

IN THE COURT OF APPEALS 12/17/96

OF THE

STATE OF MISSISSIPPI

NO. 95-KA-00660 COA

JULIO MONTEAGUDO

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. MARCUS D. GORDON

COURT FROM WHICH APPEALED: SCOTT COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

HEZ L. HOLLINGSWORTH

ATTORNEYS FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: SCOTT STUART

DISTRICT ATTORNEY: TURNER, KEN,

NATURE OF THE CASE: CRIMINAL

TRIAL COURT DISPOSITION: POSSESSION OF MORE THAN ONE OUNCE OF
MARIJUANA: SENTENCED TO SERVE A TERM OF (3) YRS IN MDOC AND PAY A FINE
OF \$3,000

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

PER CURIAM:

A jury in the Scott County Circuit Court convicted Julio Monteagudo of possession of marijuana. The only issue that Monteagudo raises on appeal is whether the trial court committed reversible error when it overruled Monteagudo's motion to suppress his confession. Monteagudo, a native of Cuba, argues that he did not have a sufficient command of the English language to knowingly and voluntarily waive his *Miranda* rights.

The supreme court has held that "[o]nce the trial judge determines that a confession is admissible, his finding becomes a finding of fact which will not be reversed on appeal unless it is manifestly in error or contrary to the overwhelming evidence." *Johnson v. State*, 512 So. 2d 1246, 1252 (Miss. 1987) (citation omitted).

The trial judge, in his findings of fact, determined that Monteagudo understood the *Miranda* warnings and made a knowing and voluntary confession. At the suppression hearing, Monteagudo testified that he had lived in the United States for fifteen years. Furthermore, when the judge asked Monteagudo questions in English, Monteagudo responded in English. Jimmy Nichols, an officer for the Forrest Police Department who gave Monteagudo his *Miranda* warnings and took his confession, testified that he read Monteagudo his *Miranda* rights and that Monteagudo indicated that he understood them. Nichols further testified that he interrogated Monteagudo in English, and Monteagudo answered in English. There was testimony that Monteagudo had, on occasions since his arrest, acted as an interpreter for other Spanish-speaking suspects. The trial court concluded that the State had carried its burden to establish that the statement was knowingly and voluntarily given under the principles of the *Miranda* decision.

Based on our review of the record, we cannot say this conclusion was manifestly in error. For that reason, the conviction and sentence must be affirmed.

THE JUDGMENT OF CONVICTION OF THE SCOTT COUNTY CIRCUIT COURT FOR POSSESSION OF MORE THAN ONE OUNCE OF MARIJUANA AND SENTENCE TO THREE YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AND FINE OF \$3,000 IS AFFIRMED. COSTS OF THIS APPEAL ARE ASSESSED TO SCOTT COUNTY.

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