

Commonwealth Of Kentucky

Court Of Appeals

NO. 2001-CA-002036-MR

DARRELL WAYNE REYNOLDS

APPELLANT

v. APPEAL FROM LAUREL CIRCUIT COURT
HONORABLE LEWIS B. HOPPER, JUDGE
ACTION NO. 01-CI-00591

RODERICK MESSER; TOM HANDY; DANNY
EVANS; JEFF WEAVER; LARRY LEWIS;
ROGER SCHOTT; JOSEPH E. LAMBERT;
PAUL D. GUDGEL; R. W. DYCHE;
JOHN D. MILLER; DANIEL T.
GUIDUGLI; RICK A. JOHNSON;
DAVID C. BUCKINGHAM; ALBERT B.
CHANDLER III

APPELLEES

OPINION
AFFIRMING

** ** * * * * *

BEFORE: BARBER, SCHRODER, TACKETT, JUDGES.

BARBER, JUDGE: Darrell Wayne Reynolds appeals from an opinion and order of the Laurel Circuit Court dismissing his complaint against the appellees. The primary relief sought in the complaint was release from a twenty-year prison sentence imposed for a conviction of first-degree rape. Because Reynolds' complaint is effectively an impermissible attempt to collaterally attack his first-degree rape conviction, we affirm.

Reynolds is an inmate at Green River Correctional Complex. On July 12, 2001, Reynolds filed a pro se complaint in Laurel Circuit Court. The complaint alleged that there was a conspiracy against him to alter the public record involving Laurel Circuit Court Judge Roderick Messer; Commonwealth's Attorney Tom Handy and prosecutors Danny Evans and Jeff Weaver; Kentucky State Police Officer Larry Lewis; the Laurel Circuit Court Clerk Roger Schott; Attorney General Albert B. Chandler, III; Chief Justice Joseph E. Lambert; and Kentucky Court of Appeals Judges Paul D. Gudgel, R. W. Dyché, John D. Miller, Daniel T. Guidugli, Rick A. Johnson, and David C. Buckingham. In light of the palpable implausibility of Reynolds' conspiracy theory, not surprisingly, the complaint provided few details of the alleged conspiracy.

As relief, the complaint sought a declaratory judgment that the appellees had violated his constitutional rights, an injunction from any further incarceration, and "a protection order for safety of the plaintiff." On August 6, 2001, the Office of the Attorney General filed, on behalf of all of the named defendants, an answer to the complaint and a motion to dismiss. On August 15, 2001, the trial court entered an opinion and order granting the motion to dismiss. This appeal followed.

In Laurel Circuit Court Action No. 91-CR-00125, Reynolds was convicted of first-degree rape and received a sentence of twenty years. His conviction was affirmed by the Kentucky Supreme Court on October 19, 1995. Reynolds

subsequently filed motions to vacate his sentence pursuant to RCr 11.42 and CR 60.02, which were denied.¹

A review of Reynolds' complaint in this case discloses that the filing is, in substance, a collateral attack on his rape conviction. The primary relief requested is "injunction from any further incarceration." We agree with the trial court and the Commonwealth that Reynolds may not collaterally attack his sentence through a civil lawsuit against various judges, prosecutors, and court personnel.

There are three fundamental ways to attack the final judgment of a trial court in a criminal case: by direct appeal, by a motion under RCr 11.42, and by a motion under CR 60.02. Gross v. Commonwealth, Ky., 648 S.W.2d 853, 856 (1983). The structure provided in Kentucky for attacking the final judgment of a trial court in a criminal case is not haphazard and overlapping, but is organized and complete. Id. Reynolds' lawsuit seeks to attack his sentence outside the structure set forth in Gross. As Reynolds' complaint requested relief which could not be granted in a civil lawsuit of this nature – release from incarceration – the trial court properly dismissed the complaint.

For the foregoing reasons the judgment of the Laurel Circuit Court is affirmed.

ALL CONCUR.

¹See Case No. 1996-CA-003382-MR, opinion rendered October 16, 1998.

BRIEF FOR APPELLANT:

Darrell Wayne Reynolds, pro se
Central City, Kentucky

BRIEF FOR APPELLEE:

Stuart Cobb
Assistant Attorney General
Frankfort, Kentucky