

RENDERED: SEPTEMBER 13, 2013; 10:00 A.M.  
NOT TO BE PUBLISHED

**Commonwealth of Kentucky**

**Court of Appeals**

NO. 2012-CA-001226-MR

CHRISTOPHER PARGEN

APPELLANT

v. APPEAL FROM MONTGOMERY CIRCUIT COURT  
HONORABLE BETH LEWIS MAZE, JUDGE  
ACTION NO. 05-CR-00019

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
VACATING AND REMANDING  
WITH DIRECTIONS

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BEFORE: ACREE, CHIEF JUDGE; COMBS AND TAYLOR, JUDGES.

TAYLOR, JUDGE: Christopher Pargen was convicted of drug related charges in January 2007 and was granted probation for a period of five years beginning on February 15, 2007. His probation was revoked on June 18, 2012. This appeal follows.

We vacate and remand in light of *Miller v. Commonwealth*, 391 S.W.3d 801 (Ky. 2013), rendered by the Kentucky Supreme Court on February 21, 2013, holding that a period of probation generally may not be extended beyond the maximum statutory term except upon a defendant's voluntary and knowing request or consent.<sup>1</sup> Upon remand, we direct the circuit court to reconsider its June 19, 2012, order revoking probation in accordance with the ruling in *Miller*, 391 S.W.3d 801.

For the foregoing reasons, the order of the Montgomery Circuit Court is vacated and remanded with directions to reconsider its decision revoking appellant's probation in light of the authority cited.

ALL CONCUR.

BRIEFS FOR APPELLANT:

John Gerhart Landon  
Assistant Public Advocate  
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Frankfort, Kentucky

BRIEF FOR APPELLEE:

Jack Conway  
Attorney General of Kentucky  
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<sup>1</sup> The record reveals that appellant's probation was extended beyond the statutory maximum term of five years (Kentucky Revised Statutes 533.020(4)) by a November 7, 2011, order.