

IN THE COURT OF APPEALS 04/23/96

OF THE

STATE OF MISSISSIPPI

NO. 93-KA-00419 COA

CAROLYN JONES, a/k/a

PEGGY ANN WASH

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. MARCUS D. GORDON

COURT FROM WHICH APPEALED: SCOTT COUNTY CIRCUIT COURT

ATTORNEYS FOR APPELLANTS:

J. NORMAN BROWN

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL BY: JEAN SMITH VAUGHAN

NATURE OF THE CASE: CRIMINAL: SALE OF COCAINE

TRIAL COURT DISPOSITION: CONVICTION; SENTENCED TO FIFTEEN YEARS IN THE
CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, AND ORDERED TO
PAY \$5,000.00 FINE

BEFORE BRIDGES, P.J., DIAZ, AND SOUTHWICK, JJ.

PER CURIAM

Carolyn Jones was convicted of the sale of cocaine. She appeals, only arguing that the conviction was contrary to the overwhelming weight of the evidence. We affirm.

On April 20, 1992, two undercover agents with the Mississippi Bureau of Narcotics sought to buy cocaine in "The Bottoms" area of Morton. A black female whom neither agent knew approached their car and made a sale. The agents departed and radioed for a Morton policeman who had been waiting nearby to go into the neighborhood to identify their seller. The two agents described the woman as "a Black female, about five-six or five-seven in height, slender build, about a hundred fifteen, hundred and twenty pounds . . . wearing a light colored shirt, a pair . . . of three-quarter length pants . . . [and] a dark hat with the bill turned up in front." The Morton policeman found a person matching that description within a minute and a half after he received the call. He knew the woman and identified her as Carolyn Jones. An arrest warrant for Jones was issued.

The only appellate issue is whether the conviction was against the overwhelming weight of the evidence. Jones argues that the identification of her at trial was insufficient to prove that she was the seller beyond a reasonable doubt. She discusses weaknesses in the State's case. She is 5' 4" tall, not 5' 6"; she did not weigh 115 pounds, but only 107. Thus, the agents' description had some discrepancies with Jones' actual height and weight. Next, she argues that the identification by the two agents at trial was not credible because it was based solely on a brief encounter on the night of the sale one year earlier. Finally, Jones presented an alibi through family witnesses that she was in Clinton, Mississippi at the time of the crime.

The two agents who purchased the cocaine positively identified Jones. The policeman who drove into the neighborhood a minute later had known Jones for approximately four years. He testified that he recognized her that night, that obviously she was at "The Bottoms" and not in Clinton, and that she had the same clothes on as the woman described to him.

Taking all the evidence in the light most favorable to the State, we do not find that the conviction was against the overwhelming weight of the evidence. *Griffen v. State*, 607 So. 2d 1197, 1200-01 (Miss. 1990).

THE JUDGMENT OF CONVICTION OF THE SCOTT COUNTY CIRCUIT COURT OF SALE OF A CONTROLLED SUBSTANCE (COCAINE) AND SENTENCE OF FIFTEEN (15) YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AND TO PAY A FINE OF \$5,000.00 IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE TAXED TO SCOTT COUNTY.

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