

Commonwealth Of Kentucky

Court of Appeals

NO. 2001-CA-002491-MR

MONTE H. WALKER

APPELLANT

v. APPEAL FROM CLARK CIRCUIT COURT
HONORABLE WILLIAM T. JENNINGS, JUDGE
ACTION NO. 01-CR-00035

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING
** ** * * * * *

BEFORE: BARBER, DYCHE, AND TACKETT, JUDGES.

TACKETT, JUDGE: Monte Walker appeals from the judgment of the Clark Circuit Court, entered on a conditional guilty plea to charges of criminal facilitation of manufacture of methamphetamine and a guilty plea to possession of marijuana and operating a motor vehicle on a suspended license, for which he was sentenced to five years' imprisonment. Walker argues on appeal that the manufacture of methamphetamine statute is unconstitutionally vague and that the classification of the offense as a Class B felony is cruel and unusual punishment, in

violation of the Eighth Amendment of the United States Constitution. We disagree, and affirm the judgment.

Walker was charged with manufacturing methamphetamine after a search of his home revealed some of the precursors to manufacture of methamphetamine: starter fluid, lithium batteries, and cold medicine. As the Commonwealth notes in its brief, the record does not contain any further explanation as to the facts behind the charge, the only references to the facts occurring at the final sentencing. Walker filed a motion to declare the statute, Kentucky Revised Statute 218A.1432, unconstitutional, which motion was denied by the court. The appellant entered a conditional guilty plea to the offenses as amended and described above. This appeal followed.

The argument that the statute is unconstitutionally vague has been addressed by the Kentucky Supreme Court. Kotila v. Commonwealth, Ky., 114 S.W.3d 226, is dispositive regarding this issue. In that case, the Kentucky Supreme Court held that the statute in question was not unconstitutionally vague. Accordingly, we reject appellant's contention.

Appellant also argues that the statute prescribes punishment that is cruel and unusual because it is disproportionately high relative to all other drug offenses. We reject this contention, because well-established principles dictate that the General Assembly has broad authority to fix the

duration of sentences for offenses. Rummell v. Estelle, 445 U.S. 263, 100 S.Ct. 1133, 63 L.Ed.2d 382 (1980); Hampton v. Commonwealth, Ky., 666 S.W.2d 737 (1984).

For the foregoing reasons, the decision of the Clark Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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