253436239052800m	30948500982134506872478105600m	61897001964269013744956211200m	123794003928538027489912422400m	247588007857076054979824844800m	495176015714152109959649689600m	990352031428304219919299379200m	1980704062856608439838598758400m	3961408125713216879677197516800m	7922816251426433759354395033600m	15845632502852867518708790067200m	31691265005705735037417580134400m	63382530011411470074835160268800m	126765060022822940149670320537600m	253530120045645880299340641075200m	507060240091291760598681282150400m	1014120480182583521197362564300800m	2028240960365167042394725128601600m	4056481920730334084789450257203200m	8112963841460668169578900514406400m	16225927682921336339157801028812800m	32451855365842672678315602057625600m	64903710731685345356631204115251200m	129807421463370690713262408230502400m	259614842926741381426524816461004800m	519229685853482762853049632922009600m	1038459371706965525706099265844019200m	2076918743413931051412198531688038400m	4153837486827862102824397063376076800m	8307674973655724205648794126752153600m	16615349947311448411297588253504307200m	33230699894622896822595176507008614400m	66461399789245793645190353014017228800m	132922799578491587290380706028034457600m	265845599156983174580761412056068915200m	531691198313966349161522824112137830400m	1063382396627932698323045648224275660800m	2126764793255865396646091296448551321600m	4253529586511730793292182592897102643200m	8507059173023461586584365185794205286400m	17014118346046923173168730371588410572800m	34028236692093846346337460743176821145600m	68056473384187692692674921486353642291200m	136112946768375385385349842972707284582400m	272225893536750770770699685945414569164800m	544451787073501541541399371890829138329600m	1088903574147003083082798743781658276659200m	2177807148294006166165597487563316553318400m	4355614296588012332331194975126633106636800m	8711228593176024664662389950253266213273600m	17422457186352049329324779900506532426547200m	34844914372704098658649559801013064853
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MENTAL ABILITIES or INTELLIGENCE TESTS (Indicate Whether Percentiles or Quotients Used)

[illegible]

OTHER TESTS (Occupational Interests, Aptitude, Etc.)

[illegible]

Grade	19	19	20	20	21

ACHIEVEMENT TESTS (Use Percentiles or Grade Placements)

STANDARDIZED TESTS — GRADES 1-12

DA00000430

RECORD OF PHYSICAL CONDITION (By Teacher)	
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CODE: 0=Satisfactory (Normal); 2=Moderately Unsatisfactory (Defect); 3X=Defect Needing Correction; 00=Defect Corrected.

IMMUNIZATIONS

[illegible]

3	3	Counselor, or Principal
3	3	3

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

Circuit Case No. 2007-0139-CV1

Mississippi Supreme Court Case No. 2007-DR-01363-SCT

MACK ARTHUR KING

Petitioner

v.

STATE OF MISSISSIPPI

Respondent

EXHIBIT 24

AFFIDAVIT OF ROBERT BLUITT

**STATE OF MISSISSIPPI
COUNTY OF LOWNDES**

AFFIDAVIT OF ROBERT BLUITT

Personally appeared before me, the undersigned authority in and for the county and state aforesaid, Robert Bluit, who after having been duly sworn, stated as follows:

1. My name is Robert Bluit. I am over 21 years of age and have personal knowledge of the facts set forth herein.
2. On July 16, 2008, I met with Louwlynn Vanzetta Williams who is an attorney for the Mississippi Office of Capital Post-Conviction Counsel and Pamela Hannah who is an investigator in the same office. The Mississippi Office of Capital Post-Conviction Counsel is providing representation for Mack Arthur King in his post-conviction appeal.
3. Mack Arthur and I grew up in and around the Columbus, Mississippi area. We lived way out in the country. There was no indoor plumbing.
4. I am a childhood friend of Mack Arthur. We have known each other since we were toddlers. His other friends were Roosevelt Rice, Ray Charles Jones, Charles Butler, and Bernard Jefferies.
5. All of them were in special education. Mack's sister Teresa was also in special education.
6. Mack was very trusting of the people he knew. He was easily misled. Mack was very humble.
7. A group of them got in trouble for scratching up a teacher's car. Mack was not involved but because he was friends with the group he was included too.
8. The children would pick on him but he never responded. Didn't react. Never changed his expression. Kept his emotions to himself.
9. I never saw him upset or angry.
10. Mack was distant with regard to other children his age. He was quite. If you didn't ask him anything, you would not know he was in the room.
11. On occasion, Mack stayed the night at my home. Mack use to wet the bed until he

was about 12 or 13.

12. He couldn't leave the neighborhood. He knew the neighborhood well though.
13. Mack could not cook but could boil smoked sausage and bologna.
14. His mother and sisters took care of the household chores. Never knew him to wash clothes. Only had 2 pair of pants and a pair of jeans.
15. We worked for the Hansens as field laborers. Picked up pecans for Mr. Tom Hargrove. Hauled hay for Mr. Albert Go. Mack only had jobs that required "muscle". Mack Arthur's daddy made sure that he got up and made it to work on time.
16. After his uncle Willie Porter moved to Columbus, Mack Arthur spent a lot of time with him.
17. I would have been available to testify on Mack's behalf if I had been asked.

