

Commonwealth Of Kentucky
Court of Appeals

NO. 2004-CA-000119-MR

KENNY RAY SUMPTER

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE REBECCA M. OVERSTREET, JUDGE
INDICTMENT NO. 03-CR-00950

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: DYCHE, KNOPF, AND TACKETT, JUDGES.

DYCHE, JUDGE: Kenny Ray Sumpter is currently serving five years' imprisonment for second degree criminal possession of a forged instrument (KRS 516.060). His appeal raises two issues, namely, whether the trial court erred in denying his motion *in limine*, and whether there was sufficient evidence to support the conviction. We affirm.

In 2003 Sumpter was living with Mary Blancet at her home in Lexington. Blancet had previously been named co-

executrix of the estates of her mother and sister, both killed in an automobile accident. When the relationship soured between Blancet and Sumpter, Blancet had the locks changed on her doors. Sumpter helped himself to several checks from the estate accounts, making himself the payee for a total of \$3,100. Blancet filed complaints against Sumpter, which resulted in his being indicted on four separate counts of possessing forged instruments.

At trial Sumpter admitted to writing the checks but insisted that he had Blancet's permission. Sumpter maintained that Blancet had promised to pay him for working on her mother's house. The jury acquitted him of three counts but found him guilty of the fourth.

Sumpter first argues that the trial court should have granted his motion *in limine* wherein he sought to limit Blancet's testimony regarding her discovery of the fourth missing check. Because the grand jury declined to indict Sumpter for burglary, he sought to keep Blancet from testifying that her home had been entered and had items strewn about. The admission of such evidence, Sumpter contends, was highly prejudicial and allowed the jury to wrongfully infer that Sumpter was also guilty of burglary.

We have reviewed the evidence and cannot agree that the trial court erred in this regard. The trial court limited

the Commonwealth's proof by not allowing the use of the word "burglary," nor mentioning that Blancet had attempted to indict Sumpter for breaking into her house. But, because the evidence surrounding Blancet's discovery of the missing check was "inextricably intertwined with" the evidence of the housebreak, it was not error for the trial court to deny the motion in limine. See KRE 404(b)(2).

And we are not convinced by Sumpter's second argument that the Commonwealth failed to prove the requisite intent. There was sufficient evidence to support the jury's verdict, and we decline to reexamine it on appeal. Commonwealth v. Jones, 880 S.W.2d 544, 545 (Ky. 1994).

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

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