

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

NO. 2017-CA-001435-MR

ROBERT GOODE

APPELLANT

v. APPEAL FROM GARRARD CIRCUIT COURT  
HONORABLE C. HUNTER DAUGHERTY, JUDGE  
ACTION NO. 99-CR-00013

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: GOODWINE, NICKELL, AND SPALDING, JUDGES.

GOODWINE, JUDGE: Robert Goode (“Goode”), *pro se*, appeals from a Garrard Circuit Court order denying his motion for relief pursuant to RCr<sup>1</sup> 11.42. After careful review, finding no error, we affirm.

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

On March 6, 1998, Goode was indicted on one count of murder and one count of first-degree robbery. On April 26, 1999, Goode pled guilty to murder and first-degree robbery. The Commonwealth recommended a sentence of life imprisonment without the benefit of parole for twenty-five years for murder and twenty years' imprisonment for first-degree robbery to run concurrently. On June 25, 1999, the trial court accepted the Commonwealth's recommendation and sentenced Goode accordingly.

On October 14, 1999, Goode moved to withdraw his guilty plea. The trial court denied Goode's motion on November 12, 1999, finding his plea of guilty was voluntarily, knowingly, and intelligently made. Goode appealed the trial court's order to the Supreme Court of Kentucky, which dismissed his appeal by order entered August 6, 2001.

On August 3, 2017, Goode filed a motion for relief pursuant to RCr 11.42. That same day, the trial court denied Goode's motion, finding Goode "failed to file his motion [within] the time prescribed by the rule or to raise any issues that could not have been raised with a timely filing and ascertained by the exercise of due diligence." This appeal followed.

On appeal, Goode argues (1) his guilty plea was not knowingly and voluntarily given and counsel coerced him into entering his plea; (2) counsel failed

to review evidence with him; and (3) counsel failed to investigate the facts, law of the case, and mitigating factors.

We agree with the circuit court's ruling that Goode's motion was untimely filed. RCr 11.42(10) provides:

Any motion under this rule *shall be filed within three years* after the judgment becomes final, unless the motion alleges and the movant proves either:

(a) that the facts upon which the claim is predicated were unknown to the movant and could not have been ascertained by the exercise of due diligence; or

(b) that the fundamental constitutional right asserted was not established within the period provided for herein and has been held to apply retroactively.

If the judgment becomes final before the effective date of this rule, the time for filing the motion shall commence upon the effective date of this rule. If the motion qualifies under one of the foregoing exceptions to the three year time limit, the motion shall be filed within three years after the event establishing the exception occurred. Nothing in this section shall preclude the Commonwealth from relying upon the defense of laches to bar a motion upon the ground of unreasonable delay in filing when the delay has prejudiced the Commonwealth's opportunity to present relevant evidence to contradict or impeach the movant's evidence.

(Emphasis added.) Goode's judgment became final when the Supreme Court of Kentucky dismissed his appeal on August 6, 2001. Goode waited to file his motion until approximately sixteen years after the judgment became final, which is obviously well outside the three-year time limit set forth in RCr 11.42(10).

We further agree with the trial court that Goode failed to satisfy any exception that would allow him to file his RCr 11.42 motion outside the mandatory three-year period. The record indicates Goode was aware of all facts at issue and all constitutional rights at issue were established before the time limit expired. As such, the trial court properly denied Goode's motion for relief pursuant to RCr 11.42.

For the foregoing reasons, we affirm the judgment of the Garrard Circuit Court.

ALL CONCUR.

BRIEF FOR APPELLANT:

Robert Goode, *pro se*  
Sandy Hook, Kentucky

BRIEF FOR APPELLEE:

Andy Beshear  
Attorney General of Kentucky

Courtney J. Hightower  
Assistant Attorney General  
Frankfort, Kentucky