

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-000417-MR

JACTA EST ALEA
A/K/A URIAH MARQUIS PASHA
A/K/A KENNETH URIAH ROSS APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE MARY C. NOBLE, JUDGE
ACTION NO. 84-CR-00481

COMMONWEALTH OF KENTUCKY APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: GUIDUGLI, JOHNSON, AND KNOPF, JUDGES.

KNOPF, JUDGE: In 1981, Kenneth Ross (now known as Jacta Est Alea) pled guilty in Indiana to a single count of robbery and was sentenced in accordance with his plea agreement to more than a year in prison. The final judgment in the case, what the Indiana courts apparently refer to as the Commitment, erroneously stated that Alea had been convicted of armed robbery and theft, the crimes, we assume, for which Alea was indicted.

Not long thereafter, in 1984 or 1985, Alea was convicted in Fayette County Kentucky of first-degree robbery,¹ and on the basis of his Indiana conviction was given an enhanced sentence as a second-degree persistent felony offender. (PFO).²

By new judgment entered February 26, 2001, the Indiana Superior Court for Floyd County acknowledged the inaccurate designation of Alea's offense in the 1981 Commitment, vacated the Commitment to that extent, and entered a new conviction noting that Alea had pled guilty to robbery, not to armed robbery and theft.³ With this modified judgment in hand, in January 2002, Alea moved the Fayette Circuit Court to vacate his Fayette County PFO sentence. He noted that a foreign judgment will support a Kentucky PFO finding only if it carried a sentence of at least one year in the penitentiary,⁴ and he argued that the new Indiana judgment failed to meet this requirement because it made no mention of a sentence. The trial court rejected this contention, and Alea appealed. We affirm.

The trial court believed that the recent Indiana judgment modifying Alea's 1981 conviction was intended to change nothing about that conviction but the erroneous designation of the offense. According to the trial court, therefore, the new judgment incorporates, even if it does not mention, other

¹ KRS 515.020.

² KRS 532.080.

³ State of Indiana v. Ross, 22D01-8002-CF-00015 (Ind. Super. Ct. 2001).

⁴ KRS 532.080(2)(a).

aspects of the original judgment, including its imposition of a felony sentence. We agree. We thus further agree with the trial court that the new Indiana judgment continues to support Alea's Fayette County PFO status. Accordingly, we affirm the January 25, 2002, order of the Fayette Circuit Court denying Alea's motion for relief.

ALL CONCUR.

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