

RENDERED: DECEMBER 8, 2006; 10:00 A.M.  
NOT TO BE PUBLISHED

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

NO. 2005-CA-002219-MR

MICHAEL KEITH BUTTREY

APPELLANT

v.

APPEAL FROM LAUREL CIRCUIT COURT  
HONORABLE GREGORY A. LAY, JUDGE  
ACTION NO. 03-CR-00122

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION AND ORDER  
AFFIRMING

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BEFORE: TAYLOR, JUDGE; ROSENBLUM,<sup>1</sup> SENIOR JUDGE; MILLER,<sup>2</sup>  
SPECIAL JUDGE.

TAYLOR, JUDGE: Michael Keith Buttrey brings this appeal from a  
September 30, 2005, judgment of the Laurel Circuit Court upon a  
conditional plea of guilty to first-degree bail jumping. We  
affirm.

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<sup>1</sup> Senior Judge Paul W. Rosenblum sitting as Special Judge by assignment of the  
Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and  
Kentucky Revised Statutes 21.580.

<sup>2</sup> Retired Judge John D. Miller sitting as Special Judge by assignment of the  
Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution.

The Laurel Circuit Court sentenced appellant to twenty-six years' imprisonment for various drug related offenses pursuant to Indictment No. 03-CR-00079. An appeal to the Supreme Court challenging this sentence is presently pending in Appeal No. 2005-SC-000320-MR.

Subsequently, appellant was indicted in Indictment No. 03-CR-00122 upon the charge of first-degree bail jumping. Pursuant to a plea agreement with the Commonwealth, appellant entered a conditional plea of guilty to bail jumping in the first degree. Appellant preserved the issue of whether his charge upon bail jumping in the first degree in Indictment No. 03-CR-00122 could run concurrently with his sentence upon various drug related charges in Indictment No. 03-CR-00079. The circuit court concluded that these sentences could not run concurrently. In a September 30, 2005, judgment, the circuit court ordered the one-year sentence upon first-degree bail jumping to run consecutively to appellant's twenty-six year sentence in Indictment No. 03-CR-00079. This appeal follows.

The record indicates that appellant was represented by an assistant public advocate. The advocate filed a motion and an amended motion before this Court seeking leave to file an Anders<sup>3</sup> brief, to withdraw as counsel, and to allow appellant to file a supplemental *pro se* brief. On April 6, 2006, this Court

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<sup>3</sup> Anders v. California, 386 U.S. 738 (1967).

entered an order granting the motion for leave to file an Anders brief and the motion to allow appellant to file a supplemental *pro se* brief. The order specifically stated that any *pro se* brief was to be filed on or before thirty days from the date of entry of the order. The April 6, 2006, order passed the advocate's motion to withdraw as counsel to this Court's merits panel. To this date, appellant has not filed a supplemental *pro se* brief.

On appeal, appellant sought to challenge the circuit court's ruling that his sentence on first-degree bail jumping in Indictment No. 03-CR-001122 must run, as a matter of law, consecutively with his sentence in Indictment No. 03-CR-00079. In the Anders brief, the advocate acknowledges that the circuit court properly ran these sentences consecutively and cited Kentucky Revised Statutes (KRS) 533.060(3) as authority. Having reviewed the Anders brief and KRS 533.060(3), we also conclude that the circuit court properly ordered appellant's sentences in Indictment No. 03-CR-000122 and Indictment No. 03-CR-00079 to run consecutively. Thus, we are of the opinion the circuit court did not err and affirm appellant's conviction in Indictment No. 03-CR-00122.

Having reviewed the assistant public advocate's motion to withdraw as counsel and being otherwise sufficiently advised, this Court ORDERS the motion to withdraw as counsel be GRANTED.

For the foregoing reasons, the judgment of the Laurel Circuit Court is affirmed.

ALL CONCUR.

ENTERED: December 8, 2006

/s/ Jeff S. Taylor  
JUDGE, COURT OF APPEALS

BRIEF FOR APPELLANT:

Lisa Bridges Clare  
Assistant Public Advocate  
Department of Public Advocacy  
Frankfort, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo  
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