

RENDERED: FEBRUARY 28, 2003; 2:00 p.m.
NOT TO BE PUBLISHED

MODIFIED: March 14, 2003; 2:00 p.m.

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-000503-MR

DAVID EDWARD MUNCIE

APPELLANT

v. APPEAL FROM WARREN CIRCUIT COURT
HONORABLE THOMAS R. LEWIS, JUDGE
INDICTMENT NO. 83-CR-00228

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** * * *

BEFORE: BARBER, DYCHE, AND TACKETT, JUDGES.

DYCHE, JUDGE. David Edward Muncie appeals the denial of his motion for relief from his judgment of conviction, alleging that the sentence he received is "illegal." We affirm.

Muncie was convicted of one count of criminal conspiracy to commit first degree robbery, two counts of complicity to commit second degree assault, and being a first degree persistent felony offender; he was sentenced to twelve years on each of the felonies (as enhanced by the persistent

felony offender conviction), to run consecutively, for a total of thirty-six years. His motion, and this appeal, assert that the maximum sentence he could receive on such convictions is twenty years, pursuant to KRS 532.110(1)(c).

Unfortunately for Muncie, this contention has been decided adversely to him by our state's highest court in Devore v. Commonwealth, Ky., 662 S.W.2d 829 (1984). Muncie committed the offenses for which he now stands convicted while on release from a prior felony conviction. KRS 533.060(2) mandates that the trial court, in such a case, run the sentences consecutively. The order of the Warren Circuit Court is affirmed.

ALL CONCUR.

APPELLANT *PRO SE*:

David Edward Muncie
Fredonia, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler, III
Attorney General

Courtney J. Hightower
Assistant Attorney General
Frankfort, Kentucky