

RENDERED: OCTOBER 25, 2019; 10:00 A.M.  
NOT TO BE PUBLISHED

# Commonwealth of Kentucky

## Court of Appeals

NO. 2019-CA-000291-MR

JERRY W. BLADES

APPELLANT

v. APPEAL FROM MCCRACKEN CIRCUIT COURT  
HONORABLE WILLIAM A. KITCHEN III, JUDGE  
ACTION NO. 09-CR-00197-001

COMMONWEALTH OF KENTUCKY

APPELLEE

### OPINION AFFIRMING

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BEFORE: GOODWINE, LAMBERT, AND K. THOMPSON, JUDGES.

GOODWINE, JUDGE: Jerry W. Blades (“Blades”), proceeding *pro se*, appeals an order of the McCracken Circuit Court denying his request for post-conviction relief pursuant to CR<sup>1</sup> 60.02 and RCr<sup>2</sup> 10.26. After careful review, finding no error, we affirm.

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

<sup>2</sup> Kentucky Rules of Criminal Procedure.

Blades was convicted of complicity to manufacture methamphetamine (first offense),<sup>3</sup> first-degree possession of methamphetamine,<sup>4</sup> possession of marijuana,<sup>5</sup> and possession of drug paraphernalia.<sup>6</sup> The jury also found Blades to be a first-degree persistent felony offender and sentenced him to forty years of imprisonment. On direct appeal, the Supreme Court of Kentucky affirmed his conviction. *Blades v. Commonwealth*, 339 S.W.3d 450 (Ky. 2011).

Blades again challenged his conviction by filing a *pro se* motion to vacate his judgment and sentence under RCr 11.42. The trial court denied Blades' motion, and he did not appeal the ruling. *Blades v. Commonwealth*, No. 2014-CA-000496-MR, 2016 WL 197134, at \*1 (Ky. App. Jan. 15, 2016).

“Blades then filed a *pro se* motion to vacate his sentence pursuant to CR 60.02, . . . arguing that he had not been competent to stand trial. The trial court denied the motion[.]” *Id.* On appeal, this Court affirmed the trial court's order, holding Blades' claim was barred because he failed to raise the issues on direct appeal or in his RCr 11.42 motion. *Id.* at \*2.

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<sup>3</sup> Kentucky Revised Statutes (KRS) 218A.1432 (Class B felony).

<sup>4</sup> KRS 218A.1415 (Class D felony).

<sup>5</sup> KRS 218A.1422 (Class B misdemeanor).

<sup>6</sup> KRS 218A.500(2) (Class A misdemeanor).

On October 1, 2018, Blades filed the underlying motion to correct sentencing error under CR 60.02 and RCr 10.26. The trial court denied Blades' motion, and this appeal followed.

“We review the denial of a CR 60.02 motion under an abuse of discretion standard.” *Foley v. Commonwealth*, 425 S.W.3d 880, 886 (Ky. 2014) (citing *Brown v. Commonwealth*, 932 S.W.2d 359, 361 (Ky. 1996)). “The test for abuse of discretion is whether the trial judge’s decision was arbitrary, unreasonable, unfair, or unsupported by sound legal principles.” *Commonwealth v. English*, 993 S.W.2d 941, 945 (Ky. 1999).

Successive post-judgment motions are prohibited, and CR 60.02 “may be utilized only in extraordinary situations when relief is not available on direct appeal or under RCr 11.42.” *Foley*, 425 S.W.3d at 884 (citing *McQueen v. Commonwealth*, 948 S.W.2d 415, 416 (Ky. 1997)). Criminal defendants may not use the rule “as an additional opportunity to relitigate the same issues which could reasonably have been presented by direct appeal or an RCr 11.42 proceeding.” *Id.* RCr 11.42(3) requires the movant “state all grounds for holding the sentence invalid of which the movant has knowledge. Thus, final disposition of a movant’s RCr 11.42 motion shall conclude all issues which could reasonably have been presented in the same proceeding.” *Id.* (footnote omitted and citing *Gross v. Commonwealth*, 648 S.W.2d 853, 856 (Ky. 1983)). “In summary, CR 60.02 is not

a separate avenue of appeal to be pursued in addition to other remedies, but is available only to raise issues which cannot be raised in other proceedings.”

*McQueen*, 948 S.W.2d at 416.

The trial court exercised sound discretion in denying Blades’ CR 60.02 motion. Each of Blades’ claims are successive or could have been raised previously. He may not continue to relitigate issues already raised or that could have been raised on direct appeal, in his RCr 11.42 motion, or in his first CR 60.02 motion. As such, Blades failed to “demonstrate why he is entitled to this special, extraordinary relief.” *Gross*, 648 S.W.2d at 856.

For the foregoing reasons, we affirm the order of the McCracken Circuit Court.

ALL CONCUR.

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