

RENDERED: MAY 13, 2005; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2004-CA-000852-MR

LARRY RAY RIGGS

APPELLANT

v. APPEAL FROM HARDIN CIRCUIT COURT
HONORABLE KELLY MARK EASTON, JUDGE
ACTION NO. 02-CR-00088

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: GUIDUGLI AND TAYLOR, JUDGES; EMBERTON, SENIOR JUDGE.¹

EMBERTON, SENIOR JUDGE: Larry Ray Riggs pleaded guilty to manufacturing methamphetamine; first-degree trafficking in a controlled substance; possession of drug paraphernalia, second offense; and possession of anhydrous ammonia in an unapproved container. Each charge was enhanced because Riggs possessed a gun at the time of the offenses. Pursuant to a plea agreement, Riggs was sentenced to a total of twenty years, with eighteen

¹ Senior Judge Thomas D. Emberton sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

years to serve and two years probated. In January 2004, Riggs filed a motion pursuant to CR² 60.02 arguing that the court's decision in Kotila v. Commonwealth³ rendered his conviction for manufacturing methamphetamine void since he did not possess all of the equipment or the chemicals necessary to manufacture methamphetamine. The motion was summarily denied and this appeal followed.

CR 60.02 is an extraordinary remedy and, absent an abuse of discretion, a circuit court's denial of relief will be affirmed.⁴ And a guilty plea waives all defenses except that of the indictment not charging an offense.⁵ By admitting guilt, a defendant forfeits the right to contest the sufficiency of the evidence to convict him.⁶ When Riggs entered his pleas, he admitted that he possessed anhydrous ammonia in an unapproved container and was guilty of manufacturing methamphetamine. Based on the record, the circuit court was not required to conduct an evidentiary hearing and the motion was properly denied.⁷

The order of the Hardin Circuit Court is affirmed.

² Kentucky Rules of Civil Procedure.

³ 114 S.W.3d 226 (Ky. 2003).

⁴ Barnett v. Commonwealth, 979 S.W.2d 98, 102 (Ky. 1998).

⁵ Hughes v. Commonwealth, 875 S.W.2d 99 (Ky. 1994).

⁶ Taylor v. Commonwealth, 724 S.W.2d 223, 225 (Ky.App. 1986).

⁷ Land v. Commonwealth, 986 S.W.2d 440 (Ky. 1999).

ALL CONCUR.

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