

**Commonwealth Of Kentucky**  
**Court of Appeals**

NO. 2004-CA-001198-MR

JIMMY EAKINS

APPELLANT

v.

APPEAL FROM MONTGOMERY CIRCUIT COURT  
HONORABLE WILLIAM B. MAINS, JUDGE  
INDICTMENT NO. 99-CR-00055

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

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BEFORE: DYCHE, KNOPF, AND TACKETT, JUDGES.

DYCHE, JUDGE: In April 1999, Jimmy Eakins entered the home of an elderly female in Montgomery County, Kentucky, by climbing through her kitchen window. Once inside, he restrained the woman, raped and assaulted her, then fled, stealing her automobile. Once arrested, Eakins attempted to escape from custody. He was indicted the following month on seven felony counts.

After the discovery process was complete, Eakins withdrew his formerly entered pleas of not guilty and entered

pleas of guilty to six of the charges for a total of twenty-five years' imprisonment. In exchange for these guilty pleas one felony count from this indictment was dismissed; two other felony prosecutions versus Eakins were dropped.

Eakins later filed a motion pursuant to RCr 11.42, alleging, among other things, that his convictions were infirm because he was misled regarding parole eligibility and was later denied his motion to withdraw his guilty pleas. The Montgomery Circuit Court denied RCr 11.42 relief, and Eakins appeals. We affirm.

The trial court's inquiry into allegations of ineffective assistance of counsel requires the court to determine whether counsel's performance was below professional standards and "caused the defendant to lose what he otherwise would probably have won" and "whether counsel was so thoroughly ineffective that defeat was snatched from the hands of probable victory." Because "[a] multitude of events occur in the course of a criminal proceeding which might influence a defendant to plead guilty or stand trial," the trial court must evaluate whether errors by trial counsel significantly influenced the defendant's decision to plead guilty in a manner which gives the trial court reason to doubt the voluntariness and validity of the plea.

Because of the factual determinations inherent in this evaluation, Kentucky appellate courts have recognized that "the trial court is in the best position to determine if there was any reluctance, misunderstanding, involuntariness, or incompetence to plead guilty" at the time of the guilty plea and in a "superior position to judge [witnesses'] credibility and the

weight to be given their testimony" at an evidentiary hearing. Accordingly, this Court reviews a trial court's ruling on a defendant's motion to withdraw his guilty plea only for abuse of discretion by "ascertain[ing] whether the court below acted erroneously in denying that appellant's pleas were made involuntarily."

Bronk v. Commonwealth, 58 S.W.3d 482, 487 (Ky. 2001) (footnotes omitted).

The record refutes appellant's claims. Therefore, the circuit court correctly denied an evidentiary hearing. RCr 11.42(5); Bowling v. Commonwealth, 981 S.W.2d 545, 548 (Ky. 1998). And Eakins's contention that he was misinformed regarding parole eligibility would not entitle him to withdraw his guilty plea. See, e.g., Jewell v. Commonwealth, 725 S.W.2d 593 (Ky. 1987); and Turner v. Commonwealth, 647 S.W.2d 500 (Ky.App. 1982).

The judgment of the Montgomery Circuit Court is affirmed.

ALL CONCUR.

APPELLANT PRO SE:

Jimmy Eakins  
West Liberty, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo  
Attorney General of Kentucky

Wm. Robert Long, Jr.  
Assistant Attorney General  
Frankfort, Kentucky