

RENDERED: DECEMBER 30, 2009; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2009-CA-000129-MR

RICKY BROCK

APPELLANT

v. APPEAL FROM BELL CIRCUIT COURT  
HONORABLE JAMES L. BOWLING, JR., JUDGE  
ACTION NO. 04-CR-00162

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: CAPERTON, DIXON, AND TAYLOR, JUDGES.

TAYLOR, JUDGE: Ricky Brock brings this *pro se* appeal from a January 8, 2009, order of the Bell Circuit Court denying Brock's motion under Kentucky Rules of Criminal Procedure (RCr) 10.26. We affirm.

In 2005, Brock was convicted of wanton murder and first-degree assault. He was sentenced to a total of thirty-five-years' imprisonment. The Supreme Court affirmed the direct appeal of Brock's judgment of conviction in

2005-SC-0600-MR. Thereafter, Brock filed a motion to vacate sentence under RCr 11.42. The circuit court denied the RCr 11.42 motion. An appeal was taken to the Court of Appeals but was later dismissed upon motion of Brock (2007-CA-001887-MR).

Brock then filed a “Motion to Preserve Palpable Errors of Trial Counsel RCr 10.26.” By order entered January 8, 2009, the circuit court denied the motion. This appeal follows.

Brock alleges that the circuit court erred by denying his RCr 10.26 motion. In denying the motion the circuit court found it to be “nonsensical.” Having reviewed Brock’s allegations of error, we think the circuit court properly denied the motion.

To begin, RCr 10.26 pertains to an unpreserved palpable error which affects the substantial rights of a party and provides a mechanism to obtain relief when it is determined that manifest injustice has occurred. RCr 10.26 does not provide a procedural mechanism for filing an independent motion thereunder. Moreover, Brock alleges error in regard to the performance of counsel, the trial court, and the Commonwealth attorney. These allegations should have been raised in either the direct appeal of the judgment of conviction or in a postconviction motion under RCr 11.42 or Kentucky Rules of Civil Procedure 60.02. The RCr 10.26 motion is meritless and we conclude the circuit court properly denied the same.

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

ALL CONCUR.

BRIEFS FOR APPELLANT:

Ricky Brock, *Pro Se*  
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BRIEF FOR APPELLEE:

Jack Conway  
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