

Commonwealth Of Kentucky

Court Of Appeals

NO. 2001-CA-000307-MR

MARK BRADLEY

APPELLANT

v. APPEAL FROM OHIO CIRCUIT COURT
HONORABLE RONNIE C. DORTCH, JUDGE
ACTION NO. 98-CR-00020

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING
** ** * * * * *

BEFORE: BUCKINGHAM, COMBS, and DYCHE, Judges.

COMBS, JUDGE: Mark Bradley appeals from an order of the Ohio Circuit Court denying his motion for relief pursuant to Kentucky Rules of Criminal Procedure (RCr) 11.42. We conclude that the trial court properly denied the motion; thus, we affirm.

Following a jury trial, Bradley was convicted of multiple counts of trafficking in a controlled substance within 1000 yards of a school. In accord with the jury's recommendation, he was sentenced to serve eighteen years in prison. No direct appeal was filed.

In September 2000, more than two years after his sentencing, Bradley filed a motion to vacate the judgment and

sentence pursuant to RCr 11.42. On January 12, 2001, the trial court entered an order denying the motion. This appeal followed.

Bradley argues that his convictions violate the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution. However, since this issue is one that could have (and should have) been raised on direct appeal, Bradley is foreclosed from seeking relief pursuant to RCr 11.42 on this ground alone. As the Kentucky Supreme Court held in Sanborn v. Commonwealth, Ky., 975 S.W.2d 905, 909 (1998), a motion filed pursuant to RCr 11.42 "is limited to issues that were not and could not be raised on direct appeal." The trial court did not err in denying relief.

Based upon the foregoing, the order of the Ohio Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT *PRO SE*:

Mark Bradley
Blackburn Correctional Complex
Lexington, KY

BRIEF FOR APPELLEE:

Albert B. Chandler III
Attorney General of Kentucky

Courtney J. Hightower
Assistant Attorney General
Frankfort, KY