

# Commonwealth Of Kentucky

## Court Of Appeals

NO. 2000-CA-001928-MR

CHRISTOPHER ALLEN RIGGS

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT  
HONORABLE LAURANCE VANMETER, JUDGE  
ACTION NO. 99-CR-01348

COMMONWEALTH OF KENTUCKY

APPELLEE

### OPINION

### AFFIRMING

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BEFORE: DYCHE, EMBERTON and HUDDLESTON, Judges.

HUDDLESTON, Judge: Christopher Allen Riggs was convicted of one count of first-degree assault resulting from the stabbing of Robert Krank and was sentenced to ten years' imprisonment. On appeal, Riggs claims that the circuit court erred in finding him competent to stand trial and that photographs depicting the crime scene in which the victim's blood is clearly visible were improperly admitted into evidence.

Riggs is mentally retarded. On the morning of July, 7, 1999, Riggs, Riggs's ex-girlfriend, Melissa Cummings, and Cummings's boyfriend, Robert Krank, talked with one another on the

telephone. Tempers flared between Riggs and Krank, who had physically fought with one another on prior occasions, and Riggs told Krank to "come on down here."

Subsequently, Cummings and Krank met outside the apartment complex in which all three resided. As Cummings and Krank walked on the opposite side of the street from Riggs's apartment, Riggs threw a rock at them, hitting Cummings in the back. Krank told Riggs to stop "messing" with them, but Riggs persisted. Riggs and Krank then began to fight one another. Riggs removed a large knife he had concealed in his pants and stabbed Krank in the lower chest and leg. As Krank tried to escape, Riggs ran into his apartment. Krank eventually collapsed next to a fence in a pool of blood, suffering from several serious wounds.

On the way to the hospital, Krank's heartbeat and breathing ceased; however, paramedics were able to revive him. Krank's attending physician testified that Krank had suffered a cardiac arrest as a result of his extreme loss of blood. Krank remained in a permanent vegetative state as of the date of trial.

Riggs was arrested by police at his place of employment the day after the stabbing occurred, at which time he confessed to having stabbed Krank. On December 20, 1999, the Fayette County grand jury indicted Riggs on one count of Assault in the First Degree.<sup>1</sup> On May 26, 2000, Riggs moved for a hearing to determine his competency to stand trial.

A competency hearing was held on June 6, 2000. Dr. Harwell Smith, a clinical psychologist who had previously performed

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<sup>1</sup> Ky. Rev. Stat. (KRS) 508.010.

over 400 such competency tests, testified that he had examined Riggs and concluded that, despite some mild incapacity in two out of thirteen areas tested, Riggs was competent to stand trial. The defense called Dr. Douglas Ruth, a psychiatrist, who testified he had examined Riggs and concluded that he was not competent to stand trial. On June 12, 2000, the circuit court found that Riggs was competent to stand trial based on the testimony of Dr. Smith.

"No defendant who is incompetent to stand trial shall be tried, convicted or sentenced so long as the incompetency continues."<sup>2</sup> The test of a defendant's competence to stand trial is whether he has substantial capacity to understand the nature and consequences of the proceedings pending against him and the ability to participate rationally in his defense.<sup>3</sup> At any stage during the judicial proceedings, if the court has reasonable grounds to suspect the defendant is incompetent to stand trial, due process requires an evidentiary hearing to determine the defendant's competency.<sup>4</sup> The circuit court has broad discretion in ruling on the issue of competence,<sup>5</sup> and its determination of competency will not be disturbed on appeal unless clearly erroneous.<sup>6</sup>

The circuit court based its finding of competency on Dr. Smith's testimony. The testimony of one expert witness is

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<sup>2</sup> KRS 504.090.

<sup>3</sup> KRS 504.060 (4).

<sup>4</sup> KRS 504.100; see also Pate v. Robinson, 383 U.S. 375, 86 S. Ct. 836, 15 L. Ed. 2d 815 (1966).

<sup>5</sup> See Hopewell v. Commonwealth, Ky., 641 S.W.2d 744 (1982).

<sup>6</sup> See Commonwealth v. Griffin, Ky., 622 S.W.2d 214 (1981).

sufficient evidence to support a finding of competency.<sup>7</sup> While Riggs offered the testimony of his own expert witness, Dr. Ruth, to support his assertion of incompetency to stand trial, the circuit court is "not absolutely bound by the testimony of medical experts in making a determination as to competency to stand trial."<sup>8</sup> The court may also take into account its own observations and impressions of the defendant at the hearing.<sup>9</sup> There is no indication in the record that the circuit court failed to properly consider the evidence presented as to Riggs's competency to stand trial. The circuit court followed the proper procedures in conducting a competency hearing, but, after hearing all of the evidence, remained unconvinced that Riggs was incompetent. Its finding that Riggs was competent to stand trial is not clearly erroneous.

Riggs's second claim on appeal is that four photographs depicting the crime scene in which the victim's blood is visible were improperly admitted at trial. This claim is equally unavailing.

Generally, even gruesome photographs are admissible at trial if they have probative value.<sup>10</sup> The photographs in question were relevant in that they show the crime scene. They are not so gruesome as to outweigh their probative value: only the victim's

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<sup>7</sup> See Edmonds v. Commonwealth, Ky., 586 S.W.2d 24 (1979); see also Harston v. Commonwealth, Ky., 638 S.W.2d 700 (1982).

<sup>8</sup> Mozee v. Commonwealth, Ky., 769 S.W.2d 757, 758 (1989).

<sup>9</sup> Id.

<sup>10</sup> See Tamme v. Commonwealth, Ky., 973 S.W.2d 13 (1998); see also Epperson v. Commonwealth, Ky., 809 S.W.2d 835 (1991).

blood, not his body, was visible in the photographs. The circuit court did not err in admitting the photographs.

The judgment is affirmed.

ALL CONCUR.

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