

Commonwealth Of Kentucky

Court of Appeals

NO. 2003-CA-000692-MR

GARY LYNN WILSON

APPELLANT

v. APPEAL FROM BELL CIRCUIT COURT
HONORABLE JAMES L. BOWLING JR., JUDGE
ACTION NO. 02-CR-00103

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: JOHNSON, KNOPF, AND McANULTY, JUDGES.

McANULTY, JUDGE. Appellant Gary Lynn Wilson appeals his conviction in the Bell Circuit Court for one count of assault in the third degree, one count of resisting arrest and two counts of terroristic threatening. On appeal, appellant challenges the sufficiency of the evidence on the charges of assault and resisting arrest.

The Commonwealth responds that appellant did not properly preserve this alleged error for appellate review.

Appellant moved for a directed verdict at the close of the Commonwealth's case at trial, and again at the close of the defense case. The Commonwealth correctly states that this was a general motion and did not include objections to specific elements of any of the offenses. Such general motions may be insufficient to apprise the trial court of the precise nature of the objection to the evidence. Seay v. Commonwealth, Ky., 609 S.W.2d 128, 130 (1980). The proper procedure for challenging the sufficiency of evidence on one specific count is an objection to the giving of an instruction on that charge. Id.

Appellant's objections to the evidence on appeal are 1) that there was insufficient evidence of physical injury to establish assault in the third degree and 2) that he was not guilty of resisting arrest due to the fact that he was trying to protect himself at the time. We agree with the Commonwealth that these are the sort of precise objections to the charges which require a specific objection at trial. In his motion for directed verdict, appellant should have stated his objections specifically and objected to the giving of an instruction on these counts. Therefore, we decline to review these claims as we find they were not adequately presented to the trial court.

For the foregoing reasons, we affirm appellant's conviction in the Bell Circuit Court.

KNOFF, JUDGE, CONCURS.

JOHNSON, JUDGE, CONCURS IN RESULT ONLY.

BRIEF FOR APPELLANT:

Emily Holt
Frankfort, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler III
Attorney General of Kentucky

Michael L. Harned
Assistant Attorney General
Frankfort, Kentucky