

RENDERED: March 11, 2005; 2:00 p.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky
Court of Appeals

NO. 2004-CA-000067-MR

SCOTT SCHNEIDER

APPELLANT

v. APPEAL FROM LYON CIRCUIT COURT
HONORABLE BILL CUNNINGHAM, JUDGE
ACTION NO. 03-CR-00023

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: SCHRODER, TAYLOR, AND VANMETER, JUDGES.

TAYLOR, JUDGE: Scott Schneider brings this direct appeal from an October 6, 2003, judgment of the Lyon Circuit Court entered on a plea of guilty to four counts of third-degree assault. Finding no error, we affirm.

While appellant was an inmate at the Kentucky State Penitentiary, he was indicted upon four counts of third-degree assault and with being a persistent felony offender in the second degree. In the indictment, it was alleged that appellant caused "feces, or urine, or other bodily fluid, to be thrown

upon" several employees of the Penitentiary. Pursuant to a plea agreement, appellant entered a plea of guilty to four counts of third-degree assault and was sentenced to a total of seven years' imprisonment.¹ This appeal follows.

Appellant has filed a direct appeal from the final judgment and sentence upon his plea of guilty.² Appellant, in part, specifically alleges:

1. Trial court erred in arresting Schneider solely and only by the United States postal mail, Schneider was never arrested, detained, questioned, mirandized, but yet still convicted on a warrant via U.S. mail service can a person be legally arrested by mailing that person a warrant in the mail.

2. Trial court erred by convicting Schneider on grounds of a totally defective indictment that was invalid and should have been thrown out and voided long ago without Schneiders conviction from this defective and extremely invalid indictment. Trial court erred in convicting Schneider under an invalid and defective arrest warrant also
. . . .

3. Trial court erred in allowing Schneider to be charged under defective indictment, warrant of, arrest and charges in uniform citation being not only invalid but charged to someone other than Schneider. Trial court erred in convicting Schneider as such erroneous information and defective

¹ As a result of this plea agreement, the charge of being a persistent felony offender in the second degree was dismissed.

² Appellant proceeds pro se in this appeal and, thus, filed a pro se brief. The brief is at best difficult to read, and the arguments are difficult to discern. We have, however, employed our best efforts to interpret appellant's arguments in this direct appeal.

documents and trial counsel rendered herself ineffective in allowing this

4. Motion for speedy trial and disposition filed on September 10, 2003, under provisions of (I.A.D.) is also invalid and in using this motion trial court and prosecutors office violated Schneiders due process rights abused professional standards, violated Schneiders right to equal protection of law under 14 Amendment also in violation of my 11 amendment right under the Kentucky Constitution and it in itself invalidated the entire (IAD) motion

6. On October 3, 2003 trial counsel failed to investigate into and to seek psychiatric/psychological evaluation and reports relating to Schneider's mental health at present and at the time when the crimes were committed

7. Schneider was denied meaningful access to the courts in this case at bar and Schneiders counsel was rendered more ineffective in allowing these things to happen as it was counsels duty on October 3, 2003 to professionally represent Schneider with professional standards being upheld and at the same time rendering reasonable competent and effective assistance of counsel

8. On October 3, 2003 Schneider was subjected to Double Jeopardy under penal code KRS 505.030 to 505.060

Appellants Brief at 1-6.

The above allegations of error relating to the indictment stemmed from the indictment naming "Scott E. Schneider" as the defendant when in fact appellant's name is Scott W. Schneider. We believe these allegations of error were

waived upon appellant's entry of a guilty plea. It is well established that a plea of guilty waives all defenses except that the indictment does not charge a public offense. Bush v. Commonwealth, 702 S.W.2d 46 (Ky. 1986). By voluntarily pleading guilty, appellant also admitted to the accuracy of the elements of the crimes for which he was charged as well as the sufficiency of the evidence that was available to convict him. Taylor v. Commonwealth, 724 S.W.2d 223 (Ky.App. 1986). Thus, we perceive no error regarding these allegations.

Appellant's remaining allegations of error center upon ineffective assistance of trial counsel and the voluntariness of his guilty plea. As these claims of error were not presented to the trial court and there is no record on appeal, we are unable to review these claims on direct appeal. See Humphrey v. Commonwealth, 962 S.W.2d 870 (Ky. 1998).

For the foregoing reasons, the judgment of the Lyon Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Scott Schneider, Pro Se
La Grange, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo
Attorney General of Kentucky

Todd D. Ferguson
Assistant Attorney General
Frankfort, Kentucky