

**COPY**

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

**CHRIS MILLER and JOHNNY L. MILLER  
A/K/A SNAPPER**

**APPELLANT**

**VS.**

**FILED**

**NO. 2007-KA-2019-COA**

**JUN 23 2008**

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

**STATE OF MISSISSIPPI**

**APPELLEE**

**BRIEF FOR THE APPELLEE  
IN REFERENCE TO JOHNNY MILLER**

**APPELLEE DOES NOT REQUEST ORAL ARGUMENT**

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**VS.**

**NO. 2007-KA-2019-COA**

**STATE OF MISSISSIPPI**

**APPELLEE**

**BRIEF FOR THE APPELLEE**

**STATEMENT OF THE CASE**

Johnny "Snapper" Miller and co-defendant Chris Miller were convicted in the Circuit Court of Winston County of the sale, transfer, delivery or distribution of cocaine, Schedule II controlled substance. Thereafter, the court sentenced Johnny Miller to a term of 30 years in the custody of the Mississippi Department of Corrections. Aggrieved by the judgment rendered against him, Johnny Miller has perfected an appeal to this Court.

**STATEMENT OF THE FACTS**

On June 14, 2005, confidential informant, Bobby Wayne Goodin met with two agents of the Mississippi Bureau of Narcotics, Agents Stapp and McWhirter. (Tr. 57) Together they devised a plan to purchase drugs in the Winston County area. (Tr. 44) Before executing the plan, the agents searched both Goodin's person and vehicle for illegal contraband. (Tr. 58) The purpose of the search was to ensure Goodin did not have any illegal contraband, drugs or money on his person or in his vehicle. (Tr. 45) Both Goodin and the agents knew if drugs were found, Goodin would be immediately handcuffed, taken to jail and charged

with a felony. (Tr. 46, 65) But the agents did not find any illegal contraband. (Tr. 46) After the search, Goodin was suited with confidential informant audio and video recording equipment, including an audio transmitter to enable the agents to hear any conversation between Goodin and the drug dealers. (Tr. 44) Goodin was also issued \$100 in official state funds to purchase illegal drugs. (Tr. 44)

Goodin began his search for drugs at the home of Jimmy C. Miller on Miller Avenue. (Tr. 58) He pulled up, got out of his truck and asked three men – Johnny “Snapper” Miller, Chris Miller and a dude called Funk – about buying some drugs. (Tr. 58) The three men told Goodin no drugs were available but that they were waiting on some. (Tr. 58) Presumably, the guy they were waiting on had drugs because Goodin decided to join them in waiting for his arrival. (Tr. 58) While waiting, the three men asked Goodin to move his truck next door; Goodin obliged and continued to wait for the guy. (Tr. 58) He eventually showed up. (Tr. 58) Subsequent to his arrival, Chris Miller approached Goodin, Goodin gave Chris \$100. (Tr. 58) Chris took the \$100 he got from Goodin over to the guy and made the deal. (Tr. 59) Johnny Miller delivered \$100 worth of crack cocaine to Goodin. (Tr. 84)

With the sale complete, Goodin got in his truck to leave but before he could drive off some guy approached him desiring to get some crack from him. (Tr. 59) Of course Goodin refused. (Tr. 59) He drove off and placed the drugs into the evidence bag. (Tr. 59) He continued to the location where he originally met with the agents. (Tr. 59) After handing over the drugs, both Goodin’s person and vehicle were searched and the confidential informant audio and video recording equipment removed. (Tr. 59) The drugs were analyzed by the Mississippi Crime Laboratory and positively identified as one gram of cocaine base commonly referred to as crack cocaine.

## **STATEMENT OF THE ISSUES**

- I. WHETHER THE STATE PRESENTED SUFFICIENT LEGAL PROOF TO SUPPORT THE DEFENDANT'S CONVICTION FOR THE SALE OF COCAINE WHEN HE SUBSTANTIALLY AND KNOWINGLY PARTICIPATED IN THE SALE BUT DID NOT RECEIVE PAYMENT OR ANY REMUNERATION FOR THE SALE?**
- II. WHETHER THE TRIAL COURT PROPERLY CONCLUDED THE VERDICT WAS NOT AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE WHERE A DEFENDANT CONVICTED OF THE SALE OF COCAINE ADMITTED HE "GAVE THE DRUGS TO SOMEONE ELSE WHO GAVE THE DRUGS" TO A CONFIDENTIAL INFORMANT?**

## **SUMMARY OF THE ARGUMENT**

The trial court properly denied the defendant's motion for directed verdict because the State proved beyond a reasonable doubt that the defendant and co-defendant "while acting in concert with, aiding, assisting or encouraging each other" did "willfully, unlawfully, feloniously and knowingly or intentionally sell, transfer, distribute, or deliver a quantity of cocaine." The State presented ample legal proof the defendant substantially and knowingly participated in the consummation of the sale of cocaine to confidential informant Bobby Wayne Goodin.

