

MISSISSIPPI COURT OF APPEALS

Omar Khayyam Humphrey a/k/a Omar Humphrey a/k/a Omar K. Humphrey v. State of Mississippi

No. 2024-CP-01444-COA (Miss. Ct. App. Apr. 7, 2026) · No. No. 2024-CP-01444-COA · Decided April 7, 2026

SUMMARY

The Mississippi Court of Appeals held that Humphrey’s motion under Mississippi Rule of Civil Procedure 60(b)(6) was effectively a motion for post-conviction relief. Because Humphrey had not obtained permission from the Mississippi Supreme Court before filing the motion in the trial court, the circuit court lacked jurisdiction to consider it. The appellate court vacated the circuit court’s judgment and rendered judgment dismissing the motion for lack of jurisdiction.

CASE DETAILS

COURT	Mississippi Court of Appeals
WRITING FOR THE COURT	Wilson, P.J.; Barnes, C.J.; Carlton, P.J.; Westbrook, J.; McDonald, J.; Lawrence, J.; McCarty, J.; Emfinger, J.; Weddle, J.; Lassitter St. Pé, J.
JURISDICTION	Mississippi Court of Appeals
DECIDED	April 7, 2026
DOCKET	No. 2024-CP-01444-COA
DISPOSITION	vacated
PROCEDURAL POSTURE	Appeal from the Tate County Circuit Court's denial of a motion labeled as a Mississippi Rule of Civil Procedure 60(b)(6) motion seeking a new post-conviction-relief hearing.
STANDARD OF REVIEW	The opinion does not expressly state a standard of review.
PRECEDENTIAL VALUE	published
PARTIES	Omar Khayyam Humphrey a/k/a Omar Humphrey a/k/a Omar K. Humphrey v. State of Mississippi

TOPICS

- state post-conviction relief
- successive petitions
- subject matter jurisdiction
- civil procedure
- appellate procedure

PRACTICE AREAS

post-conviction relief

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether Humphrey's Rule 60(b)(6) motion was substantively a post-conviction-relief motion subject to the Uniform Post-Conviction Collateral Relief Act.
2. Whether the Tate County Circuit Court had jurisdiction to consider the motion when Humphrey had not obtained permission from the Mississippi Supreme Court to file a PCR motion after his conviction and sentence had been affirmed on direct appeal.

HOLDINGS

1. A motion labeled as a Mississippi Rule of Civil Procedure 60(b)(6) motion must be treated as a PCR motion when it simply reargues the merits of a prior PCR motion.
2. When a prisoner's conviction and sentence have been affirmed on direct appeal, the prisoner must obtain permission from the Mississippi Supreme Court before filing a PCR motion in the trial court; that requirement is jurisdictional.

KEY QUOTATIONS

"This procedure is not merely advisory, but jurisdictional." (§15)

"Because Humphrey failed to obtain permission from the Supreme Court, the trial court should have dismissed his motion for lack of jurisdiction rather than addressing its merits." (§15)

FACTUAL BACKGROUND

In 1998, following a jury trial in Tate County, Humphrey was convicted of capital murder and sentenced to life imprisonment without eligibility for parole. His conviction and sentence were affirmed on direct appeal, and he pursued multiple post-conviction applications, including one authorized application based on an alleged witness recantation. In 2024, he filed a Rule 60(b)(6) motion seeking a new PCR hearing that the appellate court determined merely reargued the merits of his prior PCR motion.

PROCEDURAL HISTORY

Humphrey was convicted of capital murder and sentenced to life imprisonment without parole in 1998, and the Mississippi Supreme Court affirmed. After prior unsuccessful and authorized post-conviction proceedings, Humphrey filed a Rule 60(b)(6) motion in the circuit court seeking a new PCR hearing. The circuit court denied the motion as an attempt to reargue the prior PCR motion and as untimely and successive. The Court of Appeals held that the motion was substantively a PCR motion, that Humphrey had not obtained the required Mississippi Supreme Court permission to file it in the trial court, and that the circuit court therefore lacked jurisdiction. The judgment was vacated and judgment rendered dismissing the motion.

