



5. In addition, after receiving evidence and hearing arguments on the motion to withdraw his plea, the Court rejected Petitioner's arguments that under the facts, he did not commit the crime charged; he did not have time to consider the consequences of entering into the plea agreement; that trial counsel Hughes misled him with false information and did not adequately prepare his defense; and that he did not knowingly and voluntarily enter into the plea agreement.
6. July 20, 2005, this Court determined Petitioner violated his probation. The Court revoked his probation and ordered Petitioner to serve his original sentence.
7. The petitioner now raises the same arguments that were asserted in his previous motion under K.S.A. 22-3210. More specifically, that he did not knowingly and voluntarily enter into the plea agreement; that trial counsel Hughes was ineffective; that under the facts, he could not have committed the crime charged; and the State did not set forth a sufficient factual basis. As indicated above, those issues have been reviewed and denied by this Court. Therefore, they will not be reconsidered.
8. Petitioner further contends that trial counsel Cornwell was ineffective because he pressured him into accepting the plea agreement. Having already found that the petitioner knowingly and voluntarily entered into the plea agreement, the Court will not reconsider this argument.
9. In addition, Petitioner's assertion that counsel Cornwell's performance during the proceedings in this matter violated the Strickland standard is without merit. The petitioner asserts that Carl Cornwell failed to advise him and did not prepare his case or conduct discovery. However, Petitioner's assertions are broad and conclusory. Petitioner does not assert specific facts suggesting lack of investigation or representation on which to support

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his claim. Conclusory assertions without an evidentiary basis are not sufficient for relief.

Wright v. State, 5 Kan. App. 2d 494, 495-96, 619 P.2d 155, 158-58 (1980)

10. Petitioner also contends that the State failed to prove the crime charged beyond a reasonable doubt. The petitioner misstates the burden of proof required at a preliminary hearing. At a preliminary hearing, the State must only prove probable cause. The State does not need to prove guilt beyond a reasonable doubt. K.S.A. 22-2902. The Court finds this contention to be unfounded.

11. Incidentally, pursuant to K.S.A. 60-1507(f), a person filing a motion under K.S.A. 60-1507 has one year following the termination of appellate jurisdiction in his case in which to file a petition.


12. Petitioner filed his present K.S.A. 60-1507 motion on December 12, 2005, and beyond the one-year time limitation established by statute.

13. When no substantial issue of fact or question of law is raised by a K.S.A. 60-1507 petition, the trial court is not required to appoint counsel or hold an evidentiary hearing. Rhone v. State, 211 Kan. 206, 208, 505 P.2d 673 (1973).

14. The Court finds that Petitioner's motion, record, and case files conclusively show that the petitioner is not entitled to relief.

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Petitioner's motion pursuant to K.S.A. 60-1507 be, and is hereby, summarily **DENIED**, for the reasons stated above.

12-21-05  
Date Entered

  
**THE HONORABLE THOMAS BORNHOLDT**  
Johnson County District Court Judge  
Division 11

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