

Commonwealth Of Kentucky

Court of Appeals

NO. 2001-CA-002517-MR

JEFFREY S. HAYES

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE LAURANCE B. VANMETER, JUDGE
INDICTMENT NOS. 01-CR-00622 & 01-CR-00938

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: DYCHE AND McANULTY, JUDGES; AND JOHN WOODS POTTER¹,
SPECIAL JUDGE.

DYCHE, JUDGE. Jeffrey S. Hayes is currently serving five years' imprisonment after being convicted by jury of burglary in the third degree. His sole issue on appeal is whether the trial court erred in ruling that a certain letter could not be

¹ Senior Status Judge John Woods Potter sitting as Special Judge by Assignment of the Chief Justice pursuant to Section 110 (5)(b) of the Kentucky Constitution.

introduced to demonstrate the potential bias of the complaining witness. We affirm.

We initially note that the letter is nowhere to be found in the record. Thus we "must assume that the omitted record supports the decision of the trial court." Commonwealth v. Thompson, Ky., 697 S.W.2d 143, 145 (1985). Furthermore, Hayes was able to demonstrate the complaining witness's potential bias through cross-examination and through appellant's own testimony. Introduction of the letter would have been merely cumulative. We find no error.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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