

Commonwealth Of Kentucky

Court Of Appeals

NO. 2001-CA-000671-MR

JAMES JACKSON

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE JOHN R. ADAMS, JUDGE
ACTION NO. 96-CR-00167

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING
** ** * * * * *

BEFORE: COMBS, EMBERTON, and HUDDLESTON, Judges.

COMBS, JUDGE: James Jackson appeals an order of the Fayette Circuit Court denying his motion for CR 60.02 relief. We affirm.

Following his indictment in February 1996, Jackson agreed to plead guilty to the charge of first-degree burglary and to being a persistent felony offender in the first degree. In exchange, he received a ten-year sentence on the burglary conviction, enhanced to twenty-years' imprisonment as a persistent felony offender.

In June 1999, Jackson filed his first motion for modification of sentence pursuant to CR 60.02. Alleging various grounds, he argued that he was entitled to a lighter sentence.

The motion was denied, and no appeal was taken. Jackson filed his second motion for relief in February 2001. In this motion, Jackson argued that he was entitled to a lighter sentence because he "merely entered the dwelling with the intent to commit a crime." His actions, he insisted, amounted to no more than second-degree burglary.¹ The motion was again denied.

The record in this case does not support the appellant's position. The record indicates that Jackson unlawfully entered the victim's home with the intent to commit a crime and that he was armed with a deadly weapon. The trial court did not abuse its discretion by denying the relief sought.

The order of the trial court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT *PRO SE*:

James W. Jackson
LaGrange, KY

BRIEF FOR APPELLEE:

Albert B. Chandler III
Attorney General of Kentucky

Gregory C. Fuchs
Assistant Attorney General
Frankfort, KY

¹In his statement of the facts, Jackson intimates that he was not afforded effective assistance of counsel. However, he does not elaborate on this point in the argument portion of his brief. Nonetheless, a claim for relief on this ground would have to be addressed by way of a motion filed pursuant to RCr 11.42. Gross v. Commonwealth, Ky., 648 S.W.2d 853 (1983); RCr 11.42.