

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**COPY**

**RAYKEITHGRITH RAYLON RICKS**

**APPELLANT**

**VS.**

**NO. 2007-KA-1662**

**FILED**

**APR 15 2008**

**STATE OF MISSISSIPPI**

**OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS**

**APPELLEE**

**BRIEF FOR THE APPELLEE**

**APPELLEE DOES NOT REQUEST ORAL ARGUMENT**

**JIM HOOD, ATTORNEY GENERAL**

**BY: STEPHANIE B. WOOD  
SPECIAL ASSISTANT ATTORNEY GENERAL  
MISSISSIPPI BAR NO. [REDACTED]**

**OFFICE OF THE ATTORNEY GENERAL  
POST OFFICE BOX 220  
JACKSON, MS 39205-0220  
TELEPHONE: (601) 359-3680**

## **TABLE OF CONTENTS**

<b>TABLE OF AUTHORITIES .....</b>	<b>ii</b>
<b>STATEMENT OF THE ISSUES .....</b>	<b>1</b>
<b>STATEMENT OF THE FACTS .....</b>	<b>1</b>
<b>SUMMARY OF THE ARGUMENT .....</b>	<b>2</b>
<b>ARGUMENT .....</b>	<b>3</b>
<b>CONCLUSION .....</b>	<b>5</b>
<b>CERTIFICATE OF SERVICE .....</b>	<b>6</b>

## TABLE OF AUTHORITIES

### STATE CASES

<i>McClain v. State</i> , 625 So.2d 774, 781 (Miss. 1993) .....	3
<i>Pierce v. State</i> , 860 So.2d 855 (Miss. Ct. App. 2003) .....	3
<i>Sheffield v. State</i> , 749 So.2d 123, 127 (Miss. 1999) .....	3, 4
<i>Tanner v. State</i> , 566 So.2d 1246, 1249 (Miss. 1990) .....	4
<i>Thomas v. State</i> , 754 So.2d 579, 582 (Miss. Ct. App. 2000) .....	4
<i>Williams v. State</i> , 463 So.2d 1064, 1068-69 (Miss. 1985) .....	4

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**RAYKEITHGRITH RAYLON RICKS**

**APPELLANT**

**VS.**

**NO. 2007-KA-1662**

**STATE OF MISSISSIPPI**

**APPELLEE**

**BRIEF FOR THE APPELLEE**

**STATEMENT OF THE ISSUES**

- I. THE VERDICT WAS NOT AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE.

**STATEMENT OF THE FACTS**

Confidential informant, Grady Williams, met with Agents Shelly Boone and Richard Sistrunk of the Mississippi Bureau of Narcotics on the evening of August 25, 2005 to establish a controlled purchase. (Transcript p. 26). Mr. Williams and his vehicle were searched and he was equipped with video and audio surveillance. (Transcript p. 27). Mr. Williams was also given recorded funds. (Transcript p. 27). Mr. Williams then drove to the Defendant, Raykeithgrith Ricks' house. (Transcript p. 27). Ricks came out to Mr. Williams' vehicle and Mr. Williams told him that he wanted to buy crack cocaine. (Transcript p. 45). Ricks went inside his house and returned with the drugs. (Transcript p. 45). Ricks handed Mr. Williams the drugs and Mr. Williams handed Ricks the cash. (Transcript p. 45). Ricks then drove to an established meeting place and again met with Agents Boone and Sistrunk. (Transcript p. 28). He and his vehicle were searched again and he

turned over the drugs bought from Ricks to Agent Boone. (Transcript p. 28). It was later determined that the drugs were .70 gram of cocaine base. (Transcript p. 77).

A second meeting between the agents and Mr. Williams occurred on October 3, 2005. (Transcript p. 30). Mr. Williams and his vehicle were again searched and he was again equipped with surveillance and given recorded funds. (Transcript p. 30). Mr. Williams drove to Ricks' house and Ricks got in the vehicle with Mr. Williams. (Transcript p. 58). The two drove around Union. (Transcript p. 58). While they were driving, Ricks handed Mr. Williams the drugs and Mr. Williams handed Ricks the cash. (Transcript p. 58). Mr. Williams then dropped Ricks off at his house and returned to meet with the agents. (Transcript p. 58 - 59). He turned the drugs over to Agent Boone. (Transcript p. 32). Both parties stipulated that Ricks sold Mr. Williams 17.6 grams of marijuana. (Transcript p. 79). Additionally, Ricks readily admitted at trial under oath that he sells drugs and specifically admitted selling marijuana to Mr. Williams on the day in question. (Transcript p. 87 and 89). However, Ricks claims that he did not sell Mr. Williams cocaine on August 25, 2005, but instead only gave him marijuana to try. (Appellant's Brief p. 87 - 88).

Ricks was arrested, tried, and convicted for selling cocaine and for selling marijuana. He was sentenced to serve twenty five years in the custody of the Mississippi Department of Corrections for selling cocaine and to serve three years for selling marijuana with the sentences to run consecutively.

### **SUMMARY OF THE ARGUMENT**

The verdict was not against the overwhelming weight of the evidence. With the standard in mind that the Court must accept as true all evidence favorable to the State, the evidence presented at trial establishes beyond a reasonable doubt that Ricks sold cocaine and sold marijuana on the dates in question.

