

**IN THE COURT OF APPEALS  
OF THE  
STATE OF MISSISSIPPI  
NO. 95-KA-01111 COA**

**ANTONIO STEVENSON**

**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

DATE OF JUDGMENT:	08/18/95
TRIAL JUDGE:	HON. ROBERT LOUIS GOZA JR.
COURT FROM WHICH APPEALED:	RANKIN COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	ROSS R. BARNETT JR.
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: OFFICE OF THE ATTORNEY GENERAL BY: CHARLES W. MARIS
DISTRICT ATTORNEY:	JOHN KITCHENS
NATURE OF THE CASE:	CRIMINAL - FELONY
TRIAL COURT DISPOSITION:	SALE OF COCAINE:SENTENCED TO 15 YRS IN THE CUSTODY OF MDOC EXECUTION OF THE LAST 6 YRS IS STAYED & SUSPENDED ON CONDITION OF FUTURE GOOD BEHAVIOR& CONDUCT & COMPLY WITH ORDER OF PROBATION; PAYCOURT COST, FEES & ASSESSMENTS (SEE OTHER RECORD)
DISPOSITION:	AFFIRMED - 12/2/97
MOTION FOR REHEARING FILED:	
12/29/1997	
CERTIORARI FILED:	
MANDATE ISSUED:	3/30/98

BEFORE BRIDGES, C.J., DIAZ, AND COLEMAN, JJ.

BRIDGES, C.J., FOR THE COURT:

Antonio Stevenson was indicted, tried, and convicted in the Rankin County Circuit Court of the sale of cocaine. He was sentenced to serve a term of sixteen years in the custody of the Mississippi

Department of Corrections, with five years suspended for future good behavior. He presents the following issues on appeal:

**I. THE TRIAL COURT FAILED TO INSTRUCT THE JURY REGARDING EVERY ELEMENT OF THE CRIME CHARGED.**

**II. THE TRIAL COURT ERRED IN LIMITING APPELLANT'S VOIR DIRE.**

**III. THE VERDICT WAS AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.**

**IV. THE CUMULATIVE ERROR REQUIRES REVERSAL.**

Finding no error, we affirm.

### **FACTS**

In August, 1994, J. D. Johnson contacted Officer Bruce Kirby of the Brandon Police Department and informed him that Stevenson had been selling crack cocaine to Johnson's wife. Johnson offered to act as a confidential informant and make a buy from Stevenson. On the afternoon of August 18, 1994, Kirby searched Johnson's person and automobile thoroughly and found no drugs or money. He fitted Johnson with a transmitter, gave him twenty dollars with which to purchase crack cocaine, and followed him in his car as Johnson drove to Stevenson's neighborhood. Along the way, Johnson picked up Stevenson's aunt, Tracy Parker. Parker took Johnson to Stevenson's grandmother's house where Stevenson was staying. Johnson and Parker met with Stevenson. Johnson told Stevenson that he wanted a "dub", a twenty dollar rock of cocaine. Stevenson pulled a piece of rock cocaine from his pocket and passed it to Parker who handed it to Johnson. Johnson then handed Parker a twenty dollar bill, and she passed it to Stevenson, who put the money in his pocket. Kirby was parked several yards away, but had an unobstructed view of the buy, and saw that something was passed between Johnson, Parker and Stevenson.

Johnson and Kirby rendezvoused, and Johnson handed the crack cocaine to Kirby. Kirby again searched Johnson's person and vehicle and found no other drugs or money. The cocaine was bagged and sent to the Mississippi Crime Lab where it was indeed determined to be crack cocaine. Johnson was paid fifty dollars for his participation in the buy. According to Johnson, his motivation was to rid his neighborhood of drugs and help extinguish the availability of drugs to his wife. Stevenson, however, testified that he did not sell any cocaine to Johnson, but claims instead that Johnson merely confronted him about sleeping with his wife. Tracy Parker did not testify. The jury found Stevenson guilty.

