

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2003-CA-000313-MR

RONALD LEE FRAZIER

APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE JOHN R. ADAMS, JUDGE  
INDICTMENT NO. 01-CR-00759

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

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BEFORE: BUCKINGHAM, COMBS, AND DYCHE, JUDGES.

DYCHE, JUDGE. Ronald Frazier appeals from the judgment of the Fayette Circuit Court sentencing him to twelve years' confinement upon his conviction for Possession of a Controlled Substance, First Degree, and being a Persistent Felony Offender, First Degree. Frazier's appointed counsel has filed a brief stating that he has made a conscientious examination of the record, and that any argument he could raise in Frazier's behalf would be wholly frivolous. We affirm.

Frazier was arrested as a result of a domestic violence call to the Lexington Metro Police; the call indicated that there was a man threatening the caller with a shotgun. The police arrived at 196 East Loudon Avenue, the source of the call, to find a female screaming in the front yard, and indicating that the person with the shotgun was inside the house. Further careful investigation, and communication with the occupants of the house revealed no shotgun, but appellant's uncooperative attitude toward the officers caused them to make further investigation of him, as he would not disclose his identity.

The female provided the officers with information with which they could initiate investigation of appellant, which revealed an outstanding warrant for his arrest. During the arrest procedure, a baggie of suspected crack cocaine was disgorged from appellant's pocket. The substance later proved to be the prohibited substance, and the present convictions followed.

Frazier filed a twenty-six-page *pro se* letter with the trial court which raised the issues presented in his appeal. We will deal with the issues as we perceive them. He first argues that the trial court should have suppressed the evidence against him (the cocaine). He complains that the officers violated the "knock-and-announce" rule. Wilson v. Arkansas, 514 U.S. 927

(1995). We find no error. The above rule applies to the execution of search warrants. The officers were legitimately investigating a domestic disturbance, and had the permission of the occupant of the dwelling to enter the premises.

He next complains that he was not tried by a jury of his peers. This error was not preserved, and has no ground. Frazier has presented no evidence of systematic exclusion of African-Americans from the jury pool, nor of improper strikes to exclude this group from participation as jurors in his trial.

The trial court denied Frazier's motion to discharge his counsel after the "jury of his peers" issue was decided adversely to him, and after a continuance was denied. We find no abuse of discretion or other error in this refusal.

Frazier next complains of the denial of a continuance in order for him to secure the presence of the female who initiated this entire episode. Frazier had been granted two prior continuances; no actual motion for further continuance was made, and there was no compliance with RCr 9.04. The witness was not vital to the defense. We find no abuse of discretion.

The final argument is that the trial court erred in running Frazier's sentence consecutive to any other sentence he must serve. Again, we find no error or abuse. Frazier was already subject to a ten year sentence, from which he was on some form of release. As indicated by the Commonwealth's brief,

the trial court was already exceedingly lenient with Frazier, sentencing him to twelve years instead of the twenty the jury recommended.

The judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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