

# Commonwealth Of Kentucky

## Court Of Appeals

No. 1997-CA-000790-MR

MITCHELL THACKER

APPELLANT

v.

APPEAL FROM PIKE CIRCUIT COURT  
HONORABLE EDDY COLEMAN, JUDGE  
ACTION NO. 95-CR-0003

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

\* \* \* \* \*

BEFORE: BUCKINGHAM, EMBERTON and GUIDUGLI, Judges.

EMBERTON, JUDGE. Mitchell Thacker appeals from an order revoking his probation and sentencing him to a period of two years incarceration.

The Commonwealth moved to revoke the appellant's probation for the use of marijuana on February 16, 1996, March 21, 1996, August 21, 1996, December 4, 1996, January 8, 1997, and February 5, 1997. A hearing was held on March 7, 1997. The Commonwealth's proof consisted of the probation and parole officer's testimony relating to the results of drug screen tests conducted by Smith, Kline & Beecham Laboratory in Lexington, Kentucky. Appellant objected to the reports as evidence on the

basis that there was no representative from the laboratory to testify or otherwise authenticate the documents.

Probation revocation hearings are informal procedures and a defendant is not entitled to the same due process consideration as he is in a criminal trial. Hearsay testimony, although inadmissible at a criminal trial, is admissible especially where, as here, trained personnel are available to testify. Marshall v. Commonwealth, Ky. App., 638 S.W.2d 288, 289 (1982). The determinative question is whether the reliability of the hearsay can be ascertained. Id. The report issued by the laboratory established the internal chain of custody of the specimens and the tests administered. The trial court was permitted to rely on its knowledge of Smith, Kline & Beecham as a reliable laboratory. We find no error in the admission of the drug screen test results.

A review of the record reveals that appellant was given ample notice of the grounds for the revocation hearing. Rasdon v. Commonwealth, Ky., 701 S.W.2d 716 (1986).

The order of the Pike Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

W. Sidney Trivette  
Pikeville, Kentucky

BRIEF FOR APPELLEE:

A. B. Chandler III  
Attorney General

Gregory C. Fuchs  
Assistant Attorney General  
Frankfort, Kentucky

