

Commonwealth of Kentucky
Court of Appeals

NO. 2014-CA-000052-MR

ANTHONY D. BEALS

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT
HONORABLE A.C. MCKAY CHAUVIN, JUDGE
ACTION NO. 11-CR-002899

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * * * * *

BEFORE: CAPERTON, KRAMER¹ AND STUMBO, JUDGES.

STUMBO, JUDGE: Anthony D. Beals appeals from an Order of the Jefferson Circuit Court denying his *pro se* Motion to Produce Medical Records in Discovery.

He contends that he is entitled to the sealed medical records for the purpose of preparing an RCr 11.42 Motion and that the trial court erred in failing to so rule.

We find no error and AFFIRM the Order on appeal.

¹ Judge Joy A. Kramer, formerly Joy A. Moore.

In September, 2011, the Jefferson County Grand Jury indicted Beal on one count each of first-degree assault, first-degree burglary, possession of a handgun by a convicted felon, and three counts of first-degree wanton endangerment. The indictment arose from an incident occurring on August 29, 2011, in Jefferson County, Kentucky, at which time Beals fired multiple gun shots into a residence, then entered the residence and shot Ralph Baker once in each leg. Beals was a convicted felon when he committed the crimes and acted in concert with a co-defendant.

In preparation for trial, the Commonwealth obtained an Order of the Jefferson Circuit Court which directed the University of Louisville Hospital to release the medical records of victim Baker. The court sealed the records. In February, 2013, Beals entered a guilty plea and was sentenced to five and ten-year terms of imprisonment to be served concurrently for a total sentence of ten years in prison. Beals did not prosecute an appeal.

On November 20, 2013, after nine months of incarceration, Beals filed a *pro se* pleading styled Motion to Produce Medical Records in Discovery. The Motion sought an Order directing the Clerk's Office to give Beals access to Baker's sealed medical records to assist Beals in preparing an RCr 11.42 Motion. Specifically, Beals maintained that he required access to the medical records to see if Baker suffered a serious physical injury as defined in KRS Chapter 500.

On December 2, 2013, the Jefferson Circuit Court rendered an Order denying Beals' Motion upon finding it to be without merit. Citing *Gilliam v.*

Commonwealth, 652 S.W.2d 856 (Ky. 1983), the court determined that Beals was not entitled to engage in a "fishing expedition" in search of error. Beals' subsequent Motion to Reconsider was denied and this appeal followed.

Beals, *pro se*, now argues that the Jefferson Circuit Court committed reversible error in denying his Motion to produce Baker's medical records and the subsequent Motion to Reconsider. He contends that the trial court improperly violated his constitutional right by denying him access to discovery records containing exculpatory evidence. Beals directs our attention to case law holding that a criminal defendant is entitled to all exculpatory evidence and contends that Baker's sealed medical record may contain such exculpatory evidence. He also noted that he is willing to pay for the records and that they are necessary for his preparation of a *pro se* RCr 11.42 Motion. He seeks an Order compelling the circuit court to allow for the production of Baker's medical records.

Beals acknowledges that he wants to examine Baker's medical records to determine *if* they contain exculpatory evidence, i.e., to determine if Baker received a serious physical injury pursuant to KRS 500.080(15) when Beals shot Baker once in each leg. As the Commonwealth properly notes, RCr 11.42 was promulgated "to provide a forum for known grievances, not to provide an opportunity to research for grievances." *Gilliam* at 858. Additionally, Beals' guilty plea operates as an admission of the "factual accuracy of the various elements of the offenses with which he [was] charged." *Taylor v. Commonwealth*, 724 S.W.2d 223, 225 (Ky. App. 1986). As such, his guilty plea "precludes a post-

judgment challenge to the sufficiency of the evidence." *Johnson v.*

Commonwealth, 103 S.W.3d 687, 696 (Ky. 2003)(citation and footnote omitted).

Since Beals pled guilty to first-degree assault and did not prosecute a direct appeal, he cannot claim via RCr 11.42 that the evidence was insufficient to support the charge. *Id.* Beals is not entitled to examine Baker's sealed medical records for the purpose of bolstering an RCr 11.42 Motion. We find no error.

For the foregoing reasons, we AFFIRM the Order of the Jefferson Circuit Court denying Beals' Motion to Produce Medical Records in Discovery and subsequent Motion to Reconsider.

ALL CONCUR.

BRIEF FOR APPELLANT:

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