

RENDERED DECEMBER 18, 2009; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2008-CA-000271-MR

DEBORAH PIPER

APPELLANT

v. APPEAL FROM MUHLENBERG CIRCUIT COURT  
HONORABLE DAVID H. JERNIGAN, JUDGE  
ACTION NOS. 03-CR-00159 & 99-CR-00155

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
DISMISSING

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BEFORE: CLAYTON, DIXON, AND THOMPSON, JUDGES.

CLAYTON, JUDGE: This action comes before us on appeal from a decision of the Muhlenberg Circuit Court denying the appellant, Deborah Piper's, motion for relief under Kentucky Rules of Civil Procedure (CR) 60.02. We will dismiss the Piper's appeal as she has not complied with CR 76.12(4).

Piper was convicted by a jury of two counts of first degree trafficking in a controlled substance and was sentenced to five years on each of these charges.

The jury subsequently found Piper guilty of Persistent Felony Offender in the first degree (PFO I) and pursuant to their verdict her sentence was enhanced to twenty years on each count to run consecutively for a total of forty years.

On December 8, 2006, Piper filed a CR 60.02 motion asking the trial court to modify her sentence. As a basis for her motion, Piper contended that her PFO I enhancement was improper as she did not have two or more underlying convictions. Piper also contended that the Clerk did not give notice to the Cabinet for Health and Family and she was denied due process when a lay opinion invaded the province of the jury. On December 11, 2006, the trial court denied Piper's motion.

Piper brought this appeal setting forth as her argument that "a lay opinion invaded the province of the jury". This argument was not brought forth at the trial court level and was not preserved for review. Additionally, Piper neither explains nor supports this argument. Further, Piper has failed at following the edicts of CR 76.12(4) in her memorandum. Thus we will dismiss Piper's appeal.

ALL CONCUR.

BRIEF FOR APPELLANT:

Deborah Piper, *pro se*  
Wheelwright, Kentucky

BRIEF FOR APPELLEE:

Jack Conway  
Attorney General of Kentucky

Susan Roncarti Lenz  
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