

RENDERED: AUGUST 18, 2006; 10:00 A.M.  
NOT TO BE PUBLISHED

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

NO. 2005-CA-001906-MR

WILLIE LEE SHAW JR.

APPELLANT

v. APPEAL FROM MCCRACKEN CIRCUIT COURT  
HONORABLE R. JEFFREY HINES, JUDGE  
ACTION NO. 89-CR-00001

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: GUIDUGLI AND VANMETER, JUDGES; BUCKINGHAM,<sup>1</sup> SENIOR JUDGE.

BUCKINGHAM, SENIOR JUDGE: Willie Lee Shaw Jr. appeals from an order of the McCracken Circuit Court denying his motion to vacate his conviction pursuant to CR<sup>2</sup> 60.02. We affirm.

On November 6, 1989, the McCracken Circuit Court entered a judgment convicting and sentencing Shaw to 150 years in prison for murder. The judgment followed a jury trial. The

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<sup>1</sup> Senior Judge David C. Buckingham sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and KRS 21.580.

<sup>2</sup> Kentucky Rules of Civil Procedure.

judgment was upheld by the Kentucky Supreme Court on direct appeal in a unanimous opinion rendered on September 26, 1991.<sup>3</sup>

Beginning in 1995, Shaw filed a series of three RCr<sup>4</sup> 11.42 motions. Each was denied by the trial court. On July 19, 2005, Shaw filed his motion to vacate pursuant to CR 60.02. After the trial court denied the motion, this appeal by Shaw followed.

In his motion and in this appeal, Shaw raises two arguments. First, he asserts that during his trial he was allowed to be seen by several jurors while he was shackled. This argument was raised in his direct appeal and was rejected by our supreme court. Shaw also argues that he received the ineffective assistance of counsel. This is an issue that could have been and was raised by way of RCr 11.42 motions. Thus, Shaw is precluded from again raising these same issues in a CR 60.02 motion. See Gross v. Commonwealth, 648 S.W.2d 853, 856 (Ky. 1983).

Finally, CR 60.02 requires the motion be made "within a reasonable time" and on grounds (a), (b), and (c), not more than one year after the judgment, order, or proceeding was entered or taken. As noted by the trial court and the

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<sup>3</sup> See 89-SC-903-MR.

<sup>4</sup> Kentucky Rules of Criminal Procedure.

Commonwealth, Shaw's motion did not meet this requirement as it was filed 16 years after the entry of the judgment.

The order of the McCracken Circuit Court is affirmed.

ALL CONCUR.

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