The trial court correctly concluded the verdict was not against the overwhelming weight of the evidence, especially when there is testimony from the defendant himself that he "gave the drugs to someone else who gave the drugs to Goodin."

## ARGUMENT

### **I. WHETHER THE STATE PRESENTED SUFFICIENT LEGAL PROOF TO SUPPORT THE DEFENDANT'S CONVICTION FOR THE SALE OF COCAINE WHEN HE SUBSTANTIALLY AND KNOWINGLY PARTICIPATED IN THE SALE BUT DID NOT RECEIVE PAYMENT FOR THE SALE?**

The trial court properly denied the defendant's motion for directed verdict because the State proved beyond a reasonable doubt that the defendant and co-defendant "while acting in concert with, aiding, assisting or encouraging each other" did "willfully, unlawfully, feloniously and knowingly or intentionally sell, transfer, distribute, or deliver a quantity of cocaine."

The sufficiency of the evidence as a matter of law is viewed and tested in a light most favorable to the State. The credible evidence consistent with the defendant's guilt must be accepted as true. The State must be given the benefit of all favorable inferences that may be reasonably drawn from the evidence. Matters regarding the weight and credibility of the evidence are to be resolved by the jury. The Court is only authorized to reverse 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. *Pratt v. State*, 870 So. 2d 1241, 1246 (Miss. 2004).

The defendant's challenge regarding the legal sufficiency of the evidence used to convict him is without merit.

The trial court correctly concluded the State presented ample legal proof to warrant a reasonable and fair-minded juror to find the defendant guilty of selling cocaine because he substantially and knowingly participated in the consummation of the sale, aiding and abetting a co-defendant. The significant part of the indictment the State used to charge Johnny "Snapper" Miller and Christopher Miller reads as follows:

"On or about the 14<sup>th</sup> day of June, 2005, in Winston County, Mississippi, and within the jurisdiction of this Court, while acting in concert with, aiding, assisting or encouraging each other, did willfully, unlawfully, feloniously and knowingly or intentionally sell, transfer, distribute, or deliver a quantity of cocaine, a Schedule II Controlled Substance, to Bobby Wayne Goodin, a human being, and did then and there receive therefor a



sum of lawful United States money, in violation of MISS. CODE ANN. Section 41-29-139(a)(1)(b)(1), and the defendant is further charged as a second and subsequent offender under Miss. Code Ann, §41-29-147, against the peace and dignity of the State of Mississippi.”

In bringing this indictment against the defendants, the State did not anticipate proving the two perpetrators, in chorus, delivered crack cocaine to Bobby Goodin and then simultaneously received money for said delivery nor does Mississippi law require such a finding to sustain his conviction. The State charged them with this indictment because “while acting in concert with, aiding, assisting or encouraging each other” they “did willfully, unlawfully, feloniously and knowingly or intentionally sell, transfer, distribute, or deliver a quantity of cocaine.”

Mississippi law is clear “one who aids and abets sale of cocaine is guilty as principal, regardless of whether he personally profited from sale.” *Johnson v. State*, 642 So. 2d 924, 927 (Miss. 1994). Moreover, “one who substantially and knowingly participates in consummation of sale or in arranging sale of unlawful controlled substances by aiding and abetting another is an accessory before the fact and is guilty as a principal.” *Williams v. State*, 463 So. 2d 1064, 1066 (Miss. 1985).

This Court has repeatedly held that a defendant may be convicted for selling cocaine even if there is no evidence the defendant ‘personally profited from the sale.’ For example, in *Johnson*, the defendant was convicted of selling cocaine because he told an undercover agent he knew where the agent could get some crack cocaine; after telling the agent the location the defendant got into agent’s car; he directed the agent to the drug dealer’s address and accompanied the agent to the door and knocked on it; he told the dealer the agent wanted to purchase some cocaine; and remained with the agent and dealer while the sale was consummated. *Id.* at 928. The defendant did not physically handle the cocaine nor did he receive any sort of compensation for the sale yet he was convicted for selling cocaine.

