

Commonwealth of Kentucky

Court of Appeals

NO. 2010-CA-000377-MR

ROCKY KING

APPELLANT

v. APPEAL FROM MCCREARY CIRCUIT COURT
HONORABLE DANIEL BALLOU, JUDGE
ACTION NO. 06-CR-00005

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: CLAYTON, KELLER AND MOORE, JUDGES.

KELLER, JUDGE: Rocky King appeals from the trial court's denial of his motion to order trial counsel to supply King with a copy of his case file. After our review, we affirm.

King entered a plea of guilty on June 26, 2007 to complicity to murder and robbery in the first degree. Pursuant to a plea agreement with the Commonwealth, on July 20, 2007, he was convicted and sentenced to serve 25

years. He filed a motion on January 18, 2008 seeking a copy of the records of the court. That request was granted by order of January 29, 2008. On December 2, 2009, he sought an order of the trial court requiring trial counsel to provide a copy of his case file. The trial court overruled that motion by order of December 23, 2009 finding the “[d]efendant has the ability to request the case file from his trial attorney on his own[.]” This appeal followed.

It is fundamentally clear that “work product, properly characterized as such, may be requested and obtained by a former criminal client where that criminal defendant now seeks post-conviction relief alleging ineffective assistance of counsel and therefore needs his file.” *Hiatt v. Clark*, 194 S.W.3d 324, 330 (Ky. 2006). In that case, trial counsel initially refused to provide the former client with a copy of the file.

A trial court generally has broad discretion. “[T]he law is clear in this jurisdiction that the appellate court will not substitute its judgment for that of the trial court unless a manifest abuse of discretion occurred.” *Gates v. Gates*, 412 S.W.2d 223, 224 (Ky. 1967). “The test for abuse of discretion is whether the trial judge's decision was arbitrary, unreasonable, unfair, or unsupported by sound legal principles.” *Goodyear Tire and Rubber Co. v. Thompson*, 11 S.W.3d 575, 581 (Ky. 2000).

Here, the trial court was not confronted with the refusal by an attorney to provide a copy of the defendant’s file. There was nothing before the trial court to suggest King made any attempt to acquire the file on his own. The trial court

does not exist to act as clerical staff for a defendant but exists instead to ensure the rights of the parties before it are protected and justice is served. Requiring a good-faith effort to receive a copy of the file appears neither arbitrary, unreasonable, unfair, nor unsupported by sound legal principles.

We find no error and affirm the judgment of the McCreary Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Rocky King, *pro se*
LaGrange, Kentucky

BRIEF FOR APPELLEE:

Jack Conway
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