

# Commonwealth Of Kentucky

## Court of Appeals

NO. 2002-CA-002594-MR

JONATHON RUSSELL HENSLEY

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE JOHN R. ADAMS, JUDGE  
INDICTMENT NO. 02-CR-00779

COMMONWEALTH OF KENTUCKY

APPELLEE

### OPINION

### AFFIRMING

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BEFORE: BUCKINGHAM, COMBS, AND DYCHE, JUDGES.

DYCHE, JUDGE. Jonathon Russell Hensley appeals from his conviction by a jury for Receiving Stolen Property, valued at more than \$300 (KRS 514.110) and being a Persistent Felony Offender, Second Degree (KRS 532.080) and his sentence of ten years' imprisonment pursuant to that conviction. We affirm.

Hensley was charged with the above offenses after the victim of a home burglary found one item of her stolen jewelry at a pawn shop in the Lexington area, and learned that Hensley

had pawned the item; further investigation by the police revealed that Hensley had pawned other items from the burglary at other area pawn shops.

Hensley's complaints on appeal are two: that the victim was allowed to give an account of the burglary which was excessively detailed, thereby making a strong inference that he committed the burglary, a crime with which he was not charged; and that a police officer testified that Hensley was a suspect in the burglary, but that the officer did not have sufficient evidence to charge him with that crime.

We will note at first that the mocking tone of appellant's brief concerning the home intrusion and the victim's reaction to that break-in does not serve her client well, or enhance her credibility with the court.<sup>1</sup>

As far as the merits of the arguments go, we find no merit. We have watched the victim's testimony, and it goes no further than necessary to describe the means by which she was divested of her property, and how and when it came to be stolen, thus subjecting Hensley, as its possessor, to the primary charge herein.

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<sup>1</sup> Counsel describes the ring which the victim discovered at the pawn shop as "infamous." She later argues, "The Commonwealth was allowed to infer through their witnesses that Appellant was the scary person who stole the mementos of this hard working family and then ran poor naked Ms. [victim] out of her home in fear for her life on that cold November day in 2001." While we appreciate zealous representation of one's client, the fact that the victim discovered the burglary as she emerged from the shower, and was frightened that the intruders might still be in her home, is not valid argument.

As far as the trooper's testimony concerning Hensley's status as a suspect in the burglary, like the victim's testimony, no objection was raised at trial. The alleged error was not preserved for our review. RCr 9.22.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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