Commonwealth of Kentucky
Supreme Court

File No. 2009-SC-000214-DG

GEORGE LAPRADD, JR. **APPELLANT**

v.

Appeal from Jefferson Circuit Court
Hon. Geoffrey P. Morris, Judge
Indictment No. 2006-CR-1356
Court of Appeals No. 2007-CA-1205-MR

COMMONWEALTH OF KENTUCKY **APPELLEE**

Brief for Commonwealth

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CERTIFICATE OF SERVICE

I certify that the foregoing Brief for the Commonwealth was mailed first class, U. S. Mail, postage pre-paid this 8th day September, 2010, to: Hon. Geoffrey P. Morris, Judge, Jefferson Circuit Court, Division 11, Jefferson County Judicial Center, 700 West Jefferson St., Louisville, KY 40202; to: Hon. Bruce P. Hackett, Chief Appellate Defender, Office of the Louisville Metro Public Defender, Advocacy Plaza, 717-719 W. Jefferson St., Louisville, Ky. 40202; via electronic Mail to: Hon. Samuel Floyd, Assistant Commonwealth's Attorney, 514 W. Liberty St., Louisville, Ky. 40202.

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INTRODUCTION

This is a criminal case in which Appellant has been granted discretionary review of a Court of Appeals decision affirming his judgment convicting him of possession of a handgun by a convicted felon and for being a second-degree persistent felony offender (PFO). This conviction led to a sentence of twelve (12) years imprisonment.

STATEMENT CONCERNING ORAL ARGUMENT

The Commonwealth does not believe oral argument would be helpful to the Court in this case because the issues are thoroughly addressed in the parties' briefs.

COUNTERSTATEMENT OF POINTS AND AUTHORITIES

COUNTERSTATEMENT OF THE CASE

Appellant was indicted by a Jefferson County Grand Jury on March 22, 2006, on one (1) count of Possession of a Firearm by a Convicted Felon, one (1) count of Carrying a Concealed Deadly Weapon, and one (1) count of Persistent Felony Offender in the Second Degree. (TR I, 1-4). Appellant appeared at trial on April 4, 2007 and stipulated to the fact that he was a convicted felon. (VR I, 4/4/07; 3:38:33). After a jury found the Appellant guilty of one (1) count of Possession of a Firearm by a Convicted Felon, he waived jury sentencing and was sentenced to a total of ten (10) years imprisonment by the trial court enhanced by a Persistent Felony Offender in the Second Degree conviction to twelve (12) years. Appellant appealed this conviction and sentence to the Kentucky Court of Appeals, who affirmed. Appellant sought and was granted discretionary review by this Court.

The Court of Appeals summarized the facts as follows:

> On March 20, 2006, Louisville Metro Police Officers Chris Sheehan and Steve Fisher, while on patrol, observed a stolen vehicle. The officers approached the stolen vehicle and observed individuals within and also outside the car. Upon observing police, LaPradd, a convicted felon, who was leaning against the driver's side door, backed away from the car.
>
> According to police, after their arrival, LaPradd stared at them and attempted to walk away. After LaPradd was stopped and searched, a loaded handgun was discovered in his pocket, and he was arrested for felony handgun possession. On March 22, 2006, LaPradd was indicted for possession of a firearm by a convicted felon, carrying a concealed deadly weapon, and for being a persistent felony offender in the second degree.
>
> During his jury trial, LaPradd admitted possessing the firearm but testified that he picked up the handgun to

prevent teenagers around the car from obtaining the gun and endangering the lives of others. At the close of trial, LaPradd requested a jury instruction on the misdemeanor offense of carrying a concealed deadly weapon, but the trial court refused and stated that it was in effect issuing a directed verdict of acquittal on the charge. He next requested a jury instruction on the "choice of evils" defense. He requested that this instruction require the prosecution to prove that LaPradd's conduct was not justified as a "choice of evils" by including it as an element of the primary offense.

