

Commonwealth of Kentucky
Court of Appeals

NO. 2010-CA-001390-MR

BRANSON ROY JOHNSON

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE JAMES D. ISHMAEL JR., JUDGE
ACTION NO. 98-CR-00984

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * ** * **

BEFORE: COMBS, THOMPSON, AND VANMETER, JUDGES.

VANMETER, JUDGE: Branson Roy Johnson appeals *pro se* from an order of the Fayette Circuit Court denying his motion requesting satisfaction of his sentence.

We affirm.

In 1999, Johnson was convicted of criminal syndicate, sentenced to fifteen-years' imprisonment, and ordered to pay restitution to certain banks totaling an

amount of \$12,861.60. In 2010, Johnson filed a motion with the trial court requesting an order that he satisfied his restitution obligation. In support of his motion, Johnson attached three letters written to Chase Bank, Square D Federal Credit Union, and UK Federal Credit Union in which he requested payment ledgers documenting the amount he had paid in restitution, and the balance owed as of June 2, 2010. Only Chase Bank responded, stating Johnson still owed \$944.91. The trial court denied the motion, finding that the evidence did not adequately demonstrate that Johnson satisfied his obligation. Additionally, the trial court advised Johnson to contact his parole officer for an accurate record of his payment history. This appeal followed.

On appeal, Johnson maintains he satisfied his obligation and provides, as attachments to his appellate brief, additional documents from the Department of Corrections that he purports reflect his offender/payee account summaries with each bank. Johnson alleges the documents inaccurately reflect his payment schedule. Regardless, since these documents were not offered into evidence before the trial court, they cannot be considered on appeal. *See Lawrence v. Risen*, 598 S.W.2d 474, 476 (Ky.App. 1980) (holding that issues not timely raised before the trial court cannot be considered as a new argument on appeal). We agree with the trial court that the letters written by Johnson to three separate banks are insufficient to support his motion. Based on the inconclusiveness of the evidence, the trial court did not err by denying Johnson's motion.

The order of the Fayette Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEE:

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