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## Commonwealth Of Kentucky

### Court of Appeals

NO. 2004-CA-001943-MR

AMY PADGETT (NOW HATFIELD)

APPELLANT

v. APPEAL FROM MEADE CIRCUIT COURT  
HONORABLE SAM H. MONARCH, JUDGE  
INDICTMENT NO. 98-CR-00034

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: HENRY AND VANMETER, JUDGES; MILLER, SENIOR JUDGE.<sup>1</sup>

HENRY, JUDGE: Amy Padgett (now Hatfield) appeals from an April 30, 2004 order of the Meade Circuit Court denying her motion for CR<sup>2</sup> 60.02 relief. Finding no error, we affirm.

Padgett is the mother of R.R., her son from a previous marriage. During 1997, R. R. (now approximately seventeen (17) years old) was living with his father and stepmother in Colorado

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<sup>1</sup> Senior Judge John D. Miller sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110.(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes ("KRS") 21.580.

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

after spending the previous year living with his mother in Meade County, Kentucky. While in Colorado, R. R. told his stepmother that Padgett had sexually abused him while he was living in Kentucky. In February 1998, R. R. was interviewed by an Adams County, Colorado detective and gave graphic and explicit details of an apparent sexual relationship between him and his mother when R. R. was eight (8) years old.

Because of these allegations, on April 9, 1998, the Meade County Grand Jury returned an indictment against Padgett charging her with seven (7) counts of first-degree rape in violation of KRS 510.040. Padgett subsequently waived formal arraignment and entered a plea of "not guilty."

On April 2, 1999, the Commonwealth made a plea offer to Padgett that would amend the rape charges to second-degree assault and would give a recommendation of concurrent ten-year probated sentences on those charges, in exchange for a guilty plea. The offer also would require Padgett to refrain from unsupervised contact with anyone less than sixteen (16) years of age, and to execute any documents necessary to effectuate a termination of her parental rights to R. R.

Padgett agreed to this offer and filed a "motion to enter guilty plea" on April 22, 1999. This motion included acknowledgments by Padgett that her judgment was not impaired by drugs, alcohol, or medication; that she had fully disclosed all

facts of the case to her attorney, who was fully informed and offered competent representation; that she understood the substance of the charges against her and any possible defenses against them; that she was waiving her Constitutional rights by pleading guilty; and that her plea was freely, knowingly, intelligently, and voluntarily made. The motion also contained acknowledgments by Padgett's counsel that Padgett understood the charges pending against her, any possible defenses, and the Constitutional rights that would be waived; that her plea was being made freely, knowingly, intelligently, and voluntarily; and that the plea was consistent with counsel's advice and recommendations.

On April 28, 1999, the trial court entered an order accepting Padgett's guilty plea and finding her guilty of seven (7) counts of second-degree assault. In doing so, the court noted that, upon questioning Padgett, it had concluded that she understood the charges pending against her; that she had knowingly, intelligently, and voluntarily waived her right to a jury trial, her privilege against self-incrimination, and her right to confront witnesses; and that there was a factual basis for her guilty plea. On May 28, 1999, the court entered a judgment and sentence on plea of guilty that was consistent with the Commonwealth's recommendations, and Padgett was given a ten-year probated sentence.

On April 3, 2003, the trial court entered an order, upon a motion filed by Padgett, modifying her probation to the extent that she could now have unsupervised contact with her children under the age of sixteen (16). The order also instructed Padgett and R. R. to attend monthly counseling until he turned sixteen (16).

On October 31, 2003, Padgett submitted a "motion to vacate judgment and permit Defendant to withdraw guilty plea," pursuant to CR 60.02. As grounds for this motion, Padgett stated that R. R. had recently told her defense counsel that the prior testimony and statement that he had given concerning the allegations against his mother were false and had no factual basis. Allegedly attached to this motion was an affidavit from R. R.<sup>3</sup>

On August 10, 2004, the trial court conducted a hearing on Padgett's motion. At the hearing, R. R. testified that he made false statements against his mother concerning the sexual abuse, and he specifically indicated that his mother had never had intercourse with him or participated in any other act of a sexual nature with him. R. R. further testified that his motivation for accusing his mother of sexual abuse was that he wanted to get his stepmother off his back and be able to return

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<sup>3</sup> We say "allegedly" because this affidavit is not contained in the record before this court. As R. R. would go on to testify as to the matters purported to be contained in the affidavit, however, this fact is of little importance and has no bearing on our ultimate decision.

to live with his paternal grandparents in Kentucky. R. R. and his stepmother had apparently had an argument in which R. R. referred to her by a sexually explicit term. R. R. explained that he told his stepmother that he had learned the word from his cousin, but that she did not believe him; he subsequently told her the sexual abuse story, which she apparently believed.

Padgett also testified at the hearing and denied ever having a sexual relationship with her son. She indicated that she pled guilty because she believed that it would be in the best interest of both R. R. and her at the time. Padgett also testified that she did not understand that in pleading guilty she was making a "straight-up" guilty plea; she instead thought that she was just taking an offer.

On August 30, 2004, the trial court entered an order denying Padgett's motion to vacate her judgment and to withdraw her guilty plea. The court noted R. R.'s testimony "that he had not been telling the truth in the information he gave originally in this case, and that there had been no inappropriate activity on the part of this Defendant." However, the court further noted:

In this situation, it is quite difficult for the Court to determine in the face of conflicting testimony whether the complaining witness was originally telling the truth. The Court has reviewed the case file, including the transcript in the file of the original interview with the juvenile,

which contained very detailed allegations about the Defendant's alleged behavior.

