

Commonwealth Of Kentucky

Court Of Appeals

NO. 1997-CA-003064-MR

STANLEY STONE

APPELLANT

v.

APPEAL FROM ROWAN CIRCUIT COURT
HONORABLE WILLIAM B. MAINS, JUDGE
INDICTMENT NO. 97-CR-000026

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: DYCHE, EMBERTON, AND GARDNER, JUDGES.

DYCHE, JUDGE: A jury convicted Stanley Stone of Manslaughter in the First Degree. He was sentenced to fifteen years' imprisonment. Stone appeals.

Stone was charged with murdering Robert Turner on April 15, 1997. Stone admitted to the killing but insisted that he was acting in self defense. He claimed that Turner had threatened to remove Stone's chest catheter; Stone believed that removal of the catheter would jeopardize his life.

One of the officers on the scene, Ben McCray, remembered an incident several days prior where a woman claimed

that Stone threatened to kill her, stating that he would be exonerated when he told the police that she had tried to pull a tube out of his chest. The Commonwealth had the woman, Mary Esteppe, testify at trial. McCray also testified, and his report of the Esteppe incident was admitted into evidence. Stone claims that the admission of McCray's testimony and police report constituted reversible error.

Stone's complaint with McCray's testimony is that it served to improperly bolster Esteppe's. We disagree. During cross-examination, Esteppe could not recall certain aspects of her prior testimony, rendering the latter "inconsistent" for purposes of admissibility under Kentucky Rule of Evidence [KRE] 801A(a)(1). See Brock v. Commonwealth, Ky., 947 S.W.2d 24, 27 (1997). Thus the trial court did not err in allowing McCray to testify regarding Esteppe's statements to him.

Nor do we find error concerning the domestic violence reporting form. The trial court ruled that the form was admissible pursuant to KRE 803(8) as a "uniform reporting form designed to provide statistical information concerning, among other things, domestic violence." Stone has not convinced us that this ruling was an abuse of the trial court's discretion.

The judgment of the Rowan Circuit Court is affirmed.

ALL CONCUR.

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