

IN THE COURT OF APPEALS 12/29/95

OF THE

STATE OF MISSISSIPPI

NO. 94-KA-00875 COA

AUBREY HICKS A/K/A "DOC HICKS"

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. ELZY J. SMITH JR.

COURT FROM WHICH APPEALED: COAHOMA COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

RICHARD B. LEWIS

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL BY: JEFFREY A. KLINGFUSS

DISTRICT ATTORNEY: CLYDE V. HILL, ASST. D.A.

NATURE OF THE CASE: CRIMINAL/ COUNT I-MURDER, COUNT II-ARMED ROBBERY,
COUNT III-ARMED ROBBERY

TRIAL COURT DISPOSITION: GUILTY ON ALL COUNTS - SENTENCED TO LIFE
IMPRISONMENT AS TO CT I, SENTENCED TO 5 YEARS IN THE MDOC ON COUNTS II &
III. SENTENCES TO RUN CONSECUTIVELY.

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

PER CURIAM:

Aubrey Hicks was indicted and convicted of murder and two counts of armed robbery in the Coahoma County Circuit Court. He received a sentence of life imprisonment for the murder conviction as well as two terms of five years on the armed robbery counts. All sentences are to run consecutively. On appeal, Hicks contends that the verdict of the jury was against the weight of the evidence. Hicks asks this Court to vacate the judgment below so that his case may be retried.

The proof presented by the State of Mississippi alleged that on May 22, 1994, Hicks and five to seven individuals entered the home of Linda Holmes in Clarksdale, Mississippi and murdered Ms. Holmes' boyfriend, Maurice Hill. Witnesses then testified that Hicks robbed Ms. Holmes of fifty dollars and then robbed her brother, Jimmy Holmes, taking his watch. The testimony presented by the State alleged that Hicks was the individual who shot Maurice Hill and who robbed Linda and Jimmy Holmes while other unknown individuals, all with masks or bandannas, held them at gunpoint. Hicks presented an alibi defense claiming that at the time these crimes occurred he was in St. Louis, Missouri on a pleasure trip with friends.

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. *Haymond v. State*, 478 So. 2d 297, 300 (Miss. 1985). 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 Hicks' conviction.

THE JUDGMENT OF THE COAHOMA COUNTY CIRCUIT COURT OF CONVICTION OF MURDER AND TWO COUNTS OF ARMED ROBBERY AND SENTENCE OF LIFE IMPRISONMENT AND TWO TERMS OF FIVE YEARS EACH FOR ARMED ROBBERY, ALL SENTENCES TO RUN CONSECUTIVELY, IS AFFIRMED. COSTS ARE ASSESSED AGAINST COAHOMA COUNTY.

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