The trial court added:

Most important in the opinion of this Court, however, is the fact that the Defendant appears to have entered a fully informed guilty plea in this case. The Court has also reviewed the transcript in the file of the very extensive dialogue between the Defendant and the Court at the time that plea was entered, and it appears that the Defendant pled guilty after being duly sworn.

Accordingly, the court concluded:

In view of her plea of guilty, it is the opinion of this Court that it is not now appropriate for the Court to set aside that guilty plea. Therefore, the Defendant's motion to vacate the judgment and withdraw the guilty plea be and it is hereby OVERRULED.

This appeal followed.

Padgett's sole argument on appeal is that the trial court committed reversible error in denying her motion for CR 60.02 relief in light of her son's admission that his previous statements and testimony were false. "Given the high standard for granting a CR 60.02 motion, a trial court's ruling on the motion receives great deference on appeal and will not be overturned except for an abuse of discretion." Barnett v. Commonwealth, 979 S.W.2d 98, 102 (Ky. 1998) (Citations omitted). After careful review of the record and the arguments presented

by both parties, we conclude that the trial court did not abuse its discretion in denying Padgett's CR 60.02 motion.

In reaching this conclusion, we agree with the trial court that the key factor in our consideration here is the fact that Padgett entered a guilty plea to the charges against her. It is well-established that an unconditional guilty plea waives all defenses except that the indictment charged no offense.

Quarles v. Commonwealth, 456 S.W.2d 693, 694 (Ky. 1970)

(Citations omitted); Centers v. Commonwealth, 799 S.W.2d 51, 55

(Ky.App. 1990) (Citations omitted). Indeed, this court has

specifically held that "[e]ntry of a voluntary, intelligent plea of guilty has long been held by Kentucky Courts to preclude a post-judgment challenge to the sufficiency of the evidence."

Taylor v. Commonwealth, 724 S.W.2d 223, 225 (Ky.App. 1986)

(Citations omitted). As we further explained in Taylor:

The reasoning behind such a conclusion is obvious. A defendant who elects to unconditionally plead guilty admits the factual accuracy of the various elements of the offenses with which he is charged. By such an admission, a convicted appellant forfeits the right to protest at some later date that the state could not have proven that he committed the crimes to which he pled guilty. To permit a convicted defendant to do so would result in a double benefit in that defendants who elect to plead guilty would receive the benefit of the plea bargain which ordinarily precedes such a plea along with the advantage of later challenging the sentence resulting from the plea on grounds normally arising in

the very trial which defendant elected to forego.

Id. We believe that Padgett's motion here clearly constitutes a challenge to the sufficiency of the evidence in light of her son's decision to recant his previous statements to his stepmother and police accusing her of sexual abuse.

Accordingly, the relevant inquiry at this point becomes whether Padgett's guilty plea was voluntary and intelligent. Thompson v. Commonwealth, 147 S.W.3d 22, 41 (Ky. 2004). In reviewing the validity of a guilty plea, we must examine the totality of the circumstances and determine whether an intelligent plea was entered voluntarily and with understanding of the charges. Id. (Citations omitted).

After reviewing the record, we are not persuaded that Padgett lacked a full understanding of the charges against her. As previously noted, she signed a motion to enter a guilty plea indicating that she voluntarily and knowingly waived her rights as a criminal defendant. Her attorney also indicated that Padgett was fully aware of what she was doing in signing the motion and had a complete understanding of her rights and the charges against her. We also note that the record contains a transcript of an extensive plea colloquy between Padgett and the trial court, in which Padgett acknowledged that her actions were voluntary, that she was satisfied with her counsel, and that she



fully understood the ramifications of pleading guilty. The court also verified that Padgett understood that she was giving up her right to a jury trial, her right to confront and cross-examine witnesses, and her right to remain silent, and that she understood each of the rights that she was forfeiting.

In light of the foregoing facts, we are satisfied that Padgett entered her guilty plea knowingly and voluntarily. Therefore, she may not now challenge the sufficiency of the evidence against her. Consequently, we find that the trial court did not abuse its discretion in denying Padgett's motion to set aside her plea.

We also note that the trial court was well within its discretion to decline to vacate its judgment and to allow Padgett to withdraw her guilty plea even in light of the fact that R. R. recanted his previous statements. Our courts have held that "there are special rules for situations of recanted testimony." Thacker v. Commonwealth, 453 S.W.2d 566, 568 (Ky. 1970). Specifically, as was noted in Thacker:

The general rules are that recanting testimony is viewed with suspicion; mere recantation of testimony does not alone require the granting of a new trial; only in extraordinary and unusual circumstances will a new trial be granted because of recanting statements; such statements will form the basis for a new trial only when the court is satisfied of their truth; the trial judge is in the best position to make the determination because he has observed the

witnesses and can often discern and assay the incidents, the influences and the motives that prompted the recantation; and his rejection of the recanting testimony will not lightly be set aside by an appellate court.

Id.; see also Hensley v. Commonwealth, 488 S.W.2d 338, 339 (Ky. 1972) ("Affidavits in which witnesses recant their testimony are quite naturally regarded with great distrust and usually given very little weight.") (Citation omitted).

Here, the trial court, while not explicitly rejecting R. R.'s testimony, indicated that it was unable to determine the truthfulness of his testimony in light of R. R.'s previous statements. The court particularly noted that those statements contained "very detailed allegations about [Padgett's] alleged behavior." After reviewing the record, we see no grounds for finding that the trial court abused its considerable discretion in failing to vacate judgment and to allow Padgett to withdraw her guilty plea simply because of R. R.'s recanting testimony.

The judgment of the Meade Circuit Court is affirmed.

ALL CONCUR.

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