Further affiant sayeth not.


ROBERT BLUITT

SWORN TO AND SUBSCRIBED before me, this the 17 day of July 2008.


NOTARY PUBLIC

My Commission Expires:

April 29, 2011



IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

Circuit Case No. 2007-0139-CV1

Mississippi Supreme Court Case No. 2007-DR-01363-SCT

MACK ARTHUR KING

Petitioner

v.

STATE OF MISSISSIPPI

Respondent

EXHIBIT 25

AFFIDAVIT OF LIZZIE WALKER

**AFFIDAVIT
OF
LIZZIE WALKER**

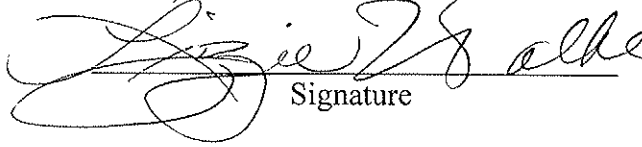
**STATE OF MISSISSIPPI
COUNTY OF LOWNDES**

Comes now, the undersigned, in and of the aforesaid jurisdiction, who makes this affidavit and states: Lizzie Walker, affiant, being over the age of twenty-one (21) and an adult citizen of the United States, and after being first duly sworn, states an oath the following:

1. I am Lizzie Walker and I reside at 368 Harrisbend Road, Columbus, MS. I have been a resident of Columbus, MS all my life. During the years of 1968-1974, I served as director of the New Bethel Temple Head Start Center. Mack did not attend New Bethel Temple, but his sibling, Claressa did. When Claressa came to school it became obvious to me that the family was lacking basic necessities that should have been provided by her family.
2. Personal hygiene items and clothing were provided to the family on numerous occasions. Several occasions when I visited The King's, Mack's hair was never groomed, nor cut. He had outgrown his clothing and he did not have shoes on his feet.
3. Mack appeared to be a special child to me. He was always quiet and he did not speak much at all. When Mack got older he would come to my house and play with my sons. I would make sure he would eat right along with my children, because I knew his family did not have much. Again, he was very quiet, yet mannerable.
4. He was deprived as a child. His childhood was taken from him at an early age witnessing his mother and father's violence toward each other and the alcoholism. Also babysitting his disabled brother, Mack was a child himself in need of supervision.
5. In my heart, I really believe that he is the victim.


Initial

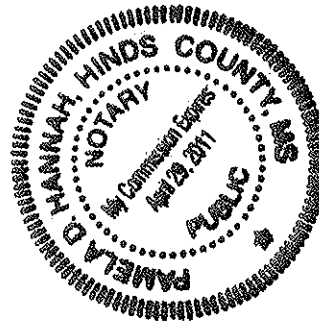
Further, affiant declares the above to be true and correct


Signature

Subscribe to and sworn before me

on this 12 day MAR 2008.


NOTARY PUBLIC





IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

Circuit Case No. 2007-0139-CV1

Mississippi Supreme Court Case No. 2007-DR-01363-SCT

MACK ARTHUR KING

Petitioner

v.

STATE OF MISSISSIPPI

Respondent

EXHIBIT 26

AFFIDAVIT OF EDWARD JOHNSON

**STATE OF MISSISSIPPI
COUNTY OF LOWNDES**

AFFIDAVIT OF EDWARD JOHNSON

Personally appeared before me, the undersigned authority in and for the county and state aforesaid, Edward Johnson, who after having been duly sworn, stated as follows:

1. My name is Edward Johnson. I am over 21 years of age and have personal knowledge of the facts set forth herein.
2. On June 19, 2008, I met with Louwlynn Vanzetta Williams who is an attorney for the Mississippi Office of Capital Post-Conviction Counsel and Pamela Hannah who is an investigator in the same office. The Mississippi Office of Capital Post-Conviction Counsel is providing representation for Mack Arthur King in his post-conviction appeal.
3. I grew up in and around the Columbus, Mississippi area. We lived way out in the country on Nashville Ferry Road.
4. Mack Arthur was my classmate. He was older than I but because he had failed so many times we had some classes together at Concord and at New Hope.
5. Mack Arthur was much bigger than the other students in our grade level. He was not smart. He was very quite. All of us thought that he was retarded.
6. I never saw him upset or angry nor did I ever see him involved in a fight.
7. Mack Arthur knew his way around the area because there was only about two or three roads that covered the area. They were Hughes Road, Nashville Ferry Road and Hwy 69. He couldn't leave the neighborhood. Mack could not read directions or follow them.
8. Ms. Frances Robinson owned a store and Ms. Bostick ran a local store. Ms. Bostick would allow Mack to charge items on a ticket. Sign it and later, when he got paid or received a check, he would take it to her. She would add up what was owed, subtract it from the check and then give the rest back, if any.
9. Mr. Hansen also lived in the area. He had a big farm. Mr. Hansen raised peas, watermelons, corn, and cotton. Mac Arthur worked for him. Nothing that he did for Mr. Hansen required him to use his brains. Mac Arthur did "muscle work" and field labor. I think that he may have driven the tractor to plow the fields. If he did, simple

instructions were given such as get on the tractor and drive. Don't stop until the whole field is plowed.

