

IN THE COURT OF APPEALS 11/14/95

OF THE

STATE OF MISSISSIPPI

NO. 94-KA-00915 COA

MALCOLM D. BISHOP

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: NESHOPA COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

HARRY J. ROSENTHAL

ATTORNEY FOR APPELLEE:

ATTORNEY GENERAL MIKE MOORE, BY

DEIDRE MCCRORY

NATURE OF THE CASE: CRIMINAL

TRIAL COURT DISPOSITION: CONVICTION OF POSSESSION OF METHAMPHETAMINE,
AND SENTENCE TO THREE YEARS IN THE CUSTODY OF THE MISSISSIPPI
DEPARTMENT OF CORRECTIONS.

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

PER CURIAM:

Malcolm D. Bishop was convicted of possession of a controlled substance, to-wit: methamphetamine. Malcolm appeals to this court alleging that the evidence was insufficient to support his verdict, and, alternatively, that the evidence was against the overwhelming weight of the evidence. Finding no error, we affirm.

A search warrant was served on the home alleged to be owned by Bishop and his wife. At the time of the search no one was home, and the law enforcement officers had to wait for Bishop to appear with a key to open the front door. Found in the master bedroom in the top drawer of a dresser were several clear plastic bags containing a white powdery substance determined to be methamphetamine after lab testing. Clothing of men and women were found in the bedroom along with pictures on the dresser of Bishop and his family.

Bishop's wife and father-in-law testified on Bishop's behalf claiming that numerous individuals stayed at the house from time to time and used the master bedroom. Bishop's wife and father-in-law denied knowledge of the drugs, but Bishop's wife admitted joint ownership of the house with Bishop.

The case was submitted to the jury on the theory of constructive possession with a circumstantial evidence instruction. The fact that others may have had access to Bishop and his wife's house and that others (Bishop's father-in-law and mother-in-law) lived there were simply factors to be considered by the jury. Knowledgeable possession is a jury issue, and possession may be singular or joint. *Arnett v. State*, 532 So. 2d 1003, 1011 (Miss. 1988); *Powell v. State*, 355 So. 2d 1378, 1380 (Miss. 1978); *Wolf v. State*, 260 So. 2d 425, 432 (Miss. 1972).

THE CONVICTION OF THE NESHOPA COUNTY CIRCUIT COURT OF POSSESSION OF METHAMPHETAMINE AND SENTENCE TO THREE YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS IS AFFIRMED. COSTS ARE TAXED TO THE APPELLANT.

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

