

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-000044-MR

SHANISE ANTIONETTE WASHINGTON

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE PAMELA R. GOODWINE, JUDGE
ACTION NO. 06-CR-00112

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
DISMISSING

** ** * * * * *

BEFORE: COMBS, THOMPSON, AND VANMETER, JUDGES.

COMBS, JUDGE: Shanise Washington appeals from an order of the Fayette Circuit Court denying her motion pursuant to Kentucky Rule[s] of Civil Procedure (CR) 60.02. Finding that her appeal is moot, we dismiss.

CR 60.02 allows convicted persons to ask the court to vacate or modify their sentences. Washington stated explicitly in her motion that she was not trying to

have her sentence modified or vacated. Instead, she wanted to be granted probation. The trial court determined that the motion presented issues that were more appropriate for the Parole Board and denied the motion. During the pendency of this appeal, Washington was granted parole and now resides in a halfway house.

An appellate court *must* dismiss an appeal if “an event occurs which . . . renders any judgment that might be pronounced ineffectual for any purpose.” *Brown v. Baumer*, 191 S.W.2d 235, 238 (Ky. 1946). Washington’s release from custody has rendered this appeal moot.

In a similar case, the predecessor of our Supreme Court explained as follows:

Since appellant has already satisfied the sentence of the court, we could make no order on this appeal which would affect her status. We cannot remit the jail sentence already served, and even if we should decide the sentence should not have been imposed, the opinion could not afford appellant any effectual relief in this case.

Dillingham v. Commonwealth, 249 S.W.2d 827, 828 (Ky. 1952). Although Washington has not satisfied her sentence, she has been granted the relief that she initially sought. She is no longer incarcerated, and we are unable to offer any additional relief. The appeal is dismissed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Shanise Washington, *pro se*
Fredonia, Kentucky

BRIEF FOR APPELLEE:

Jack Conway
Attorney General of Kentucky

Joshua D. Farley
Assistant Attorney General
Frankfort, Kentucky