In *Williams*, the defendants, two brothers, joined undercover agents during their drive to meet

with a supplier of marijuana. During their commute, the defendants assured the agents of the quality and quantity of the drugs they were about to purchase. Upon meeting with the supplier, one of the defendants and the supplier actually exchanged the drugs for money. The agent gave one of the defendants the money, he counted it, gave it to the supplier and the supplier gave the drugs to the defendant to give to the agent. The defendant did not receive payment for the sale yet he was convicted for selling marijuana.

In both *Johnson* and *Williams*, the defendants were convicted of selling illegal drugs not because they were suppliers or even received any pecuniary advantage for the sale but because they played a hand in consummating the sale. For example, in *Washington v. State*, 341 So.2d 663 (Miss. 1977), the defendant was coined the ‘go-between’ guy connecting the heroin supplier with potential buyers. He would invite persons desiring to purchase heroin to his home and introduce them to the actual supplier of the drugs. The defendant challenged his conviction for selling heroin to undercover agents because the State did not present proof that he delivered heroin to the agents or even received payment for the delivery. Responding to his argument, the Court stated “though Washington did not personally transfer the heroin or actually receive the payment therefor, the evidence is conclusive that his efforts made the sale possible...they in fact led to the ‘buy’ of the heroin in his home...we are of the opinion the appellant was properly indicted and convicted as a principal because he was personally present, aiding and abetting the purchase.” *Id.* at 664.

Consider the facts of *Bingham v. State*, 723 So.2d 1193 (Miss. 1993), where the Court concluded a person is “guilty of the sale or transfer of a controlled substance if she is personally present at a drug transaction and aids and abets the sale even if she never has control of the drug and receives no remuneration or consideration.” In *Bingham*, the defendant was convicted of selling cocaine to an undercover agent. On the day of the sale, the undercover agent went to the defendant’s home in search of crack cocaine. Bingham’s hairdresser actually made the exchange; the agent gave the hairdresser the

money and the hairdresser gave him the dope. During trial Bingham testified she was at home the day of the transaction but that she did not engage either the agent or her hairdresser during the exchange. She also said she knew her husband was selling drugs but that he was not selling them out of their home. Furthermore, she admitted her voice was heard on the recording created from the audio transmitters worn by the agent. In reaching its holding, the Court reasoned “given the testimony by Bingham of the drug activity in the vicinity of her house and her voice on the audio tape, a reasonable juror could find beyond a reasonable doubt that, at the time of the drug sale to Pack, Bingham was “minding the store” for her husband and did involve herself in the transaction.” *Id.* at 1195-96.

1. **The trial court properly concluded the State presented ample legal proof to warrant a reasonable and fair-minded juror to find the defendant guilty of the sale of crack cocaine because he substantially and knowingly participated in the consummation of the sale of crack cocaine to Bobby Goodin; this was proper even if there was no direct evidence the defendant received any money in exchange for drugs.**

Johnny Miller testified he did not deliver the drugs to Goodin. His testimony contrasted Goodin's testimony that Johnny gave him the drugs. This was a disputed fact the jury resolved in favor of the State. The defendant continues to dispute this fact, but seems to hang his hat on the fact that he did not receive any money for drugs arguing "even if you choose to believe either man, the indictment...requires the State to prove that Johnny Miller received money for his actions." (Appellant Br. 8) But his contention is not in harmony with the current state of Mississippi law on this issue. In *Williams, Washington and Bingham*, the Court, viewing the evidence in the light most favorable to the State and accepting all evidence as true, held the trial judge properly denied the defendants' motions for directed verdict because the evidence was sufficient to warrant reasonable and fair-minded jurors to find them guilty of the sale of a controlled substance. The Court held the evidence was sufficient even though no evidence was introduced that the defendants received payment for the sale.

The *Turner* court shed considerable insight on this type of argument when it responded to that defendant's claim the State failed to present evidence that he 'exercised control over the cocaine or received any pecuniary advantage by its sale.' The Court stated:

"Parenthetically, it might be added that, if we were to credit Turner's argument today, we would be opening a hole a mile wide in our defenses against drug trafficking in this state. If on this evidence Turner has committed no offense, it would be a simple matter for drug dealers to send flunkies to make their deliveries and thus avoid prosecution and punishment." *Turner v. State*, 573 So.2d 1340, 1342 (Miss.1990).

