

**IN THE COURT OF APPEALS 3/26/96**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 94-KA-01119 COA**

**L.W. ANDERSON**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND  
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. EUGENE M. BOGEN

COURT FROM WHICH APPEALED: WASHINGTON COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

MARTIN A. KILPATRICK

ATTORNEY FOR APPELLEE:

ATTORNEY GENERAL MIKE MOORE

BY: SCOTT STUART

DISTRICT ATTORNEY: FRANK CARLTON

NATURE OF THE CASE: MURDER

TRIAL COURT DISPOSITION: CONVICTED OF MURDER AND SENTENCED TO LIFE  
IMPRISONMENT IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF  
CORRECTIONS AND ORDERED TO PAY ALL COURT COSTS.

BEFORE THOMAS, P.J., DIAZ, AND KING, JJ.

THOMAS, P.J., FOR THE COURT:

Anderson was convicted of the murder of his grandmother, Idella Anderson, after confessing to the crime to the police. Aggrieved by his conviction, Anderson appeals to this Court alleging that the trial court erred in failing to suppress his confession, which he alleges to have been obtained through coercion in violation of both the Mississippi and the United States Constitutions.

Finding no error, we affirm.

## FACTS

In the early morning of November 2, 1993, Idella Anderson gave her grandson, L.W. Anderson, forty dollars (\$40) to buy groceries. When L.W. did not return with the groceries, Idella called Fredrick Anderson, L.W.'s brother, five or six times to inquire if he had seen L.W.; Fredrick responded that he had not.

Howard Smith, a part time drug dealer, testified that at ten o'clock that morning he sold L.W. approximately twenty (\$20) to thirty (\$30) dollars of cocaine. After buying the cocaine, L.W. left. That afternoon L.W. again approached Smith to purchase cocaine. Not having any money, L.W. could only obtain fifteen dollars (\$15) of cocaine as a "gift" from Smith. At approximately three o'clock that same day, L.W. again approached Smith, this time purchasing approximately one hundred twenty dollars (\$120) of cocaine. Smith testified that after completing the transaction he dropped L.W. off at the Executive Inn hotel.

Two neighborhood children went to Idella Anderson's home at approximately three o'clock on November 2, 1993. After receiving no answer after knocking, the two entered the house and found Idella Anderson laying on the floor covered in blood, with her open purse lying at her side. Law enforcement was immediately summoned.

Officer Jay Boykin went to Idella Anderson's home to investigate the murder. At the scene he found a hammer which was sent to the crime lab; the lab found blood on the hammer but insufficient amounts to obtain an analysis. After talking to witnesses Boykin obtained an arrest warrant for L.W. Anderson. Bertha Lattimore, Idella's daughter, told police "didn't nobody do it but my nephew, L.W. Anderson."

Boykin received an anonymous tip that L.W. Anderson was at a hotel. After searching three hotels, Boykin found L.W. in a room at the Executive Inn. L.W. was placed under arrest, and after a brief search of the room, officers found a pair of blue jeans and a pair of Reebok tennis shoes, both with blood on them.

Because of the possibility that L.W. was "high" on cocaine, officers did not interrogate him until the next day. On November 3, 1993, L.W. was read his *Miranda* warnings, which he said he understood, and questioned about the murder. L.W. originally denied any involvement in his grandmother's murder; however, after further interrogation admitted to killing his grandmother so that he could get money to buy cocaine.

The next day officers received a call stating that "someone had found a knife in a junk pile in the area where L.W. had run from." The officers retrieved the knife which appeared to have blood on it. That same day officers, after reading L.W. his *Miranda* warnings, interrogated L.W. for a second time, asking him whether he used a knife in the killing. L.W. denied using the knife; however, he again admitted to striking his grandmother in the head with a hammer.

At trial, Dr. Stephen Timothy Hayne, a forensic pathologist, testified that Idella Anderson was stabbed seven times and struck twice with a dense object consistent with a hammer. He found that one of the stab wounds and the blunt trauma wounds were both lethal and deadly injuries.

## DISCUSSION

Anderson argues that the trial court should have excluded his first taped confession because it was obtained through coercion. He does not argue to this Court, nor did he argue to the lower court, that the second confession should have also been excluded, so that issue is deemed waived.

Anderson argues that statements made by the police to Anderson in the first confession "exemplify the blatant psychological duress under which Anderson was placed." In particular, Anderson argues that the following statements made by the police amounted to coercion: "I know you didn't mean to killer her"; "I can't help you, I can't do anything unless you tell me the whole story to see that you get help or something"; "L.W., you halfway home now. Go on and tell us"; "I'm going to tell you why it happened, because it was crack cocaine"; "you've got to get it off your chest"; "you and Jesus Christ got to open up."

At the suppression hearing the trial court found that Anderson was read his rights, that he responded that he understood his rights, that he voluntarily waived his rights, and that the confession was not the product of coercion. The trial court stated:

While it is true that taken in isolation, some of the statements made by Major Provis and Mr. Boykin are pretty close to the line of being impermissible questions or impermissible -- I guess I should say they are close to the line as for being impermissibly coercive. When you listen to the tape as a whole and consider the transcript as a whole, it's clear that the defendant was not coerced. A defendant does not have a constitutional right not to be overmatched by a skilled interrogator. A defendant does not have a constitutional right not to be outsmarted by a police officer, and he does not have a constitutional right not to be influenced psychologically by a skilled interrogator so long as the attempts to influence him psychologically are not so egregious that it crosses the line of being some improper inducement or coercion.

In order for a confession to be admitted into evidence the State must prove beyond a reasonable doubt that the confession was voluntary. *McCarty v. State*, 554 So. 2d 909, 911 (Miss. 1989). In meeting its prima facie case the State can put forth evidence from a police officer that the confession was voluntarily given without any threats or offers of inducement. *Cox v. State*, 586 So. 2d 761, 763

(Miss. 1991).

In determining whether the State has met its burden of proving that the confession was voluntary, the trial court sits as a fact finder. *McCarty*, 554 So. 2d at 911. The trial court must look at the totality of the circumstances in determining whether the confession is the product of the accused's free and rational mind. *Porter v. State*, 616 So. 2d 899, 907-08 (Miss. 1993).

Once the trial judge has determined the confession to be voluntary, this court will only reverse if convinced that such a finding is manifestly wrong and/or against the overwhelming weight of the evidence, except that our scope of review is less constrained where detailed and specific findings by the trial court are lacking on the critical issue(s).

*Abram v. State*, 606 So. 2d 1015, 1031 (Miss. 1992) (Citations omitted).

We are not convinced that the trial court's findings are manifestly wrong. While we agree with the trial court that the statements made by the police officers are border line impermissible, the interrogation taken as a whole shows that there was no coercion used in obtaining the confession.

Even if this Court were to find that the trial court was in error in failing to suppress Anderson's original statement, such error would be deemed harmless because of Anderson's failure to object to the validity of the second confession, which, standing alone, was sufficient to convict.

**THE JUDGMENT OF THE WASHINGTON COUNTY CIRCUIT COURT OF CONVICTION OF MURDER AND SENTENCE TO LIFE IMPRISONMENT IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS IS AFFIRMED. COSTS OF APPEAL ARE TAXED TO WASHINGTON COUNTY.**

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