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NOT TO BE PUBLISHED
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Commonwealth Of Kentucky

Court of Appeals

NO. 2001-CA-001791-MR

LASCO WILSON

APPELLANT

v. APPEAL FROM BUTLER CIRCUIT COURT
HONORABLE SAM H. MONARCH, JUDGE
INDICTMENT NO. 91-CR-00031

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: COMBS AND DYCHE, JUDGES; AND POTTER,¹ SPECIAL JUDGE.

DYCHE, JUDGE. On June 28, 1991, Lasco Wilson attacked James Coleman with a knife, cutting him on the hand and neck.

Wilson's codefendant, who had hit Coleman with a tire iron, then took Coleman's wallet, which contained between three and four hundred dollars. Wilson was indicted for Robbery in the First Degree, Assault in the First Degree, and Persistent Felony Offender (PFO) in the First Degree. Wilson entered pleas of

¹ Senior Status Judge John Woods Potter sitting as Special Judge by Assignment of the Chief Justice pursuant to Section 110 (5)(b) of the Kentucky Constitution.

guilty to the amended charges of Robbery in the Second Degree and Assault in the Second Degree. He was sentenced to eight years and seven years respectively, with the sentences to run consecutively for a total of fifteen years' imprisonment. The PFO charge was dismissed.

Wilson moved to modify his sentence in June 1993; the motion was denied the following November. In 1994 he filed the first of two Kentucky Rule of Criminal Procedure (RCr) 11.42 motions. The record reflects that Wilson was discharged by parole in April 1996. In 1997, apparently reincarcerated, he filed his second RCr 11.42 motion. The trial court consolidated the motions and entered an order denying relief on October 29, 1997. On September 6, 2000, Wilson filed the within Kentucky Rule of Civil Procedure (CR) 60.02 motion. It was denied by order entered July 9, 2001. Wilson appeals.

Appellant first argues that the trial court erred in amending the original judgment to reflect that Wilson's conviction was for Robbery in the Second Degree rather than Burglary in the Second Degree. We agree with the trial court and the Commonwealth that this was a matter of clerical error, and the trial court was authorized to correct the judgment under CR 60.01.

Wilson secondly argues that his convictions for robbery and assault constitute a double jeopardy violation.

However, he fails to concede that these convictions were the result of a plea bargain. His guilty pleas to the amended charges waived this defense. Corbett v. Commonwealth, Ky., 717 S.W.2d 831, 832 (1986). Also, although Wilson raised a double jeopardy argument in his 1993 motion to modify (arguing continuous course of conduct), he failed to pursue this allegation in either of his RCr 11.42 motions. Wilson thus falls short of demonstrating that he is entitled to CR 60.02's special, extraordinary relief. See McQueen v. Commonwealth, Ky., 948 S.W.2d 415, 416 (1997).

Wilson's final assertion is that the victim recanted that he had been robbed, thereby exonerating Wilson of that charge. This argument was raised and rejected in both of appellant's RCr 11.42 motions and will not be considered here. McQueen, supra; see also Gross v. Commonwealth, Ky., 648 S.W.2d 853, 856 (1983).

The order of the Butler Circuit Court is affirmed.

ALL CONCUR.

APPELLANT *PRO SE*:

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