RENDERED: JANUARY 24, 2003; 10:00 a.m.
NOT TO BE PUBLISHED

# Commonwealth Of Kentucky

# Court Of Appeals

NO. 2001-CA-001980-MR

RONALD LEE FRAZIER — APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE SHEILA ISAAC, JUDGE
INDICTMENT NO. 01-CR-00129

COMMONWEALTH OF KENTUCKY — APPELLEE

OPINION
AFFIRMING

** ** ** ** **

BEFORE: COMBS, DYCHE, AND KNOPF, JUDGES.

DYCHE, JUDGE: Ronald Lee Frazier is currently serving ten years' imprisonment for possession of cocaine and for the status offense of first degree persistent felony offender. He appeals, making two arguments. We affirm.

Frazier was arrested when the police were summoned to a known crack house in Lexington. His first argument on appeal is that the trial court erred in failing to grant Frazier's motions for directed verdict of acquittal. Frazier maintains that

inconsistent statements and conflicting evidence made it clearly unreasonable for a jury to find guilt beyond a reasonable doubt. We disagree. Three of four eye witnesses observed Frazier drop a folded over piece of paper containing a substance which later tested positive for crack cocaine. Thus the evidence was sufficient to induce a reasonable juror to believe beyond a reasonable doubt that Frazier was guilty of possession of cocaine. Commonwealth v. Benham, Ky., 816 S.W.2d 186, 187 (1991). Inconsistencies and conflicting evidence (i. e., weight and credibility) were questions for jury determination. Id. The trial court did not err in failing to grant the motions for directed verdict of acquittal.

Frazier=s second argument is that the trial court erred in failing to *sua sponte* order a competency hearing. Frazier admits that the alleged error is not preserved for appeal but urges this Court to consider it under the palpable error rule. Kentucky Rule of Criminal Procedure (RCr) 10.26. Frazier refers us to Kentucky Revised Statute 504.100(1) which requires a trial court to appoint a psychologist or psychiatrist if Athe court has reasonable grounds to believe the defendant is incompetent to stand trial.@ See also RCr 8.06. Frazier insists that his own testimony at trial regarding his right to remain silent was a clear indication that he was incompetent to stand trial.

We have examined the testimony in question and cannot agree with appellant that it was in any way indicative of

incompetence to stand trial. Lear v. Commonwealth, Ky., 884 S.W.2d 657, 659 (1994). We find no error in this regard.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

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