DISPOSITION

vacated

REMAND INSTRUCTIONS

None. The court rendered judgment dismissing Humphrey's motion for lack of jurisdiction.

CASES CITED

- Humphrey v. State, 759 So. 2d 368 (Miss. 2000)
- Humphrey v. State, No. 2003-M-00844 (Miss. Aug. 28, 2003)
- Humphrey v. State, No. 2003-M-00844 (Miss. Sept. 20, 2004)
- Humphrey v. State, No. 2005-M-00123 (Miss. Feb. 18, 2005)
- Humphrey v. State, No. 2009-M-01991 (Miss. Apr. 7, 2010)
- Humphrey v. State, 159 So. 3d 560 (Miss. Ct. App. 2014)
- Humphrey v. State, 150 So. 3d 708 (Miss. 2014)
- Humphrey v. State, No. 2015-M-00622 (Miss. July 29, 2015)
- Humphrey v. State, No. 2015-M-00622 (Miss. May 30, 2017)
- Humphrey v. Banks, No. 16-60228, 2017 WL 3725603 (5th Cir. Mar. 30, 2017)
- Humphrey v. State, No. 2025-M-00583 (Miss. Sept. 2, 2025)
- Ronk v. State, 391 So. 3d 785, 792 (¶13) (Miss. 2024)
- Dunaway v. State, 111 So. 3d 117, 118 (¶6) (Miss. Ct. App. 2013)
- Campbell v. State, 75 So. 3d 1160, 1162 (¶7) (Miss. Ct. App. 2011)
- Allen v. State, 288 So. 3d 358, 360-61 (¶¶8-13) (Miss. Ct. App. 2019)
- Chandler v. State, 190 So. 3d 509, 510-11 (¶¶6-10) (Miss. Ct. App. 2016)
- Miss. Transp. Comm'n v. McLemore, 863 So. 2d 31, 39 (¶¶22-23) (Miss. 2003)

OPINION

Omar Khayyam Humphrey a/k/a Omar Humphrey a/k/a Omar K. Humphrey v. State of Mississippi

PER CURIAM.

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2024-CP-01444-COA

OMAR KHAYYAM HUMPHREY A/K/A OMAR APPELLANT

HUMPHREY A/K/A OMAR K. HUMPHREY

v.

STATE OF MISSISSIPPI APPELLEE

DATE OF JUDGMENT: 10/29/2024

TRIAL JUDGE: HON. JAMES McCLURE III

COURT FROM WHICH APPEALED: TATE COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT: OMAR KHAYYAM HUMPHREY (PRO SE)

ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL

BY: SCOTT STUART

NATURE OF THE CASE: CIVIL - POST-CONVICTION RELIEF

DISPOSITION: VACATED AND RENDERED - 04/07/2026

MOTION FOR REHEARING FILED: BEFORE WILSON, P.J., McDONALD AND McCARTY, JJ. WILSON, P.J., FOR THE COURT: ¶1. In 1998, following a jury trial in the Tate County Circuit Court, Omar Humphrey was convicted of capital murder and sentenced to life imprisonment without eligibility for parole. The Mississippi Supreme Court affirmed Humphrey's conviction and sentence on appeal. *Humphrey v. State*, 759 So. 2d 368 (Miss. 2000).¹ ¶2. Humphrey has repeatedly applied to the Mississippi Supreme Court for permission to file motions for post-conviction relief (PCR) in the trial court. The Supreme Court denied Humphrey's first three applications. *Humphrey v. State*, No. 2003-M-00844 (Miss. Aug. 28, 1 Superseded on other grounds by MRE 702 (amended 2003), as recognized in *Miss. Transp. Comm'n v. McLemore*, 863 So. 2d 31, 39 (¶¶22-23) (Miss. 2003). 2003); *Humphrey v. State*, No. 2003-M-00844 (Miss. Sept. 20, 2004); *Humphrey v. State*, No. 2005-M-00123 (Miss. Feb. 18, 2005). In 2010, the Supreme Court granted Humphrey leave to file a PCR motion based on his claim that a witness had recanted his trial testimony. *Humphrey v. State*, No. 2009-M-01991 (Miss. Apr. 7, 2010). Following an evidentiary hearing, the trial court denied Humphrey's PCR motion, finding that the witness's recantation was not credible and that Humphrey was not entitled to relief. On appeal, this Court affirmed the trial court's ruling, and the Mississippi Supreme Court denied certiorari review. *Humphrey v. State*, 159 So. 3d 560 (Miss. Ct. App. 2014), cert. denied, 150 So. 3d 708 (Miss. 2014). The Supreme Court subsequently denied two additional applications Humphrey filed for leave to proceed in the trial court. *Humphrey v. State*, No. 2015-M- 00622 (Miss. July 29, 2015); *Humphrey v. State*, No. 2015-M-00622 (Miss. May 30, 2017); see also *Humphrey v. Banks*, No. 16-60228, 2017 WL 3725603 (5th Cir. Mar. 30, 2017) (denying Humphrey's request for a certificate of appealability from the denial of a successive petition for a writ of habeas corpus). ¶3. In 2024, Humphrey filed a motion in the trial court requesting a new PCR hearing pursuant to Mississippi Rule of Civil Procedure 60(b)(6). The trial court denied the motion, finding that it "simply attempts to reargue the merits of [Humphrey's prior] PCR motion." The trial court also found that the motion was untimely and "successive." Humphrey filed a notice of appeal. ¶4. After Humphrey filed his notice of appeal, he filed yet another application in the Mississippi Supreme Court for permission to file a PCR motion in the trial court. The claims 2 in that application are substantially similar to those in the motion at issue in this appeal. The Supreme Court denied Humphrey's application as successive, untimely, and without merit. *Humphrey v. State*, No. 2025-M-00583 (Miss. Sept. 2, 2025). The Court further found that Humphrey's claims were "frivolous" and "warned that future filings deemed frivolous could result in monetary sanctions or in restrictions on his ability to file applications for post- conviction collateral relief (or

pleadings in that nature) in forma pauperis.” Id. ¶5. In this appeal, we agree with the State that Humphrey’s “Rule 60(b)(6) Motion” must be treated as a PCR motion because it simply reargues the merits of his prior PCR motion. See *Ronk v. State*, 391 So. 3d 785, 792 (¶13) (Miss. 2024) (holding that although the prisoner purported to proceed under Rule 60(b)(6), his motion was a PCR motion subject to the requirements of the Uniform Post-Conviction Collateral Relief Act (UPCCRA)). Under the UPCCRA, a PCR motion “shall be filed as an original civil action in the trial court, except in cases in which the petitioner’s conviction and sentence have been appealed to the Supreme Court of Mississippi and there affirmed or the appeal dismissed.” Miss. Code Ann. § 99-39- 7 (Rev. 2020) (emphasis added). If a prisoner’s conviction and sentence have been affirmed on direct appeal, he must obtain permission from the Mississippi Supreme Court before filing a PCR motion in the trial court. Id. “This procedure is not merely advisory, but jurisdictional.” *Dunaway v. State*, 111 So. 3d 117, 118 (¶6) (Miss. Ct. App. 2013) (quoting *Campbell v. State*, 75 So. 3d 1160, 1162 (¶7) (Miss. Ct. App. 2011)). Because Humphrey failed to obtain permission from the Supreme Court, the trial court should have dismissed his motion for lack of jurisdiction rather than addressing its merits. *Allen v. State*, 288 So. 3d 3 358, 360-61 (¶¶8-13) (Miss. Ct. App. 2019); *Chandler v. State*, 190 So. 3d 509, 510-11 (¶¶6- 10) (Miss. Ct. App. 2016). Therefore, we vacate the judgment of the circuit court and render judgment dismissing Humphrey’s motion for lack of jurisdiction. ¶6. VACATED AND RENDERED.

BARNES, C.J., CARLTON, P.J., WESTBROOKS, McDONALD, LAWRENCE,
McCARTY, EMFINGER, WEDDLE AND LASSITTER ST. PÉ, JJ., CONCUR. 4