

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

NO. 2009-CA-000481-MR

DAGAN HATTER

APPELLANT

v. APPEAL FROM FRANKLIN CIRCUIT COURT  
HONORABLE PHILLIP J. SHEPHERD, JUDGE  
ACTION NO. 08-CI-01605

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: ACREE AND TAYLOR, JUDGES; BUCKINGHAM,<sup>1</sup> SENIOR  
JUDGE.

TAYLOR, JUDGE: Dagan Hatter brings this *pro se* appeal from a December 5,  
2008, order of the Franklin Circuit Court dismissing his petition for declaration of  
rights. We affirm.

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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 Kentucky Revised Statutes 21.580.

Hatter was sentenced to fifteen-years' imprisonment upon being convicted of second-degree burglary and first-degree wanton endangerment. He was granted parole under conditions of supervision on February 22, 2007.

Thereafter, on September 10, 2007, Hatter was arrested by the Russell Springs Police Department upon the charge of possession of a handgun by a convicted felon. After taking a urine sample, Hatter also tested positive for benzodiazepines and cocaine. Possession of the handgun and the positive drug test were violations of his parole conditions.

At a preliminary parole revocation hearing, the hearing officer found probable cause to believe that Hatter violated the conditions of his parole agreement by possessing a handgun and by using benzodiazepines and cocaine. On November 27, 2007, the parole board also found that Hatter violated conditions of his parole and revoked Hatter's parole.

Thereafter, Hatter filed a petition for declaration of rights in the Franklin Circuit Court challenging the revocation of his parole by the parole board. Hatter argued that his urine sample was contaminated and that there was a break in the chain of custody of the urine sample. The circuit court dismissed the petition, thus precipitating this review.

Hatter contends the circuit court erred by denying his petition for declaration of rights challenging revocation of his parole. We disagree.

As a reviewing Court, we are permitted to affirm the lower court for any reason apparent in the record. *See Ky. Farm Bureau Mut. Ins. Co. v. Gray*,

814 S.W.2d 928 (Ky. App. 1991). Although the circuit court stated no reason for the dismissal in the court's order, the proper mechanism in Kentucky for challenging a parole board's alleged abuse of authority is to file a writ of mandamus in the circuit court. *Shepherd v. Wingo*, 471 S.W.2d 718 (Ky. 1971). In this case, Hatter filed a petition for declaration of rights. A petition for declaration of rights is an improper mechanism for challenging a decision of the parole board. No further review is necessary and for this reason, we affirm the circuit court's dismissal of Hatter's petition. *See Gray*, 814 S.W.2d 928.

For the foregoing reasons, the order of the Franklin Circuit Court is affirmed.

ALL CONCUR.

BRIEFS FOR APPELLANT:

Dagan Hatter, *Pro Se*  
St. Mary, Kentucky

BRIEF FOR APPELLEE:

Stafford Easterling  
Justice and Public Safety Cabinet  
Frankfort, Kentucky