

IN THE COURT OF APPEALS 11/12/96

OF THE

STATE OF MISSISSIPPI

NO. 94-KA-00539 COA

RONNIE WATTS A/K/A RONALD LEE WATTS

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. R. I. PRICHARD III

COURT FROM WHICH APPEALED: LAWRENCE COUNTY CIRCUIT COURT

FOR APPELLANT:

JIM FRAISER

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: SCOTT STUART

DISTRICT ATTORNEY: DOUGLASS, RICHARD,

NATURE OF THE CASE: CRIMINAL - POSSESSION OF A CONTROLLED SUBSTANCE
WITH INTENT TO TRANSFER

TRIAL COURT DISPOSITION: CONVICTED AND SENTENCED AS A HABITUAL
OFFENDER TO SERVE A TERM OF SIXTY YEARS IN THE MDOC

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

BARBER, J., FOR THE COURT:

Ronnie Watts was tried and convicted of possession of methamphetamine with intent to sell or transfer in the Lawrence County Circuit Court where he received a sentence as a habitual offender pursuant to section 99-19-81 of the Mississippi Code and ordered to serve a term of sixty years in the custody of the Mississippi Department of Corrections. Feeling aggrieved, Watts appeals his conviction on the following grounds:

I. THERE WAS INSUFFICIENT EVIDENCE TO CONVICT WATTS OF POSSESSION OF METHAMPHETAMINE WITH INTENT TO TRANSFER OR SELL.

II. THE LOWER COURT ERRED IN REFUSING TO SUPPRESS THE CONFESSION GIVEN BY WATTS.

FACTS

Citizens of Lawrence County, Mississippi notified the Sheriff's Department of Lawrence County that illegal drugs were being sold from Ronnie Watts' house. Chief Deputy Dampier obtained a search warrant for Watts' house and its surrounding property and buildings on June 25, 1993. As a result of the search, the sheriff's department found three plastic bags containing a total of 38.3 grams of methamphetamine hidden in a purse along with \$1,350.00 in cash in a shed behind the house. The sheriff's department also found drug paraphernalia with the methamphetamine. This included a digital scale, a spoon, a receipt dated 6/19 with the words "1 lb. pot," "1 oz speed," and "1/2 oz coke." These descriptions were all followed by numbers with the word total at the bottom and the sum of the previous numbers written after that. Deputy Dampier also found a notebook in the purse which contained the names of several people, the words "eight ball" and numbers written down. Watts admitted that these items were his, but stated that they were for his personal use and not for distribution.

ANALYSIS

Because the resolution of issue two is relevant to the determination of issue one, we will address it first. Watts argues that the lower court erred in refusing to suppress his confession because it was obtained while Watts was experiencing withdrawal symptoms from his addiction to methamphetamine. Specifically, Watts claims that because the police officers were aware that he had mental problems, had been in Whitfield, had not slept in days, was under the influence of methamphetamine, had stomach cramps, and no food for several days that the officers exploited these conditions and coerced a confession from him.

In *Colorado v. Connelly*, 479 U.S. 157 (1986) the Supreme Court, in upholding the confession of a

mentally ill person, held that there is no basis to conclude that a confession is involuntary unless there is present a substantial element of coercive police conduct. The Court observed that a statement obtained under such adverse conditions might be proved to be unreliable but this is not something that is governed by the Due Process Clause.

Watts contends that the police overreached his will and coerced him through subtle exploitation of his mental condition and drug withdrawal state. Watts testified that the methamphetamine prevented him from eating and sleeping. He was, however, provided with daily meals to eat and a place to sleep if he so desired. The confession was given two days after the arrest. Therefore, the drug induced condition which Watts may have been experiencing at the time of arrest should have substantially subsided. Watts did state that he was experiencing some gastro-intestinal discomfort at the time of the confession as a result of withdrawal from the methamphetamine. Although, Watts also contradicted himself by stating that there were occasions when he would go for up to four days without using the drug when he needed to work or sleep. He did not indicate that he experienced withdrawal symptoms of any kind during this period which rendered him incompetent or mentally deficient to the point of not understanding what he was doing. In fact, his testimony that he stopped using the drugs when he needed to work implied just the opposite.

Under these facts, we cannot find that the trial court committed manifest error in determining that Watts failed to show that there was any overreaching on the part of law enforcement which coerced him into giving the confession. *Accord Chase v. State*, 645 So. 2d 829, 838-842 (Miss. 1994). In its ruling on Watts' motion to suppress, the court stated that it had observed the demeanor of both Watts and law enforcement officers on the witness stand. The court found that the testimony of the law enforcement officials was more credible than that of Watts. Simply put, the trial court did not believe that Watts was suffering from any symptoms of withdrawal which were so severe that it would render his confession involuntary.

Because the trial court sits as the finder of fact on this issue, we cannot reverse unless we find that the decision was against the overwhelming weight of the evidence. *Jenkins v. State*, 607 So. 2d 1137, 1138 (Miss. 1992). After reviewing the record, we cannot make such a finding under the facts of this case. Therefore, we find no merit in Watts' assertion that the trial court erred in refusing to suppress the confession.

The next question before us is whether there was sufficient evidence to convict Watts of possession of methamphetamine with intent to sell or transfer.

In judging the sufficiency of the evidence on a motion for a directed verdict or request for a peremptory instruction, 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 therefrom, and to disregard evidence favorable to the defendant. If, under this standard, sufficient evidence to support the jury's verdict of guilty exists, the motion for a directed verdict and request for peremptory instruction should be overruled.

Noe v. State, 616 So. 2d 298, 302 (Miss. 1993). When seeking to prove intent to transfer, the element of intent must be established by more than mere suspicion. In cases where the evidence only

strongly suggests an intent to sell, there can be no conviction if there remains any reasonable doubt. *Girley v. State*, 602 So. 2d 844, 845 (Miss. 1992).

In *Edwards v. State*, 615 So. 2d 590, 595 (Miss. 1993), the court held that quantity alone might not be sufficient to establish intent to distribute beyond a reasonable doubt. Quantity, along with an admission, however, were sufficient proof of intent. *Id.* Here, law enforcement officials not only found a large amount of methamphetamine, they also found paraphernalia used in drug dealing and a large sum of cash hidden with the drugs. The officers also found what appeared to be records of past drug transactions which were dated one week prior to the arrest. Finally, the jury was properly allowed to consider Watts' admission that he was selling drugs to support his and his wife's drug habit. Watts' testimony at trial was that the drugs and paraphernalia were for his personal use. Watts did admit that the records found represented past drug transactions. Despite Watts' arguments to the contrary, we find that taken together, this evidence is sufficient to prove Watts' intent to distribute methamphetamine beyond a reasonable doubt. Therefore, we find Watts' second assertion of error is without merit.

THE JUDGMENT OF THE LAWRENCE COUNTY CIRCUIT COURT OF CONVICTION OF POSSESSION OF A CONTROLLED SUBSTANCE WITH INTENT TO TRANSFER AND SENTENCED AS A HABITUAL OFFENDER TO A TERM OF SIXTY (60) YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS IS AFFIRMED. COSTS ARE ASSESSED TO LAWRENCE COUNTY.

BRIDGES AND THOMAS, P.JJ., COLEMAN, DIAZ, KING, McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR. FRAISER, C.J., NOT PARTICIPATING.