

**IN THE COURT OF APPEALS 04/23/96**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 95-KA-00370 COA**

**MICHAEL HAGGAN**

**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 LESLIE HATCHER

COURT FROM WHICH APPEALED: COAHOMA COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

AZKI SHAH

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL BY: W. GLENN WATTS

DISTRICT ATTORNEY: LAURENCE Y. MELLEN

NATURE OF THE CASE: CRIMINAL- CT-1 ARMED ROBBERY, CT-2 AGGRAVATED  
ASSAULT, CT-3 CONSPIRACY TO COMMIT ROBBERY

TRIAL COURT DISPOSITION: CONVICTED ON ALL THREE COUNTS AND SENTENCED  
TO SERVE 15 YEARS, 10 YEARS, AND 5 YEARS RESPECTIVELY, WITH COUNTS TWO  
AND THREE TO RUN CONSECUTIVELY WITH COUNT ONE.

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

PER CURIAM:

Michael Haggan was indicted and convicted of armed robbery, aggravated assault and conspiracy to commit robbery. He was sentenced to serve a term of fifteen years for armed robbery, ten years for aggravated assault and five years for conspiracy to commit robbery with sentences in counts two and three to run consecutive to the sentence for count one. On appeal, Haggan challenges the verdict as being against the overwhelming weight of the evidence.

On August 12, 1994, Joe Campbell was robbed and shot at his place of business in Clarksdale, Mississippi. Campbell testified at trial that Haggan came into his store and was looking at merchandise when another younger man, Frank Oliver, entered the store and pulled a handgun. Haggan then said, "This is a stick up." When Campbell tried to escape, Haggan tackled him. After he surrendered the money he had, Haggan ordered Oliver to shoot Campbell. Oliver then ran across the street, and Haggan stayed behind to prevent Campbell from calling the police. As Haggan was looking around the store, presumably to find more loot, Campbell managed to get out of the store and get help. Haggan followed him, telling people that he had helped Campbell rather than harmed him.

Oliver testified that he and Haggan had planned to rob Campbell and corroborated Campbell's testimony as to the course of events with the exception that he claimed that the gun had accidentally discharged. Oliver and Haggan also admitted that they were members of the same gang. Haggan testified that he had gone into the store to make a purchase when Oliver entered and ordered him to detain Campbell while Oliver robbed the store.

Motions for a new trial challenge the weight of the evidence and "[implicate] the trial court's sound discretion." *McClain v. State*, 625 So. 2d 774, 781 (Miss. 1993). The test for reviewing a denied motion for a new trial is as follows: "New trial decisions rest in the sound discretion of the trial court, and the motion should not be granted except to prevent an unconscionable injustice. We reverse only for abuse of discretion, and on review we accept as true all evidence favorable to the State." *Id.*

It was the jury's responsibility to determine the credibility of the witnesses as well as the weight and worth of their testimony. *Id.* When the testimony of Campbell and Oliver is taken as true, together with all favorable inferences, there is more than sufficient evidence to support the jury's verdict of guilty on all three counts. The court, therefore, did not abuse its discretion in denying Haggan's motion for a new trial. Accordingly, we affirm Haggan's conviction.

**THE JUDGMENT OF THE COAHOMA COUNTY CIRCUIT COURT OF CONVICTION ON COUNT I: ARMED ROBBERY AND SENTENCE OF FIFTEEN (15) YEARS WITHOUT ELIGIBILITY OF PAROLE UNDER THE PROVISIONS OF MISS. CODE ANN. § 47-7-3 (1)(d)(ii) (SUPP. 1995) AND TO PAY RESTITUTION OF \$75.00; COUNT II: AGGRAVATED ASSAULT AND SENTENCE OF TEN (10) YEARS AND TO PAY RESTITUTION OF \$300.00, AND COUNT III: CONSPIRACY AND SENTENCE OF FIVE (5) YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF**

**CORRECTIONS, WITH COUNTS TWO AND THREE TO RUN CONSECUTIVELY TO COUNT ONE IS AFFIRMED. COSTS ARE ASSESSED TO COAHOMA COUNTY.**

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