

Commonwealth Of Kentucky

Court Of Appeals

NO. 2000-CA-000430-MR
AND
NO. 2000-CA-001420-MR

RONALD WAYNE ALVEY

APPELLANT

v. APPEALS FROM JEFFERSON CIRCUIT COURT
HONORABLE JUDITH MCDONALD-BURKMAN, JUDGE
ACTION NO. 83-CR-000101

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING
** **

BEFORE: BUCKINGHAM, EMBERTON, AND TACKETT, JUDGES.

TACKETT, JUDGE: Ronald Wayne Alvey appeals from two orders of the Jefferson Circuit Court denying him post-conviction relief on his motions filed pursuant to Kentucky Rule of Civil Procedure (CR) 60.02. We affirm.

Alvey was indicted for two counts of first degree robbery and as a first degree persistent felony offender. In 1984, he pled guilty to the robbery charges and to an amended charge of second degree persistent felony offender.

The Commonwealth correctly points out that the present appeals represent successive attacks on his 1984 conviction.

Alvey has previously filed two motions for relief under Kentucky Rule of Criminal Procedure (RCr) 11.42 which were both denied. He filed a subsequent motion for CR 60.02 relief alleging that his 1976 convictions were void because the judgments were not signed. The trial court denied his motion and we affirmed in an unpublished opinion, 1999-CA-000114, which is currently pending on a motion for discretionary review before the Kentucky Supreme Court.

In a subsequent CR 60.02 motion, Alvey argued that Kentucky Revised Statute 532.080, which pertains to persistent felony offender sentencing, requires a jury verdict of conviction, and that the statute should be void for vagueness. The trial court's order denying relief on the grounds stated in this motion is one of the subjects of this appeal and was assigned the case number 2000-CA-000430.

In his latest motion for relief under CR 60.02, Alvey alleges that his robbery convictions were improperly enhanced. Alvey argues that because the judgments of conviction on the underlying offenses, which were entered in 1976, were not signed by a judge, they could not form the basis for the charge of persistent felony offender. The trial court also denied this motion without a hearing, and Alvey filed another appeal which we have designated as case number 2000-CA-001420. These appeals sub judice, represent Alvey's **third** and **fourth** post-conviction challenges to his persistent felony offender conviction. Successive motions raising claims that either have or should have

been presented earlier cannot be reviewed on appeal. Hampton v. Commonwealth, Ky., 454 S.W.2d 672 (1970).

For the foregoing reasons, the judgments of the Jefferson Circuit Court denying Alvey's two motions for post-conviction relief pursuant to CR 60.02 are affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Ronald Wayne Alvey, Pro Se
West Liberty, Kentucky

BRIEF FOR APPELLEE:

Albert B. Chandler, III
Attorney General

Vickie L. Wise
Assistant Attorney General
Frankfort, Kentucky