

Commonwealth Of Kentucky

Court Of Appeals

NO. 1997-CA-003025-MR

ROGER HERRINGTON

APPELLANT

v. APPEAL FROM OLDHAM CIRCUIT COURT
HONORABLE DENNIS A. FRITZ, JUDGE
ACTION NO. 97-CI-000349

STEVE BERRY,
WARDEN OF LUTHER LUCKETT
CORRECTIONAL COMPLEX

APPELLEE

OPINION
AFFIRMING

** ** * * *

BEFORE: GUDGEL, CHIEF JUDGE; GUIDUGLI AND MILLER, JUDGES.

MILLER, JUDGE: Roger C. Herrington brings this *pro se* appeal from a September 8, 1997 order of the Oldham Circuit Court. We affirm.

While on parole for a crime committed in the Commonwealth of Kentucky, appellant was convicted of a felony in the state of New Mexico. The Commonwealth lodged a detainer against appellant for violating the terms of his parole. Upon completion of his New Mexico sentence, appellant was returned to Kentucky and thereupon incarcerated. Appellant then filed a petition for declaratory judgment, seeking credit against his

Kentucky sentence for time spent imprisoned in New Mexico. On September 8, 1997, the circuit court denied appellant's petition and dismissed the action. This appeal followed.

Appellant contends that the circuit court committed reversible error by denying his petition for declaratory judgment. Specifically, appellant contends that he is entitled to credit his jail time in New Mexico against the sentence he is now serving in Kentucky. We disagree. We are of the opinion that this issue has been resolved in Rosenberg v. DeFew, Ky. App., 862 S.W.2d 334 (1993). Therein, the Court held that KRS 533.060 "requires that a parolee's sentence for crimes committed while on parole run consecutively to **any** other sentence."

(Emphasis supplied.) Id. at 335. This, concluded the Rosenberg Court, included a sentence for a crime committed in California while on parole from Kentucky. As such, we are of the opinion that the circuit court did not commit reversible error by denying appellant's petition for declaratory judgment.

We find no merit in appellant's contention that Kentucky has somehow forfeited jurisdiction over him.

For the foregoing reasons, the order of the Oldham Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Roger Herrington, Pro Se
LaGrange, KY

BRIEF FOR APPELLEE:

Keith Hardison
Frankfort, KY