

IN THE COURT OF APPEALS

8/12/97

OF THE

STATE OF MISSISSIPPI

NO. 96-KA-00240 COA

WILLIE M. BROWN A/K/A WILLIE MARZETT BROWN APPELLANT

v.

STATE OF MISSISSIPPI APPELLEE

PER CURIAM AFFIRMANCE MEMORANDUM OPINION

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND

MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. ROBERT W. BAILEY

COURT FROM WHICH APPEALED: LAUDERDALE COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT: GARY B. JONES

ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL

BY: CHARLES W. MARIS, JR.

DISTRICT ATTORNEY: DAN ANGERO

NATURE OF THE CASE: CRIMINAL FELONY

TRIAL COURT DISPOSITION: DELIVERY OF COCAINE; 60 YRS WITH THE MDOC WITHOUT SUSPENSION, REDUCTION, PROBATION OR PAROLE.

MANDATE ISSUED: 9/2/97

BEFORE BRIDGES, C.J., HINKEBEIN, AND KING, JJ.

PER CURIAM.

Willie M. Brown was convicted of delivery of cocaine and sentenced, as an habitual offender, to serve a term of sixty years in the custody of the Mississippi Department of Corrections. On appeal, Brown argues that the trial court erred in failing to grant a directed verdict, a judgment notwithstanding the verdict or a new trial. Finding no error, we affirm Brown's conviction and sentence.

On August 26, 1994, officers of the Meridian/Lauderdale County Narcotics Task Force carried out an undercover drug operation in which a confidential informant, Joe Griffin, and a police officer, Lewis Wilson, set out to buy crack cocaine. Wilson was equipped with a body wire and given \$40 to buy crack cocaine. Wilson and Griffin were followed by other agents providing audio surveillance.

Wilson and Griffin went to the Davis Court area of Meridian, known for unlawful drug activity. Once there, they engaged in a conversation with a black male whom Griffin identified by the street name of "Butcher." Wilson purchased three rocks of crack cocaine from "Butcher" for \$40. Wilson identified the man he purchased the drugs from as Willie Brown. Wilson testified that he had met Brown before and that he was "100 % positive that [Brown] was the one [he] bought cocaine from."

Brown testified that he did not sell drugs to anyone but was unable to state where he was on the night in question.

Motions for directed verdict and JNOV challenge the legal sufficiency of the evidence. *McClain v. State*, 625 So. 2d 774, 778 (Miss. 1993). The credible evidence consistent with the verdict must be accepted as true, and the prosecution must be given the benefit of all favorable inferences that may be reasonably drawn from the evidence. *Id.* Review of the trial court's overruling of the motion for new trial challenges the weight of the evidence and implicates the trial court's sound discretion. *Id.* at 781. "New trial decisions rest in the sound discretion of the trial court, and the motion should not be granted except to prevent an unconscionable injustice." *Id.*

Although Wilson testified unequivocally and repeatedly of his 100% certitude that Brown was the

person who sold him crack cocaine, Brown claims that this testimony is not sufficient to support the guilty verdict. As the supreme court has repeatedly held, the testimony of a single credible witness is sufficient to sustain a conviction. *Holmes v. State*, 660 So. 2d 1225, 1227 (Miss. 1995); *Doby v. State*, 532 So. 2d 584, 591 (Miss. 1988); *Williams v. State*, 512 So. 2d 666, 670 (Miss. 1987); *Ragland v. State*, 403 So. 2d 146, 147 (Miss. 1981).

We find no error in the trial court's rulings and affirm the judgment and sentence.

THE JUDGMENT OF THE CIRCUIT COURT OF LAUDERDALE COUNTY OF CONVICTION OF DELIVERY OF COCAINE AND SENTENCE OF SIXTY YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS WITHOUT SUSPENSION, REDUCTION, PROBATION OR PAROLE IS AFFIRMED. THE COSTS OF APPEAL ARE ASSESSED TO LAUDERDALE COUNTY.

BRIDGES, C.J., McMILLIN AND THOMAS, P.JJ., COLEMAN, DIAZ, HERRING, HINKEBEIN, KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.