

RENDERED: MARCH 3, 2006; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky
Court of Appeals

NO. 2005-CA-000649-MR

TONYA CRESIE

APPELLANT

v. APPEAL FROM CHRISTIAN CIRCUIT COURT
HONORABLE EDWIN M. WHITE, JUDGE
ACTION NO. 04-CR-00661

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: TACKETT, TAYLOR, AND VANMETER, JUDGES.

TACKETT, JUDGE: Tonya Cresie appeals from the judgment of the Christian Circuit Court entered on a guilty plea to charges of custodial interference. Cresie had picked up one of her daughters from school in Evansville, Indiana and drove the child back to Hopkinsville without the father's consent or knowledge. Counsel for Cresie has filed a brief pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 118 L.Ed.2d 493 (1967) stating that there appeared to be no meritorious basis for the

appeal, requesting permission to withdraw and for the appellant to be granted additional time in which to file a brief pro se if she chose to do so, and to grant any relief to which this Court may determine she is entitled. She appears not to have chosen to file a brief with this court. We perceive no basis for relief and affirm the judgment.

Cresie entered an unconditional guilty plea in the circuit court to this charge and unrelated charges of criminal possession of a forged instrument in the second degree. As part of a plea bargain the Commonwealth offered Cresie a deal including a recommendation of "pre-trial diversion" for a period of five years. At the time of the plea, the Commonwealth informed the court that it would offer documents showing that Cresie's ex-husband had legal custody at the time of the offense but failed to tender those documents by the time of the sentencing hearing. The documents were later made part of the record by agreed order. Appellant's counsel concedes that those documents do not create an appealable issue.

A guilty plea waives all defenses except that the indictment fails to charge an offense. Bush v. Commonwealth, 702 S.W.2d 46 (Ky. 1986). As there appears to be no basis for challenging the validity of the indictment, and as all other issues are waived, this Court affirms the judgment of the circuit court.

ALL CONCUR.

BRIEF FOR APPELLANT:

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