

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-000558-MR

ROBERT MCGUFFIN

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE LISABETH H. ABRAMSON, JUDGE
ACTION NOS. 85-CR-000629, 87-CR-000189,
87-CR-000817 AND 87-CR-000986

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING
** **

BEFORE: JOHNSON, SCHRODER, AND TACKETT, JUDGES.

TACKETT, JUDGE: Robert McGuffin appeals from the order of the Jefferson Circuit Court summarily denying his petition for extraordinary relief under Kentucky Rule of Civil Procedure (CR) 60.02 to vacate or correct judgments entered in 1988. McGuffin argues on appeal that he was entitled to a hearing on the matter. We affirm.

The record reveals that in 1988, McGuffin entered guilty pleas to several offenses, receiving a forty-year term of imprisonment for offenses charged in four different indictments. McGuffin then filed a motion for relief under CR 60.02, arguing

that his sentences only totaled twenty years. The Jefferson Circuit Court denied the motion on the ground that because McGuffin committed some of the offenses while on bond awaiting trial for other offenses, the sentences must be served consecutively according to statute. This Court affirmed that ruling.

Subsequently, in 1991, McGuffin filed a motion to vacate and set aside his judgment pursuant to Kentucky Rule of Criminal Procedure (RCr) 11.42, alleging that his counsel was ineffective and that his guilty pleas were not knowingly and intelligently made. Ultimately, after a hearing granted upon remand from this Court, the circuit court concluded that McGuffin's claims were without merit, and this Court dismissed the subsequent appeal for failure to file a brief.

In 2001, McGuffin filed a motion to correct judgment and sentence, on the same grounds as his prior motions. The circuit court dismissed the motion as untimely. This appeal followed.

The circuit court correctly held that the motion was not timely. Any allegations made in this motion either were previously raised in his prior motion and are therefore not properly the subject of a new motion, or should have been raised in a prior motion. The rule, further, requires that a motion for relief be filed within a reasonable time after the date of

conviction. Thirteen years from the date of conviction is not a reasonable amount of time to file a motion under CR 60.02.

Gross v. Commonwealth, Ky., 648 S.W.2d 853; Ray v. Commonwealth, Ky. App., 633 S.W.2d 71 (1982). Accordingly, we affirm the judgment of the circuit court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Robert McGuffin, Pro Se
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler, III
Attorney General of Kentucky

Tami Allen Stetler
Assistant Attorney General
Frankfort, Kentucky