Although the trial court issued a "choice of evils" instruction, the instruction was not included as an element in the felony handgun possession instruction but was given under a separate instruction. The separate instruction, Instruction No. 2, read as follows:

Even though the defendant might otherwise be guilty of Possession of a Handgun by a Convicted Felon under Instruction No. 1, you shall find him not guilty under that Instruction if at the time he possessed the firearm, he believed:

(a) that his action in picking the gun up from the ground was necessary to avoid being shot, or to prevent someone else, including the police officers, from being shot AND

(b) that he had no reasonable, viable alternative then he was privileged to take such action as he believed necessary to protect himself and others, including the police officers, from being shot PROVIDED HOWEVER

(c) if you believe from the evidence beyond a reasonable doubt that the Defendant, by his own conduct, brought about the situation requiring him to choose the course which he took, then his defense of Choice of Evils is not available to him.

> LaPradd was found guilty of being a convicted felon in possession of a handgun. After the jury finding, LaPradd waived jury sentencing, pled guilty to the PFO II charge, and accepted an enhanced sentence of twelve years' imprisonment. This appeal followed.

(Slip Op. at 2-3).

Additional facts will be set forth below as necessary.

ARGUMENT

I.

THE TRIAL COURT'S INSTRUCTIONS TO THE JURY WERE PROPER.

Appellant claims that he was denied his constitutional right to due process of law when the trial court did not instruct the jury to find that the Commonwealth had proven the negative of his choice of evils defense beyond a reasonable doubt (Br. Aplt. at 5-16). The trial court ruled on this issue and found that the instruction was proper and that choice of evils would not be a negative element of possession of a handgun by a convicted felon. (VR I, 4/5/07; 9:51:05). The Court of Appeals also addressed this issue and found that the Appellant was entitled to a "choice of evils" instruction and that the instruction issued to the jury did not improperly shift the burden of proof away from the Commonwealth, "but merely instructed the jury of what it had to believe to find [Appellant] guilty of felony handgun possession." (Slip Op. at 6).

The complained of instructions were instructions numbers one (1) and two (2). Instruction number one (1), possession of a firearm by a convicted felon, read:

> You will find the defendant, GEORGE LAPRADD JR., guilty under this instruction if and only if, you believe from the

evidence beyond a reasonable doubt all of the following:

A. That in Jefferson County on or about March 20, 2006, and before the finding of the indictment herein, he knowingly had in his possession a handgun;

AND

B. That he had been previously convicted of a felony.

If you find the defendant, GEORGE LAPRADD JR., guilty under this instruction, you shall say so by your verdict and no more. There will be a further proceeding at which you will determine his punishment.

TR at 90.

Instruction number two (2), "Choice of Evils", read:

Even though the defendant might otherwise be guilty of Possession of a Handgun by a Convicted Felon under Instruction No. 1, you shall find him not guilty under that instruction if at the time he possessed the firearm, he believed:

(a) that his action in picking the gun up from the ground was necessary to avoid being shot, or to prevent someone else, including the police officers, from being shot AND

(b) that he had no reasonable, viable alternative then he was privileged to take such action as he believed necessary to protect himself and others, including the police officers, from being shot PROVIDED HOWEVER

(c) if you believe from the evidence beyond a reasonable doubt that the Defendant, by his own conduct, brought about the situation requiring him to choose the course which he took, then his defense of Choice of Evils is not available to him.

TR at 91

The trial court actually used the exact language that Appellant suggested for the choice of evils instruction, with the inclusion of part (c).

A. The commonwealth was not required to prove the negative of choice of evils beyond a reasonable doubt

Appellant argues that the Commonwealth had the burden of proof to prove the negative of his choice of evils defense, but admits that the Kentucky Court of Appeals in Beasley v. Commonwealth, 618 S.W.2d 179, 180 (Ky. App. 1981) and Peak v. Commonwealth, 34 S.W.3d 80, 82 (Ky. App. 2000), determined that the defendant bore the burden of proof in a choice of evils defense[1]. (Br. Aplt. at 7). In Peak, the Kentucky Court of Appeals set forth further criteria by which a court can establish that a defendant is indeed entitled to a choice of evils defense. That court stated,

> A defendant bears the burden of proving a choice of evils defense, and justifiable conduct is conditioned upon at least the following four different contingencies:
>
> (1) that the person believes the necessity of his action is mandated by his subjective value judgment (this must be weighed by the reasonableness standard);
>
> (2) that such action must be contemporaneous with the danger of injury sought to be avoided. *See* Duvall v. Commonwealth, 593 S.W.2d 884 (Ky. App. 1980);
>
> (3) that the injury is imminent, requiring an immediate choice if to be avoided;

