

**IN THE COURT OF APPEALS 12/29/95**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 94-KA-00655 COA**

**CHARLES ODOM**

**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. FRANK VOLLAR

COURT FROM WHICH APPEALED: CLAIBORNE COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

TRAVIS T. VANCE

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: DEWITT ALLRED

NATURE OF THE CASE: CRIMINAL: SALE OF COCAINE

TRIAL COURT DISPOSITION: SENTENCED TO TWENTY-FIVE (25) YEARS ON COUNT I;  
AND TWENTY-FIVE (25) YEARS FOR COUNT II WITH FIFTEEN (15) YEARS  
SUSPENDED, TO RUN CONSECUTIVELY

BEFORE BRIDGES, P.J., COLEMAN, AND PAYNE, JJ.

PER CURIAM:

In October of 1992, Sheriff Frank Davis asked the Central Narcotics Task Force to supply him with an undercover officer, Anthony Williams, to assist in drug-law enforcement in Claiborne County. Dennis Moore was assigned to work for the Sheriff as a confidential informant. Moore contacted Charles Odom and both men went to meet Williams at the Grand Gulf Inn. Williams made one purchase of cocaine. Moore and Odom then left the motel to drive around and let Williams "see if it was any good." The men went back to the motel where Williams made a second purchase of cocaine. Odom was arrested, charged and convicted on two counts of selling cocaine to a "concerned individual." He now appeals arguing that he was convicted over the sufficiency of the evidence. We disagree and affirm the decision of the lower court.

It is well settled that the jury is charged with the responsibility of weighing and considering the conflicting evidence and credibility of the witnesses and determining whose testimony should be believed. *See, e.g., McClain v. State*, 625 So. 2d 774, 781 (Miss. 1993). In *Noe v. State*, 616 So. 2d 298, 302-03 (Miss. 1993), the Mississippi Supreme Court held:

In judging the sufficiency of the evidence . . . the trial judge is required to accept as true all of the evidence that is favorable to the State, including all reasonable inferences that may be drawn there from, and to disregard evidence favorable to the defendant.

*Id.* at 302 (citations omitted).

Further, in *Pinkney v. State*, 538 So. 2d 329, 353 (Miss. 1988), the court held that it may reverse only where "the evidence so considered is such that reasonable and fair-minded jurors could only find the accused not guilty."

In *Williams v. State*, the court held that jurors may accept or refuse testimony of witnesses stating "it is not for this Court to pass upon the credibility of witnesses and where the evidence justifies the verdict, it must be accepted as having been found worthy of belief." *Williams v. State*, 427 So. 2d 100, 104 (Miss. 1983). Here, the jury weighed the evidence, believed the State's witnesses, and convicted Odom of selling cocaine. Accordingly, we find the verdict was not against the overwhelming weight of the evidence and affirm the decision of the lower court.

**THE JUDGMENT OF THE CLAIBORNE COUNTY CIRCUIT COURT OF CONVICTION AND SENTENCE OF TWENTY-FIVE (25) YEARS ON COUNT I OF SELLING COCAINE; AND TWENTY-FIVE (25) YEARS FOR COUNT II OF SELLING COCAINE, WITH FIFTEEN (15) YEARS SUSPENDED, TO RUN CONSECUTIVELY, AND \$1,000 FINE ON EACH COUNT IS AFFIRMED. COSTS OF THIS APPEAL ARE TAXED TO THE**

**APPELLANT.**

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