

Commonwealth Of Kentucky

Court Of Appeals

NO. 2002-CA-000290-MR

JEROME LAMONT WILLIAMS

APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE THOMAS L. CLARK, JUDGE
ACTION NO. 01-CR-00472

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * **

BEFORE: BUCKINGHAM, McANULTY, AND SCHRODER, JUDGES.

BUCKINGHAM, JUDGE: Jerome Lamont Williams was convicted of second-degree manslaughter and tampering with physical evidence after a trial by jury in the Fayette Circuit Court. He was sentenced to fifteen years in prison for the crimes. We reject his argument on appeal and thus affirm.

Williams lived with his sixty-six-year-old grandmother, and on February 26 or 27, 2001, she was killed by strangulation. The police discovered her body concealed by clothes and other items in her bedroom closet. Williams admitted to the police that he placed his grandmother's body into the closet, but he denied that he was responsible for her death.

Prior to the trial, Williams' counsel filed a motion seeking to prohibit the Commonwealth from introducing any evidence of his drug use at trial. The Commonwealth opposed the motion and filed a notice pursuant to KRE¹ 404(c) that it intended to offer evidence at trial that Williams used a substantial amount of cocaine before and after the disappearance of his grandmother and that money belonging to her was missing from the residence. The trial court overruled Williams' motion, and the Commonwealth introduced testimony from several witnesses regarding Williams' attempted purchases and use of cocaine. Following the entry of a final judgment in the case, Williams filed this appeal.

Williams argues that the trial court committed error when it allowed the Commonwealth to introduce the aforementioned evidence. He argues that he was never charged with an offense involving the alleged missing money and that none of the witnesses actually testified that they witnessed his cocaine usage. He further argues that the prejudicial impact of the evidence outweighed its probative value and that the testimony, even if admissible, should have been stricken for that reason. See KRE 403.

We conclude that the evidence was clearly admissible as probative of Williams' motive to steal money from his grandmother which created circumstances that ultimately led to her death. Evidence of prior bad acts are admissible pursuant to KRE 404(b) as proof of motive. See also Lambert v. Commonwealth, Ky. App.,

¹ Kentucky Rules of Evidence.

835 S.W.2d 299, 302 (1992). The fact that Williams was never charged with theft and that none of the witnesses actually witnessed his use of cocaine did not render the evidence inadmissible. Also, it was within the sound discretion of the trial judge to determine whether the prejudicial effect of the evidence outweighed its probative value. Id. There was no abuse of discretion in this case.

The judgment of the Fayette Circuit Court is affirmed.

SCHRODER, JUDGE, CONCURS.

McANULTY, JUDGE, DISSENTS AND FILES SEPARATE OPINION.

McANULTY, JUDGE, DISSENTING: Respectfully, I dissent.

I fear that the only probative value of the objected to drug evidence was to establish that the defendant was a drug addict who committed the homicide.

I do not believe that KRE 404(b) provides great support for the trial court's ruling. Therefore, I would allow Appellant to be retried without the collateral issue of uncharged crimes guiding the jury.

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