

RENDERED: JUNE 2, 2006; 2:00 P.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky
Court of Appeals

NO. 2005-CA-000151-MR

STANLEY WAYNE ROBERTS

APPELLANT

v. APPEAL FROM PULASKI CIRCUIT COURT
HONORABLE JEFFREY T. BURDETTE, JUDGE
ACTION NO. 02-CR-00113

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * **

BEFORE: KNOPF AND TACKETT,¹ JUDGES; HUDDLESTON, SENIOR JUDGE.²

TACKETT, JUDGE: Stanley W. Roberts appeals *pro se* from the denial of his motion under Kentucky Rule of Criminal Procedure (RCr) 11.42 to vacate or set aside his sentence. Roberts entered an Alford plea to manslaughter in the first degree and received fifteen years' imprisonment in January 2004. On

¹ This opinion was completed and concurred in prior to Judge Julia K. Tackett's retirement effective June 1, 2006. Release of the opinion was delayed by administrative handling.

² Senior Judge Joseph R. Huddleston sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

appeal, Roberts contends that his counsel incorrectly advised him that he would have the right to appeal if he entered an Alford plea. The Pulaski Circuit Court denied the motion without conducting an evidentiary hearing. We affirm.

The Commonwealth correctly points out that Roberts presents for review none of the issues he raised in his 11.42 motion and instead presents an entirely new argument on appeal, namely that his counsel was ineffective for allegedly telling him that he would retain the right to appeal by entering an Alford plea. There is a long line of cases clearly stating that an issue not raised in the circuit court may not be presented for the first time on appeal. Gabow v. Commonwealth, 34 S.W.3d 63, 75 (Ky. 2000); Shelton v. Commonwealth, 992 S.W.2d 849, 852 (Ky. 1999); Ruppee v. Commonwealth, 821 S.W.2d 484 (Ky. 1991). The issues presented to the circuit court for consideration dealt with allegedly ineffective assistance of counsel by failing to advise him that if he elected to proceed to trial, the Commonwealth would have to prove each and every element of the charged offense (murder) beyond a reasonable doubt and that counsel failed to prepare adequate pretrial motions to prevent the Commonwealth from introducing evidence of prior bad acts and to impeach the testimony of convicted felons. The circuit court denied the motion without an evidentiary hearing, holding that the claims were refuted on the face of the record, that the

defendant benefited from a favorable plea bargain, that counsel was well within the wide latitude of sound legal strategy allowed by Strickland v. Washington, 466 U.S. 668 (1984), and that his guilty plea waived all claimed defects in the proof. Appellant presents none of these issues on appeal, and so we are left with no basis on which we may review the circuit court's decision.

For the foregoing reasons, the decision of the Pulaski Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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