

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 96-KA-00296 COA**

RONNIE GRIFFIN A/K/A RONNIE SCOTT GRIFFIN

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:	02/20/96
TRIAL JUDGE:	HON. LAMAR PICKARD
COURT FROM WHICH APPEALED:	JEFFERSON COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	WILLIAM VICK BRENT BRUMLEY
ATTORNEY FOR APPELLEE:	OFFICE OF ATTORNEY GENERAL BY: PAT FLYNN
DISTRICT ATTORNEY:	DIANE ROY
NATURE OF THE CASE:	CRIMINAL - FELONY
TRIAL COURT DISPOSITION:	AGGRAVATED ASSAULT; 15 YEARS
DISPOSITION:	AFFIRMED - 12/16/97
MOTION FOR REHEARING FILED:	
CERTIORARI FILED:	
MANDATE ISSUED:	2/4/98

BEFORE THOMAS, P.J., HINKEBEIN, AND SOUTHWICK, JJ.

SOUTHWICK, , FOR THE COURT:

Ronnie Griffin was convicted of aggravated assault in the Circuit Court of Jefferson County. Aggrieved, Griffin appeals alleging that the evidence in the case was insufficient to support the jury verdict. We disagree and affirm.

FACTS

At approximately 1:00 a.m. on July 30, 1995, Carlos Wright was driving his car in Fayette on his way to a club called the Mardi Gras Lounge, when he noticed a car following behind him flashing its lights. Wright was accompanied by Diane Thomas, Griffin's girlfriend. Wright pulled over to the side of the road thinking that one of his friends was trying to stop him to talk. The driver got out of his

vehicle and walked toward Wright's vehicle. Wright saw that the man had a gun so he tried to pull away. Before he got out of range, the man fired the gun.

Wright was hit by four bullets. One bullet hit him in the head, two bullets hit him in the back, and one bullet injured his arm. Wright was able to drive a short distance, then he jumped out of his car. He ran to the Fayette Police Department. He gave the police a description of the car, a burgundy Mitsubishi Eclipse, and a positive identification of Ronnie Griffin as the man who shot him. He was then transported to the hospital where he was treated for the gunshot wounds.

A Fayette police officer testified that as he was patrolling his beat, he noticed a white car on the side of the road. He stopped and approached the car. Diane Thomas came out of the bushes and spoke with the officer. She told him that Carlos had been shot and that her boyfriend had done it.

Thomas testified for the State but denied ever making that statement. She testified that her head was down on the seat the entire time, and she had seen nothing. She said that she told the officer that Carlos had been shot and that she wanted to see her boyfriend.

The defense produced several witnesses that placed Griffin at a rodeo in Union Church, thirteen miles from Fayette that night. Griffin testified that he was at the rodeo until 1:30 a.m. and arrived home at approximately 4:30 a.m. He denied knowing anything about Wright and Thomas going out. He also testified that he would not have been jealous even if he had known.

At the conclusion of the State's case-in-chief, Griffin moved for a directed verdict. The trial court denied the motion.

The jury returned a verdict of guilty of aggravated assault. After a pre-sentence investigation, the trial judge sentenced Griffin to serve fifteen years, but suspended five years. Additionally, the trial judge ordered Griffin to pay \$5,146.87 in restitution to Wright and to pay all court costs.

DISCUSSION

Griffin alleges that the trial court erred in denying his motion for a directed verdict. An objection to the denial of a directed verdict challenges the sufficiency of the evidence. The standard review for challenges to convictions based on sufficiency of the evidence is well-established. As to each element of the offense, we consider all of the evidence in the light most favorable to the verdict. *McClain v. State*, 625 So. 2d 774, 778 (Miss. 1993). All credible evidence which is consistent with Griffin's guilt "must be accepted as true," and the State is "given the benefit of all favorable inferences that may be reasonably drawn from the evidence." *Id.* Because matters concerning the weight and credibility of the witnesses are resolved by the fact finder, this Court will reverse only where, "with respect to one or more of the elements of the offense charged, the evidence so considered is such that reasonable and fair-minded jurors could only find the accused not guilty." *Id.* The Mississippi Code provides, in relevant part: "A person is guilty of aggravated assault if he. . . attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or cause serious bodily harm. . . ." Miss. Code Ann. § 97-3-7(2)(b) (Rev. 1993). There was credible evidence on each element of the offense. Though there was testimony that Griffin was elsewhere near the time of the crime, there also was testimony identifying Griffin as the gunman. It is not our function to determine whose testimony to believe as that is the function of the jury. *Allman*

v. State, 571 So. 2d 244, 253 (Miss. 1990). We will not disturb the findings of a jury based on conflicting testimony where there is substantial credible evidence to support the verdict rendered.

THE JUDGMENT OF THE CIRCUIT COURT OF JEFFERSON COUNTY OF CONVICTION OF AGGRAVATED ASSAULT AND SENTENCE TO FIFTEEN YEARS IN THE CUSTODY OF THE MISSISSIPPI DEPARTMENT OF CORRECTIONS, FIVE YEARS SUSPENDED, AND ORDER TO PAY RESTITUTION IN THE AMOUNT OF \$5146.87 TO THE VICTIM IS AFFIRMED. COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANT.

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