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[1] In Beasley, the Kentucky Court of Appeals stated, "It is also to be noted that since "choice of evils" is a defense it is incumbent upon the defendant to bear the burden of proving this defense. Here the appellant attempts to use the statute as an excuse buttressed only by his assertion that since he lived outside Lyon County he could not receive a fair trial." In Peak, the Kentucky Court of Appeals further reiterated, "A defendant bears the burden of proving a choice of evils defense."

and

(4) that the danger or injury sought to be avoided must be greater than the penalty or offending charge occasioned by the action chosen by the party. (Beasley v. Commonwealth, 618 S.W.2d 179, 180 (Ky. App. 1981). Peak clearly could not meet his burden of proving justifiable conduct because he could not show that the "injury" was imminent. In order for the choice of evils defense to be available, "it must be shown that defendant's conduct was necessitated by a specific and imminent threat of injury to his person under circumstances which left him no reasonable and viable alternative, other than the violation of the law for which he stands charged." Senay v. Commonwealth, 650 S.W.2d 259, 260 (Ky. 1983). The court in Senay further stated that "the danger presented to the defendant must be compelling and imminent, constituting a set of circumstances which affords him little or no alternative other than the commission of the act which otherwise would be unlawful." Id. "Where a defendant fails to produce evidence which would support him in choosing the commission of an otherwise unlawful act over other lawful means of protecting himself, the trial court is not required to instruct the jury on the choice of evils defense." Id. at 260-61.

Appellant claims that the Kentucky Court of Appeals made erroneous statements in Beasley and Peak. (Aplt. Br. at 9-11). Case law in Kentucky is clear that the Commonwealth does not carry the burden of disproving a choice of evils defense beyond a reasonable doubt.

B. Appellant was not entitled to a choice of evils instruction.

In the case at hand Appellant was not entitled to a choice of evils defense and therefore should this court find any error in the instructions presented to the jury, that

error would be harmless. Appellant testified that he picked up a handgun that someone had dropped as they fled from the stolen vehicle that he was leaning into as police approached. He stated that he did this so that none of the teenagers in the vicinity at the time could get the gun and shoot him, or anyone else. (VR I, 4/4/07; 3:41:58, 3:42:50). However, no evidence was introduced that this was a possibility. In fact, Officer Sheehan testified that he never saw the Appellant pick anything up while approaching the stolen vehicle, and that no one around or in the vehicle fled. He stated that he told everyone to stop and that everyone did, except the Appellant. He testified that only the Appellant fled the scene as he and Officer Fisher approached the vehicle and that he saw the Appellant place one or both of his hands into his pockets. (VR I, 4/4/07; 1:47:25, 1:48:27, 1:49:34, 2:24:45). Officer Sheehan stated that the Appellant turned and looked at the approaching officers and gave them a "deer in the headlights look", before he began to flee. (Id. at 1:47:50). Officer Sheehan specifically testified that he could see the Appellant as he approached the vehicle and that he never saw the Appellant pick anything up off of the ground. (Id. at 1:48:50). Officer Sheehan stated that he discovered a loaded handgun in the Appellant's left pocket. (Id. at 1:50:00). Officer Fisher testified that he did not exit his vehicle with his gun draw, but only pulled his service weapon when Officer Sheehan discovered the weapon on the Appellant, and that he did not see Officer Sheehan with his gun drawn either. (Id. at 3:10:50). Appellant testified that he was inside one of his friend's homes when he heard a fight outside. He stated that he went outside and saw a car that had been reported to him as stolen. He approached the stolen vehicle to tell the people in and around the car that it had been reported stolen and that they needed to take

it back. (Id. at 3:39:10, 3:40:55). Appellant also testified that one of the people in the vehicle had recently been shot. (Id. at 3:41:35). Appellant testified that after he picked the gun up he intended to give it to a police officer. (Id. at 3:43:15). Appellant himself testified that he attempted to get away from the vehicle and that he had picked up the gun prior to the police approaching the vehicle. (Id. at 3:44:20).

