

**IN THE COURT OF APPEALS 12/17/96**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 95-KA-00532 COA**

**T.L. LOWERY**

**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. JOHN M. MONTGOMERY

COURT FROM WHICH APPEALED: OKTIBBEHA COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

MARK G. WILLIAMSON

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: CHARLES W. MARIS, JR.

DISTRICT ATTORNEY: ALLGOOD, FORREST,

NATURE OF THE CASE: FELONY POSSESSION OF FIREARM

TRIAL COURT DISPOSITION: POSSESSION OF A FIREARM BY A PREVIOUSLY  
CONVICTED FELON HABITUAL OFFENDER: SENTENCED TO SERVE 3 YRS IN MDOC,  
SENTENCE SHALL NOT BE REDUCED NOR SUSPENDED NOR ELIGIBLE FOR PAROLE

OR PROBATION

BEFORE FRAISER, C.J., DIAZ, AND KING, JJ.

PER CURIAM:

Lowery was convicted of violating section 97-37-5 of the Mississippi Code, which proscribes the possession of a firearm by a previously convicted felon. Lowery does not dispute that on December 29, 1993, he carried a rifle owned by his wife into a pawn shop and pawned it, but Lowery argues that the evidence does not support the jury's verdict because the facts of the instant case are not what the statute envisioned as constituting possession. Lowery fails to cite any authority for this contention. Lowery's failure to cite any authority supporting this assignment of error does not require this Court to consider the claim on appeal. *Hewlett v. State*, 607 So. 2d 1097, 1107 (Miss. 1992) (citations omitted).

Nevertheless, we find Lowery's argument to be lacking in merit. Even though the statute fails to define what conduct constitutes possession, this Court recognizes that possession is not a question susceptible to a specific rule. *Campbell v. State*, 566 So. 2d 475, 477 (Miss. 1990) (citing *Curry v. State*, 249 So. 2d 414, 416 (Miss. 1971)). Case law suggests that possession may be established by showing (1) that the defendant was aware of the presence and character of the contraband and (2) that the defendant exercised dominion and control over the contraband. *Pate v. State*, 557 So. 2d 1183, 1184 (Miss. 1990) (citations omitted). Although *Pate* concerned the prosecution of a defendant for possessing a controlled substance, we find the analogy appropriate.

Proof that Lowery was aware of the character of the rifle and exercised dominion and control over the rifle is readily gleaned from the fact that he carried the rifle into the pawn shop to be pawned. Because the evidence sufficiently supports the jury's verdict, we affirm the judgment.

**THE JUDGMENT OF CONVICTION OF POSSESSION OF A FIREARM BY A PREVIOUSLY CONVICTED FELON IN THE CIRCUIT COURT OF OKTIBBEHA COUNTY AND SENTENCE AS A HABITUAL OFFENDER TO SERVE 3 YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS IS AFFIRMED. COSTS OF THIS APPEAL ARE TAXED TO OKTIBBEHA COUNTY.**

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