

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2017-CA-000960-MR

CHRISTIAN WAYNE WALKER

APPELLANT

v. APPEAL FROM LIVINGSTON CIRCUIT COURT  
HONORABLE CLARENCE A. WOODALL, III, JUDGE  
ACTION NO. 15-CR-00043

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: MAZE, NICKELL, AND K. THOMPSON, JUDGES.

NICKELL, JUDGE: Christian Wayne Walker, *pro se*, has appealed from the Livingston Circuit Court's denial of his motion for post-conviction relief pursuant to RCr<sup>1</sup> 11.42 without first convening an evidentiary hearing. Following a careful review, we affirm.

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<sup>1</sup> Kentucky Rules of Criminal Procedure.

Walker was indicted for one count of burglary in the second degree.<sup>2</sup> Following plea negotiations, Walker moved to enter a guilty plea. In exchange for his plea, the Commonwealth would recommend a sentence of six years' imprisonment to be served consecutively to another felony sentence for which he was already incarcerated. Because he was on probation at the time he committed the burglary, it was acknowledged Walker was ineligible for probation or shock probation. The trial court conducted a lengthy and thorough plea colloquy before determining Walker had sufficient time to consult with counsel and was satisfied with counsel's performance; had read, understood, and voluntarily signed the motion to enter a guilty plea; waived a pre-sentence investigation report and separate sentencing hearing; and his plea was knowingly, voluntarily, and intelligently entered. The trial court accepted Walker's plea and sentenced him in accordance with the Commonwealth's recommendation.

Approximately one year later, Walker filed a *pro se* motion for post-conviction relief. He asserted a myriad of vague and unsupported claims of ineffectiveness of trial counsel. He also requested pauper status, appointment of counsel, and an evidentiary hearing. In response, the Commonwealth produced handwritten letters from Walker to the Commonwealth's attorney and the victim of

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<sup>2</sup> Kentucky Revised Statutes (KRS) 511.030, a Class C felony.

the burglary wherein he admitted his guilt, expressed remorse for his actions and sought forgiveness, indicated his counsel was prepared to take the matter to trial, and stated his desire to enter a guilty plea.

Finding no issues of fact had been presented which could not be determined from the face of the record, the trial court declined to convene an evidentiary hearing. The trial court then denied Walker's motion, finding none of his assertions were well taken. This appeal followed.

Walker appears to argue the trial court erred in failing to convene an evidentiary hearing and persists in asserting trial counsel was ineffective. Because an evidentiary hearing was not held, "[o]ur review is confined to whether the motion on its face states grounds that are not conclusively refuted by the record and which, if true, would invalidate the conviction." *Lewis v. Commonwealth*, 411 S.W.2d 321, 322 (Ky. 1967). We are convinced it did not.

As below, Walker's claims are vague and unsupported, consisting primarily of recitations of standards or theories of law, many of which have no application to the issues at bar. In contravention of CR<sup>3</sup> 76.12(4)(c)(iv) and (v) which require ample references to the trial court record supporting each argument, Walker does not include even a single citation to the record in his brief to this Court. His rambling method of presentation of the issues causes difficulty for this

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<sup>3</sup> Kentucky Rules of Civil Procedure.

Court—as well as opposing counsel—in construing Walker’s pleadings liberally and deciphering the legitimate legal arguments, if any, from the general prose. Nevertheless, and despite these deficiencies, because of the leniency afforded *pro se* litigants and because the record on appeal is not large, we have reviewed the applicable portions of the record and discern no error.

In *Padilla v. Commonwealth*, 381 S.W.3d 322, 328 (Ky. App. 2012), a previous panel of this Court concluded in the context of a guilty plea the proper inquiry for a claim of ineffective assistance of counsel is whether counsel made errors so serious his performance fell outside the wide range of professionally competent assistance, and whether a reasonable probability exists that, but for those errors, the defendant would not have pled guilty and would have instead insisted on going to trial. “A reasonable probability exists if the defendant convinces the court that a decision to reject the plea bargain would have been rational under the circumstances.” *Id.* (internal citations and quotation marks omitted). “Only by considering all relevant factors in a given case can a court properly determine whether a rational defendant would have rejected the plea offer and insisted on going to trial.” *Id.* at 329. While “[s]olemn declarations in open court carry a strong presumption of verity[,]” *Centers v. Commonwealth*, 799 S.W.2d 51, 54 (Ky. App. 1990) (citing *Blackledge v. Allison*, 431 U.S. 63, 97 S.Ct. 1621, 52 L.Ed.2d 136 (1977)), “the validity of a guilty plea is determined not by

reference to some magic incantation recited at the time it is taken[.]” *Kotas v. Commonwealth*, 565 S.W.2d 445, 447 (Ky. 1978). A reviewing court must strongly presume counsel’s challenged conduct falls within the range of reasonable professional assistance. *Strickland v. Washington*, 466 U.S. 668, 689-90, 104 S.Ct. 2052, 2065-66, 80 L.Ed.2d 674 (1984). Walker bears the burden of overcoming this strong presumption by identifying specific acts or omissions constituting a constitutionally deficient performance. *Id.*

After reviewing the record, we agree with the trial court’s determination the allegations of error set forth in Walker’s motion do not individually or cumulatively rise to the level of ineffective assistance of counsel. Walker has failed to convince this Court counsel’s performance was deficient, or that absent the alleged deficiencies, he would have rationally rejected a six-year sentence and insisted on proceeding to trial where he could have been sentenced to ten years’ imprisonment. Walker’s assertions of ineffectiveness are self-serving, rambling, conclusory and lack specificity. We will not search the record to make an argument for a party or find support for its contention. *Hadley v. Citizen Deposit Bank*, 186 S.W.3d 754, 759 (Ky. App. 2005) (citations omitted). Further, failure to comply with the specificity requirement of RCr 11.42(2) is fatal. “Conclusory allegations that counsel was ineffective without a statement of the facts upon which those allegations are based do not meet the rule’s specificity

standard and so ‘warrant a summary dismissal of the motion.’” *Roach v. Commonwealth*, 384 S.W.3d 131, 140 (Ky. 2012) (quoting RCr 11.42(2)). We discern no error.

For the foregoing reasons, the judgment of the Livingston Circuit Court is AFFIRMED.

ALL CONCUR.

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