

RENDERED: July 8, 2005; 10:00 a.m.

NOT TO BE PUBLISHED

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2003-CA-001879-MR

MITCHELL CARPENTER

APPELLANT

v.

APPEAL FROM LAUREL CIRCUIT COURT  
HONORABLE RODERICK MESSER, JUDGE  
ACTION NO. 00-CR-00174

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: DYCHE, HENRY, AND TACKETT, JUDGES.

TACKETT, JUDGE: Mitchell Carpenter appeals from an order of the Laurel Circuit Court denying his request for relief pursuant to Kentucky Civil Rule (CR) 60.02. Carpenter argues that the trial court erroneously sentenced him to a term exceeding the limits imposed by statute and also violated the prohibitions against double jeopardy and multiple punishments contained in the United States and Kentucky Constitutions. Carpenter's aggregate

sentence for three Class C felonies did not exceed the maximum sentence allowable under Kentucky Revised Statute (KRS) 532.080. Further, he was punished for three separate violations of the same statute. Thus, we find no error and the trial court's decision is affirmed.

In April 2000, a confidential informant purchased methamphetamine from Carpenter on three separate occasions. He was indicted for three counts of trafficking methamphetamine, a Class C felony, punishable by five to ten years' imprisonment. The jury convicted him of all three counts, and he was sentenced to seven years' imprisonment on the first two counts and six years' imprisonment on the remaining count. The sentences were run consecutively for a total of twenty years. Carpenter's conviction and sentence were upheld on direct appeal in an unpublished opinion by the Kentucky Supreme Court. He subsequently filed a motion for relief from the judgment under CR 60.02. The trial court denied the motion, and this appeal follows.

Carpenter first argues that his sentence was improper in that it was equal to sentence on a Class C felony enhanced by a conviction as a first-degree persistent felony offender. KRS 532.110(1)(c) allows sentences for multiple offenses to run consecutively provided

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed. In no event shall the aggregate of consecutive indeterminate terms exceed seventy (70) years.

KRS 532.080(6)(b) authorizes a maximum enhanced sentence of ten to twenty years' for Class C and D felonies. Thus, an aggregate sentence of twenty years' imprisonment for three Class C felonies does not violate KRS 532.110(1)(c).

Next, Carpenter contends that his sentence violates his due process rights, by imposing multiple punishments for the same offense, as well as constitutional provisions against double jeopardy. Carpenter was convicted of selling a controlled substance to an informant on three separate days. He fails to establish any legal right to be free from prosecution and punishment for each occasion on which he violated the law.

For the foregoing reasons, the judgment of the trial court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Mitchell Carpenter, *Pro Se*  
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo  
Attorney General Of Kentucky

Gregory C. Fuchs  
Assistant Attorney General  
Frankfort, Kentucky