

IN THE COURT OF APPEALS 10/15/96

OF THE

STATE OF MISSISSIPPI

NO. 92-KA-00685 COA

CONSOLIDATED WITH

NO. 95-KA-00216 COA

CONSOLIDATED WITH

NO. 95-KA-00291 COA

WALTER MORGAN

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. JOE N. PIGOTT

COURT FROM WHICH APPEALED: PIKE COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

JOHN PRICE

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: SCOTT STUART

DISTRICT ATTORNEY: DUNN LAMPTON

NATURE OF THE CASE: CRIMINAL - MANSLAUGHTER

TRIAL COURT DISPOSITION: CONVICTED AND SENTENCED TO SERVE A TERM OF EIGHTEEN (18) YEARS IN THE CUSTODY OF THE MDOC

BEFORE BRIDGES, P.J., BARBER, AND MCMILLIN, JJ.

PER CURIAM:

Walter Morgan was indicted and convicted of manslaughter. He was sentenced to serve a term of eighteen years in prison. On appeal, Morgan challenges the verdict as being without sufficient evidence to support it and against the overwhelming weight of the evidence.

The evidence presented by the State showed that on November 17, 1991 Walter Morgan shot and killed Clifton J. Pittman. It was undisputed that Morgan fired two shots at Pittman with both striking the victim. Morgan's appeal is based on his claim that he was acting in what he believed to be self defense. The State's evidence showed that Pittman was unarmed at the time of the shooting and that he attempted to run away after Morgan shot him the first time. There was also witness testimony that prior to the shooting, Morgan stated that he was going to kill Pittman.

When we review the denial of a motion for directed verdict, we give the State the benefit of all favorable inferences and then examine the evidence to be sure it supports the verdict beyond a reasonable doubt. *Pierre v. State*, 607 So. 2d 43, 54 (Miss. 1992). We will not reverse unless we conclude that no reasonable hypothetical juror could have found the defendant guilty. *Ross v. State*, 601 So. 2d 872, 874 (Miss. 1992). In reviewing the evidence in this case, we find it to be sufficient to support a verdict of guilty beyond a reasonable doubt. Therefore, we find no error in the denial of the motion for directed verdict.

When deciding whether the verdict is against the overwhelming weight of the evidence, we must accept as true all the evidence supporting the State's position, as well as all reasonable inferences flowing therefrom, in the light most favorable to the State. *Britt v. State*, 520 So. 2d 1377, 1379 (Miss. 1988). Considering this standard, and after reviewing the record, we find that the jury had ample evidence to support a verdict of guilty. Therefore, based upon the weight of the evidence

supporting the verdict, we find that the trial court did not abuse its discretion in denying the Defendant's motion for a new trial. Accordingly, we affirm Morgan's conviction.

THE JUDGMENT OF THE PIKE COUNTY CIRCUIT COURT OF CONVICTION OF MANSLAUGHTER AND SENTENCE OF EIGHTEEN (18) YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS IS AFFIRMED. COSTS ARE ASSESSED AGAINST PIKE COUNTY.

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