In order for the jury to be instructed on the choice of evils defense the Appellant initially bears the burden of proving (1) that the he believes the necessity of his action is mandated by his subjective value judgment (this must be weighed by the reasonableness standard); (2) that such action must be contemporaneous with the danger of injury sought to be avoided; (3) that the injury is imminent, requiring an immediate choice if to be avoided; and (4) that the danger or injury sought to be avoided must be greater than the penalty or offending charge occasioned by the action chosen by the party. *See* Peak *supra*. Appellant's own testimony when coupled with Officer Sheehan's and Officer Fisher's testimony does not provide a basis under these guidelines to issue a choice of evils defense instruction to the jury. While the Appellant may have provided ample evidence that he believed that his actions were necessary, he did not illicit sufficient testimony to carry the burden of proof in proving that the action was contemporaneous with the danger sought to be avoided and that the injury was imminent and required immediate action. Appellant's testimony as discussed above instead showed that he was not in immediate danger when he picked up the gun, because he testified that he picked up the gun before the police approached the vehicle, which is corroborated by Officer Sheehan's testimony that he did not see the Appellant pick anything up off of the

ground. Appellant also did not provide any evidence that there was immediate threat that he or the police would have been shot if he had not picked the gun up. Appellant testified that someone in the vehicle had previously been shot, and it would be illogical to think that someone recovering from gun shot wounds would place themselves in another gun battle. Also Officer's Sheehan and Fisher both testified that no one around the vehicle attempted to flee except for the Appellant. Appellant did carry his burden of proof to establish that he did not have other options or that he was in immediate danger. As pointed out by the Commonwealth in closing arguments the Appellant could have easily kicked the gun under the car if he in fact picked it up from the ground while others were fleeing, or he could have backed away and informed the officers that there was a gun on the ground. Instead the Appellant claims that his best and only option was to pick the gun up and place it in his pocket. Appellant's actions in fleeing from the police also are not indicative of someone who wants to help the police officers and protect others.

The weight of the evidence, concerning Appellant's guilt, when weighed against the Appellant's weak evidence presented for a choice of evils defense, is so great that no reasonable jury could have found Appellant's allegations to be true. Appellant did not bear the necessary burden to have a choice of evils instruction presented to the jury. As such, any error in the jury instructions for Appellant's choice of evils defense was harmless and the decision of the Jefferson Circuit Court should be affirmed.

C. **Even if entitled to a "Choice of Evils" instruction, the instruction given was not in error.**

Even if this Court should determine, as the Kentucky Court of Appeals did, that the Appellant was entitled to a "choice of evils" instruction, the instruction given was not in error. The instruction provided to the jury was the same instruction requested by the Appellant, with the exception of the inclusion of part (c).

This instruction was patterned after the instruction provided in 1 Cooper, Kentucky Instructions to Juries (Criminal), Section 11.28 (Rev. 4th ed. 1999), and sufficiently informed the jury regarding the Appellant's "choice of evils" defense. Should this Court find that the Commonwealth bore the burden of proving the negative of the Appellant's "choice of evils" defense and that this defense is a "Justification" defense, this Court should also find that the instructions given to the jury when read as whole, only allowed the jury to find the Appellant guilty if the Commonwealth proved "beyond a reasonable doubt that the [Appellant], by his own conduct, brought about the situation requiring him to choose the course which he took." TR at 91, Instruction No. 2, "Choice of Evils".

The inclusion of part (c) in Instruction No. 2, required the Commonwealth to prove the negative of the Appellant's "choice of evils" defense "beyond a reasonable doubt." This not only made the instruction proper, but it also narrowed the Commonwealth's avenue of attack against the Appellant's defense. The Appellant, under these instructions could only be found guilty, if the Commonwealth proved beyond a reasonable doubt, that he knowingly placed himself in a situation that would result in his

course of conduct. This satisfies the need for the Commonwealth to prove the negative of the Appellant's "choice of evils" defense, under a "Justification" definition of the defense. The rest of the instruction does not require the Appellant to bear any burden, but allows the jury to find him innocent, if "he believed" that his actions were necessary. This is not a burden of proof, rather it is a question of witness sincerity and reliability, which is best left to the jury. Leigh v. Commonwealth, 481 S.W.2d 75, 79 (Ky. 1972). See also Manson v. Brathwaite, 432 U.S. 98, 97 S.Ct. 2243, 53 L.Ed.2d 140 (1977).

