

Kentucky, Court of Appeals.

REPORTS

OF SELECTED

CIVIL AND CRIMINAL CASES

DECIDED IN THE

COURT OF APPEALS

OF KENTUCKY.

By W. P. D. BUSH, REPORTER.

VOLUME VII.

CONTAINING CASES DECIDED AT PART OF WINTER TERM, 1869,
AND SUMMER AND WINTER TERMS, 1870.

HASTINGS LAW COLLEGE LIBRARY

JF2 849

LOUISVILLE, KY:

PUBLISHED BY JOHN P. MORTON & COMPANY.

1871.

1582

Cutsinger v. Commonwealth.

CASE 6—INDICTMENT—DECEMBER 9.

Cutsinger v. Commonwealth.

APPEAL FROM WASHINGTON CIRCUIT COURT.

NO PERSON CAN LAWFULLY CARRY DEADLY WEAPONS CONCEALED ON HIS PERSON, EVEN FOR A HARMLESS PURPOSE, unless he comes within one of the three exceptions contained in section 2 of the statute.

In this case the pistol was sold by one person to another, and the defendant was carrying it for accommodation to deliver to the purchaser. The circuit court properly refused to instruct the jury to the effect that if he was carrying the pistol for the purpose of delivering it to the purchaser, and not with the intention of using it as a weapon, they should find him not guilty.

BROWNE & LEWIS, For Appellants

CITED

- 10 B. Monro, Phillips v. Pope's heirs.
- 4 Littell, 877, Mason v. Rogers.
- Broom's Legal Maxims, 439.
- Revised Statutes, 1 Stanton, 414.

JOHN RODMAN, Attorney-General, For Appellee

JUDGE LINDSAY DELIVERED THE OPINION OF THE COURT.

Cutsinger undertook, for the accommodation of Hickerson to convey to Cook a pistol, of which the latter was the purchaser. He so carried the same about his person as to conceal it from the public view. He was indicted therefor under the provisions of the "act to prohibit the carrying of concealed deadly weapons," and upon trial was convicted and fined fifty dollars. He complains that the circuit court erred to his prejudice in refusing to instruct the jury, in effect, that if he was carrying the pistol for the purpose of delivering it to Cook, and not with the intention of using it as a weapon, they should find him not guilty. The language of the statute is

that "weap
of the
habit
proper
wisdom
such v
whate
by wh
for us
tion, s
of the
sions
for a
the p
three
prete
except
W
below

Cutsinger v. Commonwealth.

that "if any person shall hereafter carry *concealed* any deadly weapon" he shall be fined, etc. It was the evident intention of the legislature to prevent, as far as possible, the pernicious habit of carrying upon the person deadly weapons for improper or unlawful purposes. They saw proper, in their wisdom, to provide that, except under certain circumstances, such weapons should not be carried *concealed* for any purpose whatever. Whether or not this inhibition is the best means by which to accomplish the end sought to be attained is not for us to determine. It is not an abuse of legislative discretion, and so long as the act remains upon the statute books of the state no person can without a violation of its provisions carry deadly weapons concealed about his person, even for a harmless purpose, in the particular *manner* against which the penalty is denounced, unless he comes within one of the three exceptions contained in section 2 of the act. It is not pretended that the appellant comes within either of these exceptions.

We perceive no available error in the action of the court below; wherefore its judgment must be affirmed.

TS.

ealth.

DECEMBER 9.

Commonwealth.

SUPREME COURT.

WEAPONS CONCEALED ABOUT
 SE, unless he comes within
 section 2 of the statute.

person to another, and the
 on to deliver to the pur-
 ed to instruct the jury in
 the use of delivering
 on of using it as a weapon,

. . . For Appellant,

's heirs.

. . . For Appellee.

THE COURT.

ation of Hickerson,
 latter was the pur-
 person as to conceal
 therefor under the
 rrying of concealed
 icted and fined fifty
 court erred to his
 in effect, that if he
 of delivering it to
 it as a weapon, they
 ge of the statute is