

RENDERED: SEPTEMBER 24, 2010; 10:00 A.M.  
NOT TO BE PUBLISHED

# Commonwealth of Kentucky

## Court of Appeals

NO. 2003-CA-001417-MR

WENDELL ALLEN BONDS

APPELLANT

ON REMAND FROM KENTUCKY SUPREME COURT  
2008-SC-0626-D

v. APPEAL FROM WARREN CIRCUIT COURT  
HONORABLE THOMAS R. LEWIS, JUDGE  
ACTION NO. 98-CR-00763

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CAPERTON, KELLER, AND WINE, JUDGES.

CAPERTON, JUDGE: This matter is before this Court on remand from the  
Kentucky Supreme Court pursuant to an opinion and order entered May 12, 2010.

The Kentucky Supreme Court remanded in light of *Commonwealth v. Alleman*,

306 S.W.3d 484 (Ky. 2010). After reviewing *Alleman*, we affirm the trial court's original judgment.

We set forth the facts as previously presented in the original opinion rendered August 1, 2008.

Wendell Allen Bonds appeals from the judgment of the Warren Circuit Court revoking his probation and sentencing him to serve a seven-year sentence, having pled guilty to one count of trafficking in a controlled substance within a thousand yards of a school, and one count persistent felony offender in the second degree. Bonds argues that his due process rights were violated when the trial court failed to make an adequate written statement as to the reasons for revoking probation. We disagree based upon *Commonwealth v. Alleman*, 306 S.W.3d 484 (Ky. 2010), and, accordingly, affirm.

On March 12, 2003, Bonds was brought before the trial court for a probation revocation hearing. At the hearing, the video record shows evidence was presented that Bonds was charged with alcohol intoxication and failed to report to his probation officer. The trial court stated on the record at the conclusion of all the evidence, "based on the fact that you ran off, I'm going to revoke you again." The trial court's written findings simply stated that Bonds had failed to comply with the terms and conditions of probation.<sup>1</sup> Bonds argues that the written findings

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<sup>1</sup> Bonds filed a belated appeal challenging his revocation which was denied by this Court. Bonds appealed to the Kentucky Supreme Court and that court entered an order vacating and remanding this Court's decision. Thereafter, this Court entered an order requiring the Warren Circuit Court to hold an evidentiary hearing to determine if Bonds had waived his right to appeal. The trial court concluded that Bonds had not waived his right to appeal. Bonds now appeals the probation revocation to our Court.

by the trial court are inadequate in light of the minimum due process requirements set out in *Morrissey v. Brewer*, 408 U.S. 471, 92 S. Ct. 2593, 33 L. Ed. 2d 484 (1972), and made applicable to probation revocations under *Gagnon v. Scarpelli*, 411 U.S. 778, 93 S. Ct. 1756, 36 L. Ed. 2d 656 (1973).

The minimum due process requirements for probation revocation set out by the United States Supreme Court in *Gagnon*, which applied the due process requirements set out in *Morrissey* to parole revocation, require that the fact-finder must issue a written statement of the evidence relied on and the reasons for revoking a defendant's probation. *Morrissey*, 408 U.S. at 489, 92 S. Ct. at 2604; and *Gagnon*, 411 U.S. at 786, 93 S. Ct. at 1762. These requirements are also set out in Kentucky Revised Statutes (KRS) 533.050(2).

However, in *Commonwealth v. Alleman*, 306 S.W.3d 484(Ky. 2010), our Kentucky Supreme Court recently stated:

We conclude that oral findings and reasons for revocation as stated by the trial court from the bench at the conclusion of a revocation hearing satisfy a probationer's due process rights, presuming the findings and reasons support the revocation, when they are preserved by a reliable means sufficiently complete to allow the parties and reviewing courts to determine the facts relied on and the reasons for revoking probation.

*Alleman* at 484-485.

After reviewing the record, we conclude that the trial court's judgment revoking Bonds's probation adequately protected Bond's due process rights because (1) the video record of the proceedings adequately set out the evidence

relied upon by the trial court in revoking probation, (2) the reasons for revocation were readily ascertainable from the video record, and (3) the video supported the trial court's written judgment.

We affirm.

ALL CONCUR.

BRIEF FOR APPELLANT:

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