As in *Williams, Washington and Bingham*, incorporating by reference the facts detailed in the Statement

of Facts, the State presented ample legal proof to convict Johnny “Snapper” Miller of “substantially and knowingly consummating the sale” of crack cocaine to Bobby Goodin by “aiding and abetting” Chris Miller when he delivered \$100 worth of crack cocaine to Goodin.

The State presented sufficient evidence for a reasonable and fair-minded juror to conclude Johnny Miller knew Goodin was looking to buy drugs. The jury heard testimony from Goodin that when he arrived at Jimmy C. Miller’s home on Miller Avenue, he asked three men – Johnny Miller, Chris Miller and Funk – about buying some drugs. Goodin testified they told him no drugs were available but that they were waiting on some. The guy they were waiting on arrived. Goodin testified Chris approached him after the guy arrived and Goodin gave Chris \$100 for \$100 worth of crack cocaine. Shortly thereafter, Johnny Miller gave Goodin \$100 worth of cocaine.

The State presented sufficient evidence for a reasonable and fair-minded juror to conclude Johnny Miller knew Goodin gave Chris \$100 for \$100 worth of crack cocaine. The jury heard testimony from Agent Stapp which corroborated Goodin’s testimony about the sale. Stapp was listening to the exchange via the audio transmitters. He corroborated Goodin’s testimony that when Goodin made it to Miller Avenue he made contact with a male stating he wanted \$100 worth. (Tr. 47) Stapp also testified Goodin used the audio transmitter equipment to report to the agents monitoring him that he had to move his vehicle because the dope man was coming. (Tr. 48) Furthermore, the jury viewed the video of the transaction. Detective Gerald Hayes identified both Johnny Miller and Chris Miller on the video. The State presented sufficient evidence for a reasonable and fair-minded juror to believe Johnny Miller delivered \$100 worth of crack cocaine to Goodin because Goodin gave Chris \$100 for \$100 worth of crack cocaine.

**2. The credibility of Bobby Goodin's testimony was appropriately decided by the jury in favor of the State.**

The State introduced testimony from four witnesses, including Bobby Goodin, implicating Johnny Miller in the sale of crack cocaine to Bobby Goodin. But the defendant argues "Goodin is not a credible witness whose testimony, alone, is sufficient to convict Johnny Miller of this crime." (Appellant Br. 5) The defendant supports this argument stating the 'record clearly reflects that Goodin is not a credible witness as a result of his criminal background.' (Appellant Br. 5) The defendants' trial counsels also made similar arguments at trial which gave the jury ample opportunity to hear all about Goodin's criminal background. (Tr. 67-84)

The Court rejected a similar argument in *Clayton v. State*, 582 So.2d 1019 (Miss. 1991) where defendant Clayton challenged the legal sufficiency of the evidence used to support her conviction for the sale of cocaine because it rested upon the testimony of a confidential informant that was a 'convicted felon, an admitted drug addict and a general reprobate unworthy of belief.' *Id.* at 1021. Despite these disturbing revelations about the informant's past, the Court affirmed the lower court's ruling reasoning the jury had the responsibility of assessing his credibility. *Id.* In reaching this conclusion, the Court focused on the fact that the informant 'testified in open court' and 'his unsavory background was thoroughly explored.' *Id.*

As in *Clayton*, Goodin had a less than stellar criminal history and he was also an admitted drug addict. The jury had an opportunity to assess Goodin's credibility because he testified in open court and was thoroughly cross-examined on this matter by opposing counsels. (Tr. 67-84) But despite hearing about Goodin's unsavory background, a reasonable and fair-minded juror could have concluded Goodin's testimony was credible especially since it was corroborated by the testimony of Agent Stapp - the agent who actually monitored the drug sale, Keith McMahan - a forensic scientist specializing in drug analysis

who actually confirmed the substance was one gram of cocaine and Detective Hayes – a local law enforcement officer who actually identified the defendant on the video of the sale.