## ARGUMENT

Ricks argues that “the verdict was against the overwhelming weight of the evidence.” (Appellant’s Brief p. 1). Specifically he argues that “the fact that [the confidential informant] had a motive to convict Appellant, the fact that [the confidential informant] had the opportunity to obtain cocaine before going to Appellant’s house, the fact that the videotape recording did not show any money being delivered to Appellant, and the fact that there was a certain defalcation of funds delivered to [the confidential informant], detract from [the confidential informant’s] version of the transaction and the prosecution’s proof of the elements of Count I of the indictment and support Appellant’s version of the transaction.” (Appellant’s Brief p. 5). The appellate standard of review for claims that a conviction is against the overwhelming weight of the evidence is as follows:

[This court] must accept as true the evidence which supports the verdict and will reverse only when convinced that the circuit court has abused its discretion in failing to grant a new trial. A new trial will not be ordered unless the verdict is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an “unconscionable injustice.”

*Pierce v. State*, 860 So.2d 855 (Miss. Ct. App. 2003) (quoting *Smith v. State*, 802 So.2d 82, 85-86 (Miss. 2001)). On review, the Court must accept as true all evidence favorable to the State. *McClain v. State*, 625 So.2d 774, 781 (Miss.1993). Furthermore, the Mississippi Supreme Court has previously held “when the evidence is conflicting, the jury will be the sole judge of the credibility of witnesses and the weight and worth of their conflicting testimony.” *Sheffield v. State*, 749 So.2d 123, 127 (Miss. 1999) (*emphasis added*).

With these standards and rules of law in mind, the record is clear that the State established beyond a reasonable doubt that Ricks sold cocaine and marijuana. First, there is no dispute that Ricks sold marijuana as he admitted it both at trial and his brief. (Transcript p. 87 and Appellant’s Brief p. 4). Secondly, while Ricks argues that his version of the events that transpired on August 25,

2005 is more accurate than Mr. Williams' version in light of the other evidence presented at trial, it is ultimately the jury's decision to resolve conflicting testimony. *See Thomas v. State*, 754 So.2d 579, 582 (Miss. Ct. App. 2000). Mississippi law makes clear that in cases where "there is substantial evidence consistent with the verdict, evidence which is of such weight and quality that, keeping the burden of proof of beyond a reasonable doubt in mind, fair-minded jurors in the exercise of impartial judgment might reach different conclusions, the jury's verdict should be allowed to stand. *Sheffied*, 749 So.2d at 127.

Ricks also contends that the confidential informant "has motive to construct a case against Appellant and to support it to a successful prosecution." (Appellant's Brief p. 4). However, there is no evidence to support this theory and further, even if the confidential informant did want to "construct a case" against Ricks, the agents from the Mississippi Bureau of Narcotics testified regarding the numerous precautions taken both before the buys and after the buys to ensure that the buys were legitimate. Moreover, the Mississippi Supreme Court has held the following regarding the use of confidential informants:

We accept without hesitation that improper drug use is the scourge of our society and that illegal drug trafficking is among the most damnable activities a person may pursue. The law must regard the realities of the behavior it seeks to regulate, and we accept that the nature of the drug trade mandates authority for conduct we might in other settings find offensive. Law enforcement must be allowed to use undercover agents who lie about their identity and their interests. We accept that these must rely on confidential informants for needed information, and that the authorities may pay these informants under arrangements which may provide incentives for abuse. *Williams v. State*, 463 So.2d 1064, 1068-69 (Miss. 1985). Undercover agents may purchase illegal controlled substances although, were their actions not legally immunized, they would constitute offenses. We accept even that undercover agents must on occasion (appear to) use controlled substances to avoid suspicion regarding their identities.

*Tanner v. State*, 566 So.2d 1246, 1249 (Miss. 1990) (*emphasis added*). Thus, Mississippi has accepted the use of confidential informants. Furthermore, there is no evidence in the case at hand

that Mr. Williams abused the system and there is ample evidence that the agents from the Mississippi Bureau of Narcotics took all proper precautions against abuse.

Accordingly, the verdict is not against the overwhelming weight of the evidence as the evidence presented at trial clearly establishes beyond a reasonable doubt that Ricks both sold cocaine and sold marijuana.

### CONCLUSION

The State of Mississippi respectfully requests that this Honorable Court affirm the conviction and sentence of the defendant as the verdict was not against the overwhelming weight of the evidence.

Respectfully submitted,

JIM HOOD, ATTORNEY GENERAL

BY:



STEPHANIE B. WOOD  
SPECIAL ASSISTANT ATTORNEY GENERAL  
MISSISSIPPI BAR NO. [REDACTED]

OFFICE OF THE ATTORNEY GENERAL  
POST OFFICE BOX 220  
JACKSON, MS 39205-0220  
TELEPHONE: (601) 359-3680



## CERTIFICATE OF SERVICE

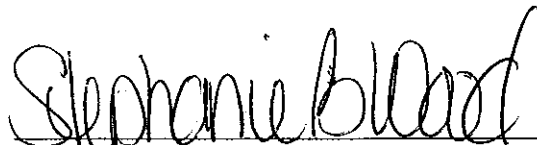
I, Stephanie B. Wood, Special Assistant Attorney General for the State of Mississippi, do hereby certify that I have this day mailed, postage prepaid, a true and correct copy of the above and foregoing **BRIEF FOR THE APPELLEE** to the following:

Honorable Marcus D. Gordon  
Circuit Court Judge  
P. O. Box 220  
Decatur, Mississippi 39327

Honorable Mark Duncan  
District Attorney  
P. O. Box 603  
Philadelphia, MS 39350

Edmund J. Phillips, Jr., Esquire  
Attorney At Law  
Post Office Box 178  
Newton, Mississippi 39345

This the 15th day of April, 2008.

A handwritten signature in cursive script, reading "Stephanie B. Wood", written over a horizontal line.

STEPHANIE B. WOOD  
SPECIAL ASSISTANT ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL  
POST OFFICE BOX 220  
JACKSON, MISSISSIPPI 39205-0220  
TELEPHONE: (601) 359-3680