

IN THE COURT OF APPEALS 06/18/96

OF THE

STATE OF MISSISSIPPI

NO. 93-KA-00046 COA

CLARK J. JOHNSON

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. ELZY JONATHAN SMITH, JR.

COURT FROM WHICH APPEALED: BOLIVAR COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANT:

ROBERT G. JOHNSTON

ATTORNEY FOR APPELLEE:

OFFICE OF THE ATTORNEY GENERAL

BY: W. GLYNN WATTS

DISTRICT ATTORNEY: LAURENCE Y. MELLEN

NATURE OF THE CASE: CRIMINAL: SALE OF A CONTROLLED SUBSTANCE

TRIAL COURT DISPOSITION: CONVICTION AND SENTENCE OF TWENTY (20) YEARS
IN MDOC; FINE OF \$3,000.00 AND LAB FEE; THIS SENTENCE TO RUN CONSECUTIVE
TO CAUSE NO. 7531

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

BRIDGES, P.J., FOR THE COURT:

Clark S. Johnson was convicted of selling cocaine. He now appeals and, quite oddly, raises no issues. As such, we affirm the decision of the lower court.

STATEMENT OF THE FACTS

On July 27, 1993, the Central Delta Task Force conducted a "buy-bust" drug transaction in Bolivar County. A cooperating individual, Jerry Logan, and task force members, Chuck Foster, Noel Grant, Milton Gaston, Mark Carpenter, and Robert King participated in the operation. Logan was wired with a body transmitter and given "marked money" with which to buy drugs. The car used in the operation was equipped with a video camera. The men drove to Cleveland, Mississippi, to begin their operation.

They stopped at Clark Johnson's shop where Logan inquired about purchasing some cocaine. Johnson got into the car with Logan and took him to a store on Chrisman Street. The task force officers followed Johnson and Logan in a separate car. They observed Johnson go into the store and return to the vehicle several minutes later. He subsequently got out of the car and got into a different car with Roderick Harvey. Ten minutes later, Harvey and Johnson returned to the scene and told Logan to meet them at the Kentucky Fried Chicken parking lot. Logan met the men and bought cocaine from them. The officers arrested Harvey and Johnson. The entire transaction was video taped. At trial the video was introduced into evidence. Harvey testified against Johnson for the State. Johnson was convicted of the sale of a controlled substance and sentenced to serve twenty (20) years in the Mississippi Department of Corrections. He was also ordered to pay a fine of \$3,000.00 and lab fees. His sentence was to run consecutively to cause number 7531. Aggrieved, he now appeals.

ARGUMENT AND DISCUSSION OF THE LAW

Neither Johnson nor his counsel have raised any identifiable issue for challenging his conviction and sentence. Therefore, we must affirm the decision of the lower court. The Mississippi Supreme Court has held that where assignments of error are not supported by argument or authority, the court is not required to consider them. *Clark v. State*, 503 So. 2d 277, 280 (Miss. 1987). "There is a presumption that the judgment of the trial court is correct, and the burden is on the appellant to demonstrate some reversible error to this Court." *Id.* (citations omitted). Likewise, former Supreme Court Rule 28(a)(3), now Mississippi Rule of Appellate Procedure 28(a)(3) states:

A statement shall identify the issues presented for review. No separate assignment of errors shall be filed. Each issue presented for review shall be separately numbered in the statement. *No issue not distinctly identified shall be argued by counsel, except upon request of the Court, but the Court may, at its option, notice a plain error not identified of distinctly specified.*

Upon review of the record, we notice no plain error. Accordingly, we affirm the decision of the lower court.

THE JUDGMENT OF THE BOLIVAR COUNTY CIRCUIT COURT OF CONVICTION OF SALE OF A CONTROLLED SUBSTANCE AND SENTENCE OF TWENTY (20) YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, TO RUN CONSECUTIVELY TO CAUSE NUMBER 7531, AND FINE OF \$3,000.00 IS AFFIRMED. ALL COSTS OF THIS APPEAL ARE TAXED TO BOLIVAR COUNTY.

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