Appellant's contentions that the instructions required that the jury find "by a preponderance of the evidence" that his guilt was negated by his defense is meritless. (Aplt. Br. at 12). As discussed above, the instruction clearly instructed the jury to find the Appellant innocent if "he believed" his actions were necessary, and only guilty if the Commonwealth proved "beyond a reasonable doubt" that he put himself in a situation that was likely to result in his actions. TR at 91, Instruction No. 2, "Choice of Evils". Asking a jury to determine whether a defendant "believed" something does not rise to the level of "preponderance of the evidence" as suggested by the Appellant. The instruction suggested in Cooper, states:

> A. Even though the Defendant might otherwise be guilty of_____ (ID intentional crime) under Instruction No. _____, is at the time he _____(method), he believed (a) that such action was necessary to avoid_____(ID injury) to [victim] [himself], and (b) that he had no reasonable, viable alternative to avoid such injury to [victim] [himself], he was privileged to take such action as he believed necessary to protect [victim] [himself] from _____(ID injury).

B. Provided, however, if you believe from the evidence beyond a reasonable doubt that the Defendant, by his own conduct, brought about the situation requiring him to choose the course which he took, then this defense of Choice of Evils is not available to him.

1 Cooper, Kentucky Instructions to Juries (Criminal), Section 11.28 (Rev. 4th ed. 1999). The instruction provided to the jury in this case was substantially patterned after the instruction given in Kentucky Instructions to Juries (Criminal). That instruction also asks the jury to find the Appellant innocent if "he believed", and includes section (c) of the instruction given in Appellant's case as section B. No error occurred here, the instruction provided to the jury properly placed the burden on the Commonwealth to prove the negative of the Appellant's defense beyond a reasonable doubt.

II.

THE TRIAL COURT PROPERLY DID NOT INSTRUCT THE JURY ON CARRYING A CONCEALED DEADLY WEAPON.

The Appellant was indicted and charged with Possession of a Firearm by a Convicted Felon, Carrying a Concealed Deadly Weapon, and Persistent Felony Offender in the Second Degree. (TR I, 1-3). At trial the charge of Carrying a Concealed Deadly Weapon was dismissed as the court determined that under Blockburger v. United States, 284 U.S. 299, 52 S.Ct. 180, 76 L.E. 306 (1932). the charge was consumed by the possession charge. The Appellant argues that a jury could have found him not guilty of being a felon in possession of a firearm by his choice of evils defense, but still found him guilty of Carrying a Concealed Deadly Weapon since he chose to put the handgun in his

pocket. (Aplt. Br. at 16). However, this argument is without merit for several reasons.

Under Blockburger the test to determine whether one crime is a lesser included offense of another is whether each crime requires proof of a fact which the other does not. (Blockburger, 304). Here the Appellant was charged with Possession of a Firearm by a Convicted Felon, KRS 527.040, which reads in pertinent part:

> (1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court,

Appellant was also charged with Carrying a Concealed Deadly Weapon under KRS 527.020, which reads in pertinent part:

> (1) A person is guilty of carrying a concealed deadly weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person.

Possession of a firearm by a convicted felon only requires that a person be convicted of a prior felony and be in possession of a firearm, concealed or not, while Carrying a Concealed Deadly Weapon, requires proof of only one less fact. One may be convicted of Carrying a Concealed Deadly Weapon regardless of whether they are a convicted felon or not and in order to be convicted of Possession of a Firearm by a Convicted Felon, it must be proven that the person had possession of the firearm and also that they were a convicted felon. Under Blockburger, Carrying a Concealed Deadly Weapon, is within these circumstances a lesser included offense of Possession of a

Firearm by a Convicted Felon.

