

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2006-CA-002560-MR

JAMES WALTERS

APPELLANT

v. APPEAL FROM MCCRACKEN CIRCUIT COURT  
HONORABLE R. JEFFREY HINES, JUDGE  
ACTION NO. 97-CR-00284

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CLAYTON, NICKELL, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: James Walters bring this *pro se* appeal from an October 16, 2006, order of the McCracken Circuit Court denying his Kentucky Rules of Civil Procedure (CR) 60.02 motion. We affirm.

In October 1998, appellant pleaded guilty to murder and first-degree robbery. He was sentenced to life imprisonment without the possibility of parole

for twenty-five years. Thereafter, appellant collaterally attacked his conviction by filing sundry motions, including two CR 60.02 motions. All were denied.

Thereafter, in September 2006, appellant filed the instant CR 60.02 motion seeking to vacate his sentence of imprisonment. Appellant alleged that the police improperly questioned him after invoking the right to counsel, thus mandating relief under CR 60.02. By order entered October 16, 2006, the circuit court denied the CR 60.02 motion. This appeal follows.

Appellant contends that the circuit court erred by denying his CR 60.02 motion. Specifically, appellant maintains that the police improperly questioned him after he invoked his right to counsel, thus mandating relief under CR 60.02. We disagree.

CR 60.02 is an extraordinary remedy and only available to correct a substantial miscarriage of justice. *Gross v. Com.*, 648 S.W.2d 853 (Ky. 1983); *Wilson v. Com.*, 403 S.W.2d 710 (Ky. 1966). And, CR 60.02 is not a substitute for an appeal; only those issues that could not have been addressed in other proceedings are proper for review in a CR 60.02 motion. *McQueen v. Com.*, 948 S.W.2d 415 (Ky. 1997).

Appellant's ground for CR 60.02 relief is that the police improperly continued to question him after he invoked the right to counsel. This is simply not a proper ground for relief under CR 60.02. Rather, a direct appeal would have been the proper avenue to correct such alleged error. Moreover, CR 60.02 is not available to correct alleged errors of law committed by the circuit court. *See City*

*of Covington v. Sanitation Dist. No. 1*, 459 S.W.2d 85 (Ky. 1970). The circuit court previously denied appellant's motion to suppress his statements to police wherein he also claimed to have invoked his right to counsel. In the CR 60.02 motion, appellant again claimed the police continued to question him after he invoked the right to counsel, thus requiring CR 60.02 relief. Accordingly, we hold that the circuit court properly denied appellant's CR 60.02 motion.

For the foregoing reasons, the order of the McCracken Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

James Walters, *Pro Se*  
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BRIEF FOR APPELLEE:

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