

RENDERED: DECEMBER 29, 2005; 2:00 P.M.  
NOT TO BE PUBLISHED

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2004-CA-001711-MR

MICHAEL PEAK

APPELLANT

v.

APPEAL FROM BULLITT CIRCUIT COURT  
HONORABLE THOMAS L. WALLER, JUDGE  
INDICTMENT NO. 03-CR-00148

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION AND ORDER  
DISMISSING

\*\* \*\* \* \* \*

BEFORE: COMBS, CHIEF JUDGE; DYCHE AND JOHNSON, JUDGES.

DYCHE, JUDGE: The Commonwealth has moved the court to dismiss this appeal for the appellant's failure to comply with various procedural rules, including failing to provide us with a record upon which we can decide the issues presented in the appeal.

It is the duty of the appellant to ensure that the record is prepared and certified by the circuit clerk within the time specified in the Rules of Civil Procedure. CR 73.08, 75.01, 75.02, 75.07. In the absence of a record upon which we

can conduct a review, we must assume that the evidence supported the decision below. Moody v. Commonwealth, 170 S.W.3d 393 (Ky. 2005); Thompson v. Commonwealth, 697 S.W.2d 143 (Ky. 1985); Ventors v. Watts, 686 S.W.2d 833 (Ky. App. 1985).

The appellant filed no designation of record, and has put forth no reason for that failure, or for why the record has not been prepared and transmitted to the clerk of this court. We have no video, audio or written transcript of the proceedings. We are therefore unable to review the errors alleged by appellant. The appeal is DISMISSED.

ALL CONCUR.

/s/ R. W. Dyche  
Judge, Court of Appeals

ENTERED: December 29, 2005

BRIEF FOR APPELLANT:

Juliette Stewart House  
Louisville, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo  
Attorney General of Kentucky

Jeffrey A. Cross  
Assistant Attorney General  
Frankfort, Kentucky