Since the Appellant stipulated that he was a convicted felon, and further admitted to that fact, as well as to the fact that he had possession of the firearm, there were no facts which would support a conviction of Carrying a Concealed Deadly Weapon, without a conviction of Possession of a Firearm by a Convicted Felon. (VR I, 4/4/07; 3:38:33, 3:45:52, 3:52:07). The Appellant's argument that his choice of evils defense could have negated his possession of the firearm, but not his concealment of the firearm is illogical. (Aplt. Br. at 16-20). Under Appellant's choice of evils defense any possession, concealed or not would be justified. Therefore a jury finding that he was justified in picking up the gun from the ground, even though he was a convicted felon, would also justify his placing the gun in his pocket until he could turn it over to the police. Appellant's choice of evils defense requires that the Appellant's actions were necessary to avoid an imminent danger to himself or others. Here if Appellant's actions were found to be necessary to avoid imminent danger, his concealment of the handgun would be a natural extension of his possession of it. It should also be noted that, as argued above, the Appellant was not entitled to a choice of evils jury instruction as he did not meet his burden of proof to necessitate providing the jury with an instruction on choice of evils. Since Appellant stipulated to one element of the charge of Possession of Firearm by a Convicted Felon, and admitted at trial to the other, it would not have been possible to convict him of Carrying a Concealed Deadly Weapon as it is a lesser included offense of Possession of a Firearm by a Convicted Felony. The Commonwealth proved (and the Appellant stipulated to) the extra element needed to convict the Appellant of

Possession of a Firearm by a convicted Felon rather than Carrying a Concealed Deadly Weapon, the fact that he was indeed a felon. If the Appellant had not been a convicted felon and had not stipulated to this fact, or this fact had not been proven by the Commonwealth, he possibly could have been convicted of Carrying a Concealed Deadly Weapon. However, under the facts presented it would have been impossible to convict him of Carrying a Concealed Deadly Weapon since his choice of evils defense would have negated any culpability to possessing or concealing the handgun. Although, since he was not entitled to a choice of evils defense, Carrying a Concealed Deadly Weapon is a lesser included offense of Possession of a Firearm by a Convicted Felon, and the Appellant stipulated to the fact that he was a felon. It would have been impossible to convict him of any lesser included offenses, in which he was not a convicted felon.

The Kentucky Court of Appeals addressed this issue and stated:

> LaPradd next contends that the trial court erred by failing to give an instruction on carrying a concealed deadly weapon. Specifically, he contends that he was entitled to receive an instruction on the concealed weapon charge as a "lesser" offense of possession of a handgun by a convicted felon. Essentially, LaPradd contends that he was deprived of the right to have a jury find him guilty under a "middle ground" instruction as opposed to the "all of nothing" instruction given by the trial court. We disagree.
>
> As LaPradd properly cites, in Sanborn v. Commonwealth, 754 S.W.2d 534, 549-50 (Ky. 1988), our Supreme Court, in a plurality opinion, discussed the right of the accused to have alternative or "lesser" offense instructions submitted to the jury. Notwithstanding Sanborn's language regarding instructions for "lesser" offenses, in Hudson v. Commonwealth, 202 S.W.3d 17, 21 (Ky. 2006), the court revisited the issue and stated that "the fact that the evidence would support a guilty verdict on a lesser uncharged

> offense does not entitle a defendant to an instruction on that offense."
>
> Specifically, "[a]n instruction on a separate, uncharged but 'lesser' crime in other words, an alternative theory of the crime is required only when a guilty verdict as to the alternative crime would amount to a defense to the charged crime, i.e., when being guilty of both crimes is mutually exclusive." Id. at 22. Under the facts of this case, LaPradd could have been convicted of both offenses, carrying a concealed deadly weapon and felony possession of a handgun. That is, the jury could have found that LaPradd, a convicted felon, possessed a handgun and, while doing so, concealed that deadly weapon by placing it in his pocket.
>
> Although LaPradd places great emphasis on the use of the term "uncharged" crimes in Hudson, we do not find this term so significant as to change the central principle of the court's opinion, which is to prevent the reversal of criminal convictions because instructions were not given regarding all possible criminal acts a defendant may have committed. Id. Therefore, the trial court's refusal to give a carrying a concealed deadly weapon instruction was not error.

(Slip Op. at 7-8)(footnote omitted).

The Court of Appeals judgment is sound. Accordingly, there was no error in not instructing the jury on Carrying a Concealed Deadly Weapon as it was consumed by the Possession of a Firearm by a Convicted Felon charge as a lesser included offense. The decisions of the Jefferson Circuit Court and Kentucky Court of Appeals should be affirmed.

CONCLUSION

For the foregoing reasons, Appellant's judgement of conviction and sentence of twelve (12) years from the Jefferson Circuit Court should be affirmed.

Respectfully submitted,

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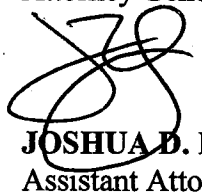

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