

Commonwealth Of Kentucky
Court of Appeals

NO. 2006-CA-001483-MR

WILLIAM CHRISTOPHER RUMPH

APPELLANT

v. APPEAL FROM BARREN CIRCUIT COURT
HONORABLE PHIL PATTON, JUDGE
ACTION NO. 05-CR-00314

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * ** * **

BEFORE: CLAYTON AND KELLER, JUDGES; GUIDUGLI,¹ SENIOR JUDGE.

KELLER, JUDGE: William Christopher Rumph has directly appealed from the Final Judgment of the Barren Circuit Court convicting him of First-Degree Trafficking in a Controlled Substance (Cocaine) and for being a Second-Degree Persistent Felony Offender. He was sentenced to a fourteen-year term of imprisonment. The sole issue raised on appeal concerns whether the circuit court erred in failing to order a competency evaluation. Perceiving no merit in his argument, we affirm.

¹ Senior Judge Daniel T. Guidugli sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky constitution and KRS 21.580.

On October 25, 2005, the Barren County grand jury indicted Rumph for drug trafficking and for being a persistent felony offender.² The event forming the basis of the trafficking charge took place on the morning of June 30, 2005, when Rumph sold cocaine to a confidential informant while Glasgow police officers recorded the transaction. Rumph was eventually arrested on February 3, 2006. The matter proceeded to a trial by jury on May 17, 2006, after which the jury found Rumph guilty of both the trafficking charge and the PFO II charge. The jury ultimately fixed Rumph's punishment at fourteen years in the penitentiary, and the circuit court sentenced him in accordance with the jury's verdict. This appeal followed.

On appeal, Rumph argues that once there was reason to believe that he might not be competent to stand trial, the circuit court should have ordered a competency evaluation pursuant to KRS 504.100. In support of this argument, Rumph relies on his testimony and the testimony of his mother, Teresa Rumph (Teresa), at trial concerning his treatment for depression and anxiety during 2005. The Commonwealth, on the other hand, contends that there was no reasonable basis to question Rumph's competence. The Commonwealth further argued that the presence of a mental illness would not necessarily mean that Rumph was unable to make informed decisions during his legal proceedings.

It is axiomatic that in order to stand trial, a criminal defendant must be competent:

Criminal prosecution of a defendant who is incompetent to stand trial is a violation of due process of law under the Fourteenth Amendment. *Medina v. California*, 505 U.S. 437, 439, 112 S.Ct. 2572, 2574, 120 L.Ed.2d 353 (1992).

² On the Commonwealth's motion, the circuit court amended the PFO charge to second-degree. One of the convictions supporting the PFO I charge was reversed on appeal, and the Commonwealth opted to seek, and received, a dismissal of that indictment.

Further, once facts known to a trial court are sufficient to place a defendant's competence to stand trial in question, the trial court must hold an evidentiary hearing to determine the question. *See Drope v. Missouri*, 420 U.S. 162, 180, 95 S.Ct. 896, 908, 43 L.Ed.2d 103 (1975); *Pate v. Robinson*, 383 U.S. 375, 385-86, 86 S.Ct. 836, 842, 15 L.Ed.2d 815 (1966). Evidence of a defendant's irrational behavior, his demeanor in court, and any prior medical opinion on competence to stand trial are all relevant facts for a court to consider. *Drope*, 420 U.S. at 180, 95 S.Ct. at 908. KRS 504.100 is entirely consistent with these constitutional requirements.

Mills v. Commonwealth, 996 S.W.2d 473, 486 (Ky. 1999). We now direct our attention to KRS 504.100, which provides:

(1) If upon arraignment, or during any stage of the proceedings, the court has reasonable grounds to believe the defendant is incompetent to stand trial, the court shall appoint at least one (1) psychologist or psychiatrist to examine, treat and report on the defendant's mental condition.

(2) The report of the psychologist or psychiatrist shall state whether or not he finds the defendant incompetent to stand trial. If he finds the defendant is incompetent, the report shall state:

(a) Whether there is a substantial probability of his attaining competency in the foreseeable future; and

(b) What type treatment and what type treatment facility the examiner recommends.

(3) After the filing of a report (or reports), the court shall hold a hearing to determine whether or not the defendant is competent to stand trial.

In *Commonwealth v. Strickland*, 375 S.W.2d 701, 703 (Ky. 1964), the former Court of Appeals addressed the test for legal competence:

The terms 'insane,' 'unsound mind,' and 'mental illness' are too loose to serve as a reasonable test of whether a person is properly fit to plead or defend himself in a criminal proceeding. For this purpose, whatever may be the technical classification of his mental state, legally or medically, the test

is whether he has substantial capacity to comprehend the nature and consequences of the proceeding pending against him and to participate rationally in his defense.

In the present matter, it is undisputed that Rumph's counsel never requested a competency evaluation. In fact, the issue of Rumph's competence was never raised at all. However, a trial court always has the responsibility to ensure that a criminal defendant remains competent. In his brief, Rumph points to his and Teresa's testimony to support his assertion that he was unable to rationally participate in his own defense. Teresa testified that her son had been experiencing bouts of depression during 2005, which she thought were due to his inability to find a job. She indicated that Rumph had been admitted to a psychiatric hospital several times that year and had gone to the local emergency room to seek treatment as well. Teresa testified that when he was not hospitalized, Rumph lived with her and rarely left the house. When she was at work, Teresa called Rumph during the day to check on his condition. Rumph testified in a similar fashion about his depression and anxiety. Further, he indicated that his condition had improved during the preceding few months since he had been taking his medication regularly.

Our review of the record, including Rumph's participation in pre-trial, trial, and sentencing proceedings, leads us to agree with the Commonwealth that there was no reasonable basis for the circuit court to question Rumph's competence. Rumph was clearly able to participate in his own defense. Several times, he engaged in conversations with the judge concerning his prosecution. He also engaged in multiple discussions with his counsel. Furthermore, the record reflects that Rumph participated in pre-trial plea negotiations with the Commonwealth and made the significant decision to testify at trial.

Throughout the course of the proceedings, Rumph did or said nothing that would trigger the application of KRS 504.100.

In our view, Rumph's and Teresa's testimony concerning his mental illness was elicited only in an attempt to create reasonable doubt in the jury that he was the person who sold cocaine to the confidential informant on June 30, 2005. Rumph was attempting to persuade the jury that it would have been impossible for him to have committed the crime in that he was either hospitalized or at home suffering or recovering from depression for much of the year.

Therefore, we hold that Rumph did not elicit any evidence that would cause the circuit court to question his competence. Thus, we cannot identify any error in the proceedings concerning the sole issue raised on appeal.

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

ALL CONCUR.

BRIEF FOR APPELLANT:

J. Brandon Pigg
Frankfort, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo
Attorney General of Kentucky

Robert E. Prather
Assistant Attorney General
Frankfort, Kentucky