

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

ROSHUN WOODS

APPELLANT

VS.

NO. 2008-KA-1461

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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IN THE COURT OF APPEALS OF MISSISSIPPI

ROSHUN WOODS, A/K/A ROSHUN HALL

APPELLANT

VERSUS

NO. 2008-KA-14461-COA

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR APPELLEE

STATEMENT OF THE CASE

Procedural History

Roshun Woods, a/k/a Roshun Hall,¹ was convicted in the Circuit Court of Tunica County on a charge of possession of a controlled substance within a correctional facility and was sentenced to a term of three years in the custody of the Mississippi Department of Corrections. Aggrieved by the judgment rendered against her, Ms. Hall has perfected an appeal to this Court.

¹For the sake of consistency and to avoid confusion, the state will refer to the defendant as “Ms. Hall.”

Substantive Facts

Jannie Robertson, a receptionist for the Tunica County Jail, testified that she was working the “swing shift” from 4:00 p.m. until midnight on September 17, 2006. At some point during this shift, near the inmates’ bedtime, Ms. Hall came into the reception area, signed the “black book,” and presented “a Dollar General bag” containing items which appeared to be deodorant, soap and toothpaste. Ms. Hall stated that she wished to leave these items for her husband, an inmate of the jail. Ms. Robertson informed her that according to policy, she would be required to leave these toiletries with the jailer. Ms. Hall “held the bag on the outside of the glass until the jailer came.” Approximately ten minutes later, the jailer, Officer James Clark, “came up, ... got the bag” and entrusted it to Ms. Robertson for safekeeping until his return from his break. Shortly thereafter, Officer Clark returned and took possession of the bag. In the meantime, no one other than Ms. Robertson had access to the bag. (T.129-41)

Officer Clark corroborated Ms. Robertson’s testimony. (T.143-46) He went on to testify that after he returned from his break, he retrieved the Dollar General bag “and took it back to the jail.” Upon searching the inside of the deodorant container, he and another officer “found two rolls of marijuana in it, aluminum foil, and ... a blunt cigar.”² (T.147-48) Officer Clark then notified the “proper persons up the chain of command” and saw that the items were secured. (T.154)

²The state’s expert witness testified that the exhibit in question contained marijuana in the amount of 3.1 grams. (T.119-22)

Detective Cedric Milburn of the Tunica County Sheriff's Department testified that on the night in question, he received a report that contraband had been intercepted at the jail. After interviewing the witnesses, Detective Milburn identified Ms. Hall as a suspect. The next morning, he and a Detective Henson questioned Ms. Hall. Having been given the *Miranda* warnings and having waived her rights, Ms. Hall admitted that she had bought the deodorant, soap and toothpaste at the local Dollar General store and that she had brought these items to the jail to be delivered to her husband. She also admitted that she had control of the items at all times until she gave them to the receptionist. (T.160-68)

Proper chain of custody was established by the testimony of Deputy David Keller and Marilyn Davis, the property and evidence clerk for the Tunica County Sheriff's Department. (T.181-87)

The defense called Eunice Odums, who testified that she accompanied Ms. Hall to the Dollar General store. According to her, Ms. Hall "packed up the deodorant and the soap and she carried it to the jail house." She also testified that she never saw Ms. Hall tamper with the toiletries, but she admitted that she did not go into the jail with her. (T.192-94)

On cross-examination, Ms. Odums acknowledged that her godson was married to Ms. Hall and that she (Ms. Odums) did not want to see her go to jail. (T.200)

Ms. Hall took the stand and denied having put anything into the containers. (T.203-04) On cross-examination, she admitted that Ms. Odums had remained in the car when she (Ms. Hall) went into the store and when she went into the jail. (T.212)

SUMMARY OF THE ARGUMENT

The state submits the verdict is not contrary to the overwhelming weight of the evidence. The state presented substantial proof that the defendant was guilty of possession of a controlled substance within a correctional facility.

PROPOSITION:

THE VERDICT IS NOT CONTRARY TO THE OVERWHELMING WEIGHT OF THE EVIDENCE

The sole issue presented on this appeal is whether the appellant is entitled to a new trial on the ground the verdict is against the overwhelming weight of the evidence. To prevail, she must satisfy the following formidable standard of review:

The standard of review in determining whether a jury verdict is against the overwhelming weight of the evidence is also 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." *Collins v. State*, 757 So.2d 335, 337(¶ 5) (Miss. Ct. App. 2000) (quoting *Dudley v. State*, 719 So.2d 180, 182(¶ 9) (Miss.1998)). On review, the State is given "the benefit of all favorable inferences that may reasonably be drawn from the evidence." *Collins*, 757 So.2d at 337(¶ 5) (citing *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." *Collins*, 757 So.2d at 337(¶ 5) (quoting *Dudley*, 719 So.2d at 182).

Carle v. State, 864 So.2d 993, 998 (Miss. 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 the Mississippi Supreme Court 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...” [citations omitted] 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. ” [citations omitted]

We incorporate by reference the proof set out in our Statement of Substantive Facts to support our position that the prosecution presented substantial credible evidence that Ms. Hall possessed a controlled substance within a correctional facility. We also incorporate by reference the following excerpts from the prosecution’s closing argument, which were made without objection and which are supported by the proof:

From the time these drugs got from Roshun Woods until the time that they came to you today, we had connected every single dot at every single stage to show you that there’s nothing funny going on ... These drugs went from her in that bag to [Ms. Robertson] to Officer Clark who discovered it and turned it over to Officer Keller who put it in a locked vault, and Officer Davis took it to the lab, and it was tested and brought back and has been under lock and key ever since. Nobody messed with that stuff, but that lady.

(T.230-31)

I mean, the one thing we do know– and I feel confident saying that we do know– we do know that this marijuana was pulled out of these two bottles here ... And if she didn’t put it there, well, my word, who did?

* * * * *

That lady [Ms. Odums] was not with her the entire time she went anywhere and to believe that would not be reasonable. ... And the fact is, Ms. Odums doesn’t have any idea what Roshun Hall did not those times when she wasn’t around her.

(T.233-36)

In conclusion, we submit the prosecution presented substantial credible evidence of the defendant's guilt. No basis exists for disturbing the jury's resolution of a straight issue of fact.

CONCLUSION

The state respectfully submits the argument presented by the appellant is without merit. Accordingly, the judgment entered below should be affirmed.

Respectfully submitted,

**JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**

A handwritten signature in cursive script, appearing to read "Deirdre McCrory", is written over a horizontal line.

BY: DEIRDRE McCRORY
SPECIAL ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF SERVICE

I, Deirdre McCrory, 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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This the 13th day of April, 2009.


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