**I. THE TRIAL COURT FAILED TO INSTRUCT THE JURY REGARDING EVERY ELEMENT OF THE CRIME CHARGED.**

Stevenson claims that the jury was never instructed on the elements of the crime with which he was

charged. He points out that the record shows the jury instruction listing the elements of sale of cocaine, instruction number 3, marked given, and then marked withdrawn. If this were true, then it would be reversible error. *See Henderson v. State*, 660 So. 2d 220, 221 (Miss. 1995) ("The trial court's failure to properly instruct the jury on the elements of capital rape requires reversal and remand.") However, Stevenson does not give us the complete story. What actually happened, as shown by the supplemental record, was that instruction number 3 was amended after it was given. A new instruction number 3 was then given, and the original instruction number 3 was withdrawn. However, as stated by the trial court in its order to clarify the record, the trial court mistakenly wrote withdrawn on the instruction that was given instead of on the instruction that was actually withdrawn. The trial court stated that, "the instruction contained in the record WAS given to the jury as Jury Instruction Number 3." That instruction reads as follows:

The defendant, Antonio Stevenson, has been charged by an indictment in this case with the crime of Sale of Cocaine, a controlled substance.

If you find from the evidence in this case, beyond a reasonable doubt, that:

1. the defendant, on or about August 18, 1994, in Rankin County, Mississippi, did either willfully, knowingly and intentionally sell cocaine to, or willfully, knowingly and intentionally participate in the sale of cocaine to J.D. Johnson.
2. in exchange for a sum of United State's Currency, then you shall find the defendant guilty as charged.

If the State has failed to prove either one or both of the above listed elements beyond a reasonable doubt, then you shall find the defendant not guilty.

This instruction contains the elements of the crime with which Stevenson was charged. The supplemental record explains and insures us that this instruction was given to the jury. We are satisfied that the jury was properly instructed on the elements of the crime. This issue is without merit.

## **II. THE TRIAL COURT ERRED IN LIMITING APPELLANT'S VOIR DIRE.**

Stevenson complains that the trial court erroneously limited him on voir dire. However, Stevenson fails in his brief to illustrate what he is talking about, and instead refers us to a page in the record. After reviewing the record and the designated page, we could not find anything about which Stevenson has to complain. Instead, we find Stevenson trying to improperly argue his case before the jury and the trial court interrupting him and asking him not to. The trial court had previously given the prosecutor the same reprimand for trying to argue his case. In addressing Stevenson's counsel, the trial court stated:

Mr. Folse, that is argument just like I told Mr. Mitchell [the prosecutor]. Just ask your question, can they abide by the law and follow the instructions of the Court.

Moreover, on appeal Stevenson fails to present any meaningful argument or meaningful case authority in support of his contention. When a defendant fails to make a clear argument or cite meaningful authority, this Court need not consider his issue. *Coleman v. State*, 697 So.2d 777, 787 (Miss. 1997).

Stevenson's second issue is without merit.

### **III. THE VERDICT WAS AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.**

In his third complaint, Stevenson argues that the verdict was against the overwhelming weight of the evidence. However, he failed to preserve this issue for appeal. "[T]here are certain errors that parties must bring to the attention of the trial judge in a motion for a new trial. These include . . . motions made for new trial where it is contended that the verdict is against the overwhelming weight of the evidence. . . ." *McLemore v. State*, 669 So. 2d 19, 24 (Miss. 1996). Stevenson never filed a motion for new trial; therefore, the trial judge never had the opportunity to review the challenge to the weight of the evidence. His complaint is procedurally barred.

### **IV. THE CUMULATIVE ERROR REQUIRES REVERSAL.**

Stevenson claims that the cumulative effect of the above errors requires reversal. We have found that none of the complained of errors were even errors at all. Stevenson has not shown that the jury was not instructed on the elements of the crime for which he was charged; he has not shown erroneous limitation of voir dire; and he failed to preserve his challenge to the weight of the evidence. While it has been held that errors not reversible in and of themselves may be reversible when combined with other errors, we do not find that this is the case here. *See Wilburn v. State*, 608 So. 2d 702, 705 (Miss. 1992). The Mississippi Supreme Court has also stated that "[w]here there is no reversible error in any part, . . . there is no reversible error to the whole." *Id.* (citations omitted.) Stevenson is not entitled to reversal based on cumulative error. All of Stevenson's issues are without merit, and we affirm.

**THE JUDGMENT OF THE RANKIN COUNTY CIRCUIT COURT OF CONVICTION FOR SALE OF COCAINE AND SENTENCE TO SERVE A TERM OF FIFTEEN YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, EXECUTION OF THE LAST SIX YEARS STAYED, IS AFFIRMED. COSTS OF THIS APPEAL ASSESSED TO APPELLANT.**

**McMILLIN AND THOMAS, P.JJ., COLEMAN, DIAZ, HERRING, HINKEBEIN, KING, PAYNE, AND SOUTHWICK, JJ., CONCUR.**