10. Mac Arthur had to be given very simple instructions. For example, pick the watermelons, stack them here and some one will pick them up with a truck. Don't stop until all the watermelons are picked.
11. Mac Arthur lived in a house that was nothing more than a shack on Mr. Hansen's land. Mr. Hansen took the money from Mac Arthur's check to pay all the bills, rent and lights. Mac Arthur did not handle money. He never had any.
12. I would have been available to testify on Mack's behalf if I had been asked.

Further affiant sayeth not.

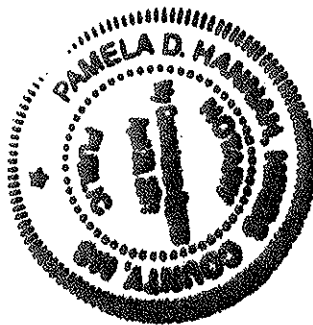

EDWARD JOHNSON

SWORN TO AND SUBSCRIBED before me, this the 17 day of July 2008.


NOTARY PUBLIC

My Commission Expires:

April 29, 2011



IN THE SUPREME COURT OF THE STATE OF MISSISSIPPI

Circuit Case No. 2007-0139-CV1

Mississippi Supreme Court Case No. 2007-DR-01363-SCT

MACK ARTHUR KING

Petitioner

v.

STATE OF MISSISSIPPI

Respondent

EXHIBIT 27

AFFIDAVIT OF MARY SMITH

**AFFIDAVIT
OF
MARY SMITH**

**STATE OF MISSISSIPPI
COUNTY OF LOWNDES**

Comes now, the undersigned, in and of the aforesaid jurisdiction, which makes this affidavit and states: Mary Smith, affiant, being over the age of twenty-one (21) and an adult citizen of the United States, and after being first duly sworn, states an oath the following:

1. I am Mary Smith, and I am 72 (seventy-two) years of age. I have been a resident of Columbus, Ms. for approximately 60 years. Before retirement, I was a teacher at the New Bethel Temple Head-Start Center from 1967-1974.
2. Mack Arthur King is the son of my oldest brother, Teavell King. They lived within a block of my mother's house; therefore, I would see him quite often. I would stop by frequently to check on Mack and his siblings. I was aware that the children were not in a good environment. My brother, Teavell, and my sister in-law Minnie Pearl drank a lot. Minnie Pearl drank far more than Teavell.
3. I would stop by on most weekends, finding Minnie Pearl gone, leaving the children unattended. She would leave out on Friday night returning on Sunday evening. This was habitual. The children were left to care of themselves. In an effort to pay the bills, my brother would be out working. Despite his efforts, Mack was deprived of the essential things as a child. I truly believe that Mack was affected by the violence and the alcoholism within their home.

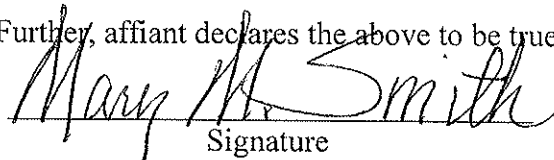
He had a father in the home, but he did not spend the quality time that Mack needed while growing up.

MMS

Initial

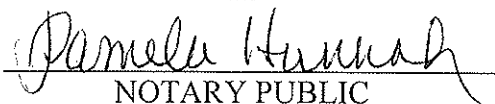
4. On numerous occasions, Uncle Arthur Gregory from Yaki, MA, would send money to me and I would shop and buy the children clothes and toys for Christmas. This continued until Uncle Arthur passed away.
5. Remembering back, Mack was very quiet child. He appeared slow and distant. He did not attend school regularly. Also he would stay at home with his disabled brother, Jake. Even though Minnie Pearl was at home, she was always intoxicated.
6. Mack was subjected to violence between his father and mother. One day my husband and I had to carry Teavell to the hospital after Minnie Pearl stabbed him in the back of his right leg.
7. I did not see very much of Mack during his teenage years. Finally, on the day of the murder, around 12:00 noon, I saw Mack at the Fred's in Columbus, MS. He was very calm and polite that day. He was with a female, but I cannot remember her name. Even though the conversation between Mack and I was brief, I was completely shocked by the news.
8. I do not believe that Mack took the life of Mrs. Patterson. I believe that Mack is incarcerated for a crime he did not commit. I feel that he was taken advantage of because of his mental status.

Further, affiant declares the above to be true and correct



Signature

Subscribe to and sworn before me

on this 2 day Mar 2008.


NOTARY PUBLIC

2 of 2 pages



Initial

