

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-3664

Summary Calendar

EDWARD RAY,

Plaintiff-Appellant,

versus

STEVE RADER and RICHARD P. IEYOUB,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CA 92 1543 E)

(October 22, 1993)

Before KING, HIGGINBOTHAM, and BARKSDALE, Circuit Judges.

PER CURIAM:*

After his conviction for forcible rape, Edward Ray filed a petition for federal habeas corpus, alleging that the trial court erred in 1. not allowing the jury to review the victim's medical records; 2. excluding testimony concerning the victim's prior sexual activity; 3. allowing a nurse to interpret medical records; 4. imposing an excessive sentence; 5. entering a judgment contrary

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

to law and evidence; and 6. denying his motion for acquittal and new trial.

In response to the state's answer, Ray argued for the first time that he is entitled to a new trial because the doctor who examined the victim following the alleged rape did not testify at trial. The district court did not address this argument, but denied the petition for habeas corpus based on the grounds raised in the original petition. The district court issued a certificate of probable cause. We affirm.

Ray argues that he was denied a fair trial because the trial court excluded evidence that victim alleged that Ray raped her because she thought that she was pregnant by another man. The trial record, however, reveals that both Reverend Kerry Sims and the victim testified about the possibility that she falsely accused Ray of rape to hide her intimacies with another man.

Though Ray argues that the evidence was not sufficient to prove that the victim was raped, the victim provided a detailed account of the alleged rape. The victim's sister testified that when she entered the victim's room, she saw Ray jumping from the victim's bed, wearing only his underwear. The examining physician reported that the victim had physical signs of recent sexual intercourse. Viewing the evidence in the light most favorable to the prosecution, we conclude that a rational trier of fact could have found guilt beyond a reasonable doubt.

Any error arising from the failure to procure the examining physician's testimony did not violate Ray's due process rights

because he was not deprived of a fundamentally fair trial right in light of the strong evidence of guilt. AFFIRMED.