**3. The credibility of video tape was appropriately decided by the jury in favor of the State.**

In addition to presenting Goodin's live testimony providing details of the transaction, the State also played the video of the sale. Even if the video did not show Goodin placing \$100 in Chris Miller's hands nor him receiving \$100 worth of crack cocaine from Johnny Miller, the video coupled with testimony from the State's other witnesses was sufficient to lead a reasonable and fair-minded juror to infer Goodin purchased \$100 worth of crack cocaine from Johnny "Snapper" Miller and Chris Miller. The defendant's argument that 'the video tape is of no consequence because it does not show Johnny Miller receiving any money from Goodin, nor does it show him delivering cocaine to Goodin' is without merit. (Appellant Br. 5) An argument similar to the one presented by Johnny Miller was rejected with the following analysis in *Steen v. State*, 873 So.2d 155, 159 (Miss.App.2004)

Steen directs our attention to deficiencies in the videotape. Specifically, Steen argues that the tape does not depict the exchange of cocaine and money. We agree with Steen's assertion that there is no video footage of the actual transaction of drugs and money. However, this fact alone does not lessen the effect of Kimble's testimony explicitly describing the illicit transaction. In *Wilks v. State*, 811 So.2d 440, 445 (Miss.Ct.App. 2001), this Court declined to accept a similar argument. As in this case, *Wilks* involved a controlled buy where audio and video equipment were used. Like *Steen*, *Wilks* also challenged the weight of evidence because the videotape "[did] not show the two exchanging money or crack cocaine." We held that "[w]hile the videotape may not be conclusive proof as to what transaction took place, it certainly is not contrary to the State's case, which was corroborated by the confidential informant's testimony." *Id.* at 19. We find no error." *Steen v. State*, 873 So.2d 155, 159 (Miss. App. 2004).

Likewise, in this case, the informant testified expressly that the defendant sold cocaine to him. Furthermore, Agent Stapp corroborated his testimony. Agent Stapp testified that Goodin did not have any illegal contraband on his person or in his vehicle before leaving to buy drugs. Stapp testified Goodin was searched to ensure he did not have any more money than the \$100 issued to him by the State to make the sale. Furthermore, he testified Goodin's person and vehicle were searched after the sale. The agents found



one gram of cocaine base and discovered he no longer had the \$100 they gave him to buy drugs. Keith McMahan, forensic scientist specializing in drug analysis, testified the substance Goodin received from the defendant was in fact one gram of cocaine base. Detective Hayes identified Johnny Miller in the video.

Viewing the evidence in the light most favorable to the State and accepting all evidence as true, the trial judge properly denied Johnny “Snapper” Miller’s motion for directed verdict. Johnny Miller’s “efforts made the sale possible.” After Goodin paid Chris \$100 for \$100 worth of crack cocaine, Johnny Miller delivered \$100 worth of crack cocaine to Goodin.

It is reasonable that a rational and fair-minded juror would elect not to believe that Johnny Miller, a self-proclaimed crack head, gave Goodin \$100 worth of crack cocaine out of the goodness of his heart. (Appellant Br. 10.) And even if a reasonable and fair-minded juror chose to believe Johnny Miller “gave drugs to someone else who gave the drugs to Goodin” it is still reasonable for this juror to find him guilty of the sale of cocaine because under these circumstances his ‘efforts made the sale possible’ when he ‘involved himself in the transaction.’ (Appellant Br. 8) This behavior is consistent with the actions of a person aiding, abetting and encouraging another in the sale of cocaine.

**II. THE WHETHER THE TRIAL COURT PROPERLY CONCLUDED THE VERDICT WAS NOT AGAINST THE OVERWHELMING WEIGHT OF THE EVIDENCE WHERE A DEFENDANT CONVICTED OF THE SALE OF COCAINE ADMITTED HE “GAVE THE DRUGS TO SOMEONE ELSE WHO GAVE THE DRUGS” TO A CONFIDENTIAL INFORMANT?**

The trial court properly denied defendant’s ‘Motion for a New Trial or in the Alternative Judgment Notwithstanding the Verdict’ because verdict was not against the overwhelming weight of the evidence. To prevail on this point, Johnny Miller must satisfy the rigorous standard set out below:

The standard of review for determining whether a jury verdict is against the overwhelming weight of the evidence is well-settled. “[T]his 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.” *Williams v. State*, 757 So.2d 1064, 1065(¶ 6) (Miss.Ct.App.2000) (citing *Dudley v. State*, 719 So.2d 180, 182 (Miss.1998)). On review, the State is given “the benefit of all favorable inferences that may reasonably be drawn from the evidence.” *Griffin v. State*, 607 So.2d 1197, 1201 (Miss.1992). “Only in those cases where the verdict is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice will this Court disturb it on appeal.” *Dudley*, 719 So.2d at 182. “This Court does not have the task of re-weighing the facts in each case to, in effect, go behind the jury to detect whether the testimony and evidence they chose to believe was or was not the most credible.” *Langston v. State*, 791 So.2d 273, 280 (¶ 14) (Miss.Ct.App.2001).

