

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 96-KA-00027 COA**

CALVIN METCALF

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

DATE OF JUDGMENT:	12/19/95
TRIAL JUDGE:	HON. BETTY W. SANDERS
COURT FROM WHICH APPEALED:	LEFLORE COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	ROGER MATHES
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: CHARLES W. MARIS, JR.
DISTRICT ATTORNEY:	JOYCE CHILES
NATURE OF THE CASE:	CRIMINAL - FELONY
TRIAL COURT DISPOSITION:	POSSESSION OF A FIREARM BY A CONVICTED FELON; SENTENCED TO 3 YRS, WITH 1 YR SUSPENDED IN THE MDOC
DISPOSITION:	AFFIRMED - 12/16/97
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	2/4/98

BEFORE BRIDGES, C.J., PAYNE, AND SOUTHWICK, JJ.

PER CURIAM.

Calvin Metcalf was convicted in the Circuit Court of Leflore County of possession of a firearm by a convicted felon and sentenced to three years in prison with one year suspended. Metcalf had also been indicted on possession of cocaine, but the jury was unable to reach a verdict on that count.

On appeal Metcalf raises that the trial court erred in overruling his motion for a judgment not

withstanding the verdict. Finding no error, this Court affirms the judgment and sentence of the trial court.

An off-duty Greenwood police officer observed what he thought was a drug sale and notified other police officers, who were directed to Gray's Cab Stand on McLaurin Street. Metcalf was arrested on the scene, and while the officers were searching him they found a gun in his right front pocket. Metcalf testified that he found the gun, thought it was inoperative, and put it in his pocket to "avoid some little kid from getting it." Other employees of the cab stand also testified that they had seen Metcalf with the gun. Metcalf admitted that he had an opportunity to dispose of the gun at the time he found it.

The State put on proof that although the gun was missing the handle that the gun was capable of working. The State also put on proof that Metcalf was a convicted felon.

A motion for JNOV challenges the legal sufficiency of the evidence. *McClain v. State*, 625 So. 2d 774, 778 (Miss. 1993) The credible evidence consistent with the verdict must be accepted as true and the prosecution must be given the benefit of all favorable inferences that may be reasonably drawn from the evidence. *Id.* Here, there was overwhelming, undisputed evidence, including Metcalf's own admission, that he was in possession of the firearm and that he was a convicted felon. We find no error and affirm the trial court's judgment and sentence.

THE JUDGMENT OF THE CIRCUIT COURT OF LEFLORE COURT OF POSSESSION OF A FIREARM BY A CONVICTED FELON AND SENTENCE OF THREE YEARS , WITH ONE YEAR SUSPENDED, IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS IS AFFIRMED. ALL COSTS OF APPEAL ARE ASSESSED TO THE APPELLANT.

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