

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

NO. 2007-CA-001193-MR

WILLIE R. TODD

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE JAMES M. SHAKE, JUDGE  
ACTION NOS. 01-CR-002939, 03-CR-003353, & 04-CR-002938

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: LAMBERT AND VANMETER, JUDGES; KNOPF,<sup>1</sup> SENIOR JUDGE.

KNOPF, SENIOR JUDGE: Willie Todd appeals from the denial by the Jefferson Circuit Court of his motion for a new trial or amendment of judgment pursuant to CR 59.01(b), (d), (f), and (g). For the reasons stated below, we affirm.

Todd was indicted on numerous charges in several indictments between December, 2001 and October, 2004. Todd entered a plea of guilty and was sentenced to twenty-eight years' imprisonment. The Jefferson Circuit Court probated Todd's sentence

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

to five years' probation. On June 30, 2005, the Commonwealth sought to have Todd's probation revoked for numerous violations involving the use of cocaine and the failure to pay restitution and supervision fees as ordered. Following a revocation hearing on September 7, 2005, the Jefferson Circuit Court revoked Todd's probation and reinstated his original sentence of twenty-eight years' imprisonment. On March 26, 2007, Todd filed a motion for new trial or amendment of judgment pursuant to CR 59.01. The trial court denied Todd's motion by an order entered on April 25, 2007. This appeal followed.

Todd alleges that his motion for a new trial or amendment of judgment should be granted on the grounds of CR 59.01(b),(d),(f), and (g). However, Todd offers no proof or authority as to how his conviction fits within the grounds for a new trial or amendment of judgment outlined in CR 59.01. In addition, CR 59.02 states that "a motion for a new trial shall be served no later than 10 days after the entry of judgment." It is clear that Todd's CR 59.01 motion is untimely and was properly denied by the trial court.

Under CR 6.02, a court may enlarge or extend the time for taking of certain actions "where the failure to act was the result of excusable neglect[.]" This rule also states that a court "may not extend the time" for actions under CR 59.02. CR 6.02. Since Todd's motion was untimely filed and because the time period for filing such a motion can not be extended, the trial court properly denied the CR 59.01 motion for a new trial or amendment of judgment.

Todd also argues relief from his conviction under CR 60.02. However, Todd did not argue this in his original motion filed with the Jefferson Circuit Court.

Accordingly, we will not consider this argument because it is not properly preserved for review.

The judgment of the Jefferson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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