*Pratt v. State*, 870 So.2d 1241, 1248 (Miss.Ct.App.2004).

It has been “held in numerous cases that the jury is the sole judge of the credibility of the witnesses and the weight to be attached to their testimony.” *Kohlberg v. State*, 704 So.2d 1307, 1311 (Miss.1997). As this Court recently reiterated in *Hales v. State*, 933 So.2d 962, 968 (Miss.2006), criminal cases will not be reversed “where there is a straight issue of fact, or a conflict in the facts...” *Id.* Rather, “juries are impaneled for the very purpose of passing upon such questions of disputed fact, and [the Court does] not intend to invade the province and prerogative of the jury.” *Id.*

The State respectfully submits that Johnny Miller’s challenge to the weight of the evidence

presented is essentially an improper attempt to relitigate factual issues, including the credibility of the witnesses, properly resolved by the jury. Incorporating by reference the facts set out under the Statement of Facts, the state asserts the trial court did not abuse its discretion in overruling the motion for new trial. The evidence is not such that allowing the verdict to stand would be to sanction an unconscionable injustice.

Specifically, the state points out that Goodin testified unequivocally that he paid Chris Miller \$100 for \$100 worth of cocaine and that Johnny Miller delivered to him \$100 worth of cocaine. Goodin returned immediately to the meeting location, with \$100 worth of crack cocaine but without the \$100 in state funds issued to him before the buy. Agent Stapp testified that Goodin did not have any illegal contraband on his person or in his vehicle before leaving to buy drugs. Stapp testified Goodin was searched to ensure he did not have any more money than the \$100 issued to him by the State to make the sale. Furthermore, he testified Goodin's person and vehicle were searched after the sale. The agents found one gram of cocaine base and discovered he no longer had the \$100 they gave him to buy drugs. Keith McMahan, forensic scientist specializing in drug analysis, testified the substance Goodin received from the defendant was in fact one gram of cocaine base. Detective Hayes identified Johnny Miller in the video.

More importantly, during the State's cross-examination of the defendant, the jury heard from the defendant himself that he transferred dope from one man to another to give to Bobby Goodin:

Q. But you are saying that somebody gave him the dope that is in the bag right there, it just wasn't you.

A. Yeah. I just said it. I didn't give it to him.

Q. Well, who ---

A. I gave it to the guy standing beside him. I ain't saying I didn't handle none. But I am on trial for selling it. I am not on trial for handling it.

(Tr. 107).

The defendant also stated the following upon further questioning:

Q. So – please let me finish – what you are saying is you are admitting

A. Yeah.

Q. -- that you transferred that dope. You are just saying you transferred it to somebody else. You didn't transfer it to Bobby Wayne Goodin.

A. That's right.

(Tr. 109).

Unfortunately, the defendant's testimony, specifically, that he is on trial for selling drugs and not for handling drugs evidences his poor understanding of the charge against him. But the jury understood and reasonably found the evidence as a whole adequate to establish the defendant and Chris Miller acted in concert, aiding, abetting and encouraging each other, to sale \$100 worth of crack cocaine to Bobby Wayne Goodin. No basis exists for disturbing the jury's verdict.

## CONCLUSION

The State respectfully submits that the assignments of error presented by Johnny Miller are without merit. Accordingly, the judgment of the circuit court should be affirmed.

Respectfully submitted,

/ JIM HOOD, ATTORNEY GENERAL

BY:

  
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## CERTIFICATE OF SERVICE

I, Lisa L. Blount, 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:

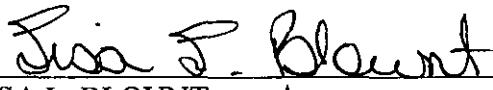
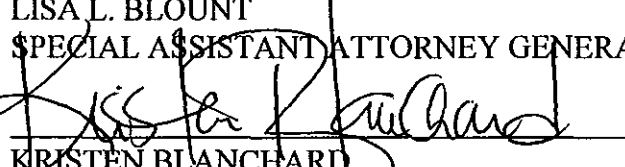
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