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TO BE PUBLISHED

Supreme Court of Kentucky

FINAL

2006-SC-000180-DG

DATE 3/12/09 Kelly Klaber D.C.

COMMONWEALTH OF KENTUCKY

APPELLANT

V.
ON REVIEW FROM COURT OF APPEALS
CASE NUMBER 2004-CA-000974-MR
KNOX CIRCUIT COURT NO. 03-CR-00041-002

GARY DAVIDSON

APPELLEE

OPINION OF THE COURT BY SPECIAL JUSTICE MOORE

AFFIRMING

The Commonwealth appeals from a Kentucky Court of Appeals' decision reversing Gary Davidson's conviction for assault in the second degree and subsequently barring a retrial for the same offense under the Double Jeopardy Clause. Upon review of the record, we affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

On the night of March 26, 2003, Crystal Williams was involved in a physical altercation with her former boyfriend, Gary Davidson, and his girlfriend at the time, Tracey Rogers. Williams allegedly traveled to Davidson's trailer home to collect some of her belongings and confront Davidson about why he left her for Rogers. The situation quickly escalated when, according to Davidson, Williams began fighting him as soon as he opened the door to his home.