

RENDERED: OCTOBER 13, 2017; 10:00 A.M.
NOT TO BE PUBLISHED

Commonwealth of Kentucky
Court of Appeals

NO. 2016-CA-001630-MR

KEITH R. GUY

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE JAMES D. ISHMAEL, JR., JUDGE
ACTION NO. 00-CR-00070

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * ** * ** *

BEFORE: KRAMER, CHIEF JUDGE; JOHNSON AND MAZE, JUDGES.

JOHNSON, JUDGE: Keith R. Guy (“Guy”), appearing *pro se*, appeals from an order of the Fayette Circuit Court denying his motion alleging violations of his rights pursuant to Kentucky Rules of Civil Procedure (CR) 60.02. After reviewing the record in conjunction with the applicable legal authorities, we AFFIRM the Fayette Circuit Court.

Guy was convicted of kidnapping and first-degree sodomy in 2002 and sentenced to thirty years' incarceration. Guy is now before us for the **third** time. The previous two motions were denied by the trial court as untimely, appealed to us, denied, and appealed to the Kentucky Supreme Court, which denied discretionary review.

On appeal, we review the denial of a CR 60.02 motion for an abuse of discretion. *White v. Commonwealth*, 32 S.W.3d 83, 86 (Ky. App. 2000).

Guy is appealing an issue already litigated and ruled upon multiple times by us and the trial court. We find it instructive to quote from our previous Opinion rendered on May 10, 2013:

The trial court has sole discretion to determine what constitutes a "reasonable time" in which to move to vacate a judgment under the provisions of CR 60.02. *Gross [v. Commonwealth]*, 648 S.W.2d 853 (Ky. 1983). Under the facts of this case, it was not an abuse of the trial court's discretion to deny Guy's motion without addressing its merits.

Guy v. Commonwealth, 2012-CA-001127-MR, 2013 WL 1919513, at *1 (Ky. App. May 10, 2013). As the Commonwealth succinctly states in its brief:

The present motion was filed more than fifteen years after [Guy's] jury trial, thirteen years after the Kentucky Supreme Court unanimously affirmed Guy's convictions, approximately twelve years after Guy's RCr 11.42 motion was denied, ten years after this Court affirmed the denial [of] Guy's RCr 11.42 motion, and over a year since this Court affirmed the trial court's orders finding that Guy's prior [two] CR 60.02 motions were untimely.

This matter has been adjudicated not once, but twice, and Guy is admonished not to file meritless petitions in the future.

We AFFIRM the Fayette Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

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