

Commonwealth of Kentucky
Court of Appeals

NO. 2017-CA-000498-MR

DOUGLAS ALAN KRUSELY

APPELLANT

v. APPEAL FROM PULASKI CIRCUIT COURT
HONORABLE DAVID A. TAPP, JUDGE
ACTION NO. 12-CR-00343

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION
AFFIRMING

** ** * ** ** *

BEFORE: KRAMER, NICKELL, AND L. THOMPSON, JUDGES.

KRAMER, JUDGE: Douglas Alan Krusely appeals from an order of the Pulaski Circuit Court dismissing his RCr¹ 11.42 motion wherein he alleged he received ineffective assistance of counsel. After careful review of the record and applicable law, we affirm.

¹ Kentucky Rule of Criminal Procedure.

In May of 2013 Krusely was convicted by a jury on one count of rape in the first degree² and sentenced to fifteen years of imprisonment. Krusely thereafter filed an appeal in this Court wherein his conviction was affirmed. *See Krusley v. Commonwealth*, No. 2014-CA-001223-MR, 2015 WL 8528398 (Ky. App. Dec. 11, 2015).

In August 2016, Krusely moved, *pro se*, to vacate his sentence pursuant to RCr 11.42. Upon review the circuit court summarily dismissed Krusely's motion because it was not properly verified as his signature bore no witness and was not acknowledged by a notary pursuant to *Stanford v. Commonwealth*, 854 S.W.2d 742 (Ky. 1993).³

Krusely thereafter appealed the circuit court's order on his RCr 11.42 motion. In his brief before us, Krusely in no manner addresses the actual bases for the circuit court's dismissal of his motion. Rather, he argues the merits of his claims for ineffective assistance of counsel, which were not addressed by the circuit court and accordingly are not properly before us. Krusely's having failed to address the merits of the dismissal of his RCr 11.42 motion and our being in agreement with the circuit court's decision based on *Stanford*, 854 S.W.2d at 748,

² Kentucky Revised Statute 510.040(1).

³ We have reviewed Krusely's RCr 11.42 motion, and as the circuit court found, it was not properly verified.

we see no reason to belabor this matter. RCr 11.42(2) provides that the “motion shall be signed and verified by the movant and shall state specifically the grounds on which the sentence is being challenged and the facts on which the movant relies in support of such grounds. Failure to comply with this section shall warrant a summary dismissal of the motion.” In this context, verification requires that the movant’s signature be witnessed and acknowledged by a notary. *Id.*

Consequently, the circuit court committed no error.

For the reasons stated, we AFFIRM the order of the Pulaski Circuit Court.

ALL CONCUR.

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