

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2006-CA-002617-MR

JAMES B. YARSIAH

APPELLANT

APPEAL FROM JEFFERSON CIRCUIT COURT  
v. HONORABLE LISABETH HUGHES ABRAMSON, JUDGE  
ACTION NO. 03-CR-003197

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
VACATING AND REMANDING

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BEFORE: DIXON AND VANMETER, JUDGES; GRAVES,<sup>1</sup> SENIOR JUDGE

DIXON, JUDGE: Appellant, James B. Yarsiah, *pro se*, appeals from an order of the Jefferson Circuit Court denying his motion for modification of sentence pursuant to CR 60.02. Appellant claims that (1) the trial court failed to give proper consideration to his motion; (2) no proof exists that the motion was reviewed by a judge because the signature on the order is illegible; (3) his attorney coerced him into entering a guilty plea on the

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<sup>1</sup> Senior Judge J. William Graves sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution and Kentucky Revised Statutes (KRS) 21.580.

promise that he would file a motion for shock probation; and (4) there is insufficient evidence of his guilt.

On August 25, 2003, Appellant approached Mohamed Beitulah in the 7300 block of Southside Drive in Louisville, Kentucky, armed with a knife and demanded money. When Beitulah refused, Appellant stabbed him four times in the stomach. Appellant was later arrested and indicted by a Jefferson County Grand Jury on one count of first-degree robbery and one count of first-degree assault.

On May 16, 2005, pursuant to a plea agreement, Appellant pled guilty to second-degree robbery and second-degree assault. The trial court thereafter sentenced Appellant to a total of fifteen (15) years imprisonment. On October 17, 2006, Appellant filed a “Motion for Modification of Sentence Pursuant to CR 60.02 and/or KRS 532.070.” The trial court denied the motion and this appeal ensued.

The record in this case indicates that Judge Lisabeth Hughes Abramson was the Jefferson Circuit Judge that presided over Appellant's case. However, on June 30, 2006, Judge Abramson was appointed to this Court. As Appellant's CR 60.02 motion was not denied until October 17, 2006, Judge Abramson obviously did not sign the order. Unfortunately, there is no information in the record as to what judge was assigned to handle Appellant's case, nor can such be gleaned from the illegible signature on the order. Further, we would point out that the “order” is actually nothing more than a handwritten notation on the bottom of Appellant's motion.

Because we conclude that the order denying Appellant's CR 60.02 motion is insufficient, we vacate the order and remand this matter to the trial court for entry of a proper order by the judge assigned to preside over Appellant's case. In doing so, we render no opinion as to the merit of Appellant's motion.

ALL CONCUR.

BRIEF FOR APPELLANT:

James Yarsiah, *Pro Se*  
Sandy Hook, Kentucky

BRIEF FOR APPELLEE:

Gregory D. Stumbo  
Attorney General

Michael L. Harned  
Assistant Attorney General  
Frankfort, Kentucky