

**PUBLISHED OPINIONS
KENTUCKY SUPREME COURT
MAY 2015**

I. CRIMINAL LAW:

A. Jeremy Caraway v. Commonwealth of Kentucky

[2013-SC-000610-MR](#)

May 14, 2015

Opinion of the Court by Justice Noble Affirming. All sitting; all concur. Caraway was convicted of various sex offenses and was sentenced to 20 years' imprisonment. In affirming his convictions and sentence, the Court held that Caraway had accepted a juror's qualifications during voir dire, thereby waiving any objection to the alleged partiality of the juror, and was thus barred from seeking appellate review on those grounds; that his direct appeal ineffective assistance of counsel claim was premature; that the trial court's refusal to hear additional testimony at the sentencing hearing after the penalty phase of trial was not error and did not deny Caraway of meaningful judicial sentencing; and that, in light of the 2011 amendments to KRS 532.120(3), the trial court was not required or authorized to order credit for time served in custody before sentencing.

B. Jose Lopez v. Commonwealth of Kentucky

[2013-SC-000795-MR](#)

May 14, 2015

Opinion of the Court by Justice Keller. All sitting; all concur. . Lopez was convicted of rape, incest, sexual abuse, and unlawful transaction with a minor. His convictions arose from a sexual relationship he admitted to having with his under 16-year-old stepdaughter. On appeal, Lopez primarily argued that he did not receive pre-trial due process or a fair trial because he was not provided a qualified translator. The Court noted that Lopez raised a number of issues regarding what constitutes a qualified translator. However, because Lopez had not properly preserved those issues and had not shown how he was harmed by any error related to the translations, the Court did not substantively address them. Lopez also argued that his statement, which was taken in the presence of a translator and contained the translator's translation, should have been excluded as hearsay. The Court held that Lopez's translated statement was an admissible statement against interest and the fact that a translator was involved did not alter the nature of the statement. During the penalty phase, the jurors indicated that they could not agree regarding the length of certain sentences; however, they had agreed that any sentences should run concurrently. The trial court declared a deadlock and imposed sentences that ran consecutively rather than concurrently. Because Lopez had not preserved the issue, the Court looked for palpable error, which it could not find. Finally, Lopez argued that testimony by his stepdaughter about uncharged sexual activity amounted to impermissible KRE 404(b) evidence. The Court held, as it did in *Noel v. Commonwealth*, 76 S.W.3d 923 (Ky. 2002), that evidence regarding similar acts perpetrated against the same victim are almost always admissible to prove intent, plan, or absence of mistake. Therefore, the complained of testimony was properly admitted.