

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

NO. 2005-CA-000222-MR

CHARLES RAYMOND WILLIAMS

APPELLANT

v.

APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE SHEILA R. ISAAC, JUDGE  
INDICTMENT NO. 01-CR-01147

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: BARBER, DYCHE, AND MINTON, JUDGES.

DYCHE, JUDGE: On October 3, 2001, Charles Raymond Williams fired a gunshot that missed his friend/girlfriend, Shawn Johnson. Police officers were already nearby when the shot was heard and observed Williams on the porch of his house with what appeared to be a handgun. Another witness heard the shot and saw Williams immediately thereafter with a pistol. A bullet hole was discovered in the neighboring house of Vivian Pope, who was asleep at the time of the shooting. Williams was convicted of two counts of first-degree wanton endangerment in Fayette Circuit Court. He received a sentence of four years'

imprisonment on each count, to be served consecutively. This Court affirmed the judgment on direct appeal. Case No. 2002-CA-000477-MR. Williams filed a motion for RCr 11.42 relief, which was denied without an evidentiary hearing. He now appeals.

Williams claims he received ineffective assistance of counsel based on the failure to interview and subpoena witnesses to the crimes. In support of this allegation, Williams provided only the bald assertion that each witness "could and would" have testified that he did not fire the gunshot.

In order to prevail on an ineffective assistance of counsel claim, the defendant must show that 1) defense counsel performed below an objective standard of reasonableness, and 2) was "so prejudicial as to deprive a defendant of a fair trial and a reasonable result." Hodge v. Commonwealth, Ky., 116 S.W.3d 463, 468 (2003), cert. denied, 541 U.S. 911 (2004), (citing Strickland v. Washington, 466 U.S. 668 (1984)).

Williams's bare and self-serving assertions do not satisfy this standard. There were no specific facts alleged to the trial court, only Williams's own assurance that each witness would have testified that he did not fire the gun. RCr 11.42 does not require an evidentiary hearing when conclusory statements are not supported by specific facts. Hodge, supra. Williams's statements simply do not demonstrate that defense counsel acted unreasonably by failing to secure these witnesses.

Additionally, our review of the record refutes any alleged error in this regard.

Williams's other assignment of error concerning defense counsel's failure to secure mitigation witnesses for the penalty phase was not presented to the trial court and so is not preserved for our review.

Therefore, the order of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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