

Commonwealth Of Kentucky

Court of Appeals

NO. 1998-CA-002294-MR

CECIL MULLINS

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE THOMAS KNOFF, JUDGE
ACTION NO. 94-CR-002578 & 95-CR-002996

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: EMBERTON, CHIEF JUDGE; COMBS AND GUIDUGLI,
JUDGES. EMBERTON, CHIEF JUDGE. The primary issue in this appeal
is whether the trial court erred in refusing to order a "risk
assessment" to support appellant's petition for pre-release
probation pursuant to KRS¹ 439.575. Appellant also cites as
error the refusal to issue findings of fact and conclusions of
law on the denial of his petition for pre-release probation.

¹ Kentucky Revised Statutes.

Because KRS 439.575 was determined in Prater v. Commonwealth² to violate the separation of powers doctrine by impermissibly vesting in the judiciary the executive function with respect to parole, appellant can claim no prejudice by way of the denial of his petition for such relief.

Accordingly, the judgment of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Cecil Dwayne Mullins, Pro Se
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler III
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² Ky., 82 S.W.3d 898 (2002).