

RENDERED: OCTOBER 8, 2010; 10:00 A.M.  
NOT TO BE PUBLISHED

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

NO. 2008-CA-002415-MR

ROBERT STUMBO

APPELLANT

v. APPEAL FROM FLOYD CIRCUIT COURT  
HONORABLE JOHN DAVID CAUDILL, JUDGE  
ACTION NO. 06-CR-00048

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: FORMTEXT TAYLOR, CHIEF JUDGE; COMBS AND NICKELL,  
JUDGES.

PER CURIAM: Robert Stumbo brings this *pro se* appeal from a December 2,  
2008, Order of the Floyd Circuit Court denying his Kentucky Rules of Criminal  
Procedure (RCr) 11.42 motion. We affirm.

Stumbo argues that the circuit court committed error by denying his  
RCr 11.42 motion. Specifically, Stumbo argues that the Commonwealth breached

its duties under a plea agreement as to parole eligibility. Stumbo believes the Kentucky Department of Corrections improperly determined his parole eligibility. However, RCr 11.42 is simply not the proper avenue to challenge the Commonwealth's performance or to seek specific performance of a plea agreement. *Shanklin v. Com.*, 730 S.W.2d 535 (Ky. App. 1987). Moreover, an inmate's parole eligibility is also not a proper ground for relief in an RCr 11.42 motion. *Hoskins v. Com.*, 158 S.W.3d 214 (Ky. App. 2005); *Smith v. O'Dea*, 939 S.W.2d 353 (Ky. App. 1997). We, thus, decline to address this issue.

Stumbo also contends that Kentucky Revised Statutes 197.045(4) violates the United States Constitution as a "Bill of Attainder." The record is clear that Stumbo did not raise this argument before the circuit court; thus, the circuit court did not rule upon same. As a Court of review, we will not address an issue that was neither raised in nor disposed of in the circuit court. *Caslin v. Gen. Elec. Co.*, 608 S.W.2d 69 (Ky. App. 1980). Consequently, we decline to address this issue.

In sum, we conclude the circuit court properly denied Stumbo's RCr 11.42 motion.

For the foregoing reasons, the Order of the Floyd Circuit Court is affirmed.

ALL CONCUR.

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