

Supreme Court of Kentucky

IN RE:
ORDER AMENDING
RULES OF CRIMINAL PROCEDURE (RCr)

2012-09

The following rule amendment became effective April 21, 2011, upon the finality of Robert Hollon v. Commonwealth of Kentucky, Case Number 2008-SC-0618-DG.

I. **RCr 11.42 (7) Motion to vacate, set aside or correct sentence**

Section (7) of RCr 11.42 shall read:

(7) Either the movant or the Commonwealth may appeal from the final order or judgment of the trial court on a motion brought under this rule. If the trial court finds the movant received ineffective assistance of appellate counsel and the Commonwealth fails to pursue a timely appeal, the movant may appeal the trial court's order by filing a notice of appeal within sixty (60) days after the date of notation of service of the judgment or order under Criminal Rule 12.06(2). If neither party has filed a notice of appeal within this sixty (60) day period, the trial court shall issue to the movant an order to show cause within ten (10) days why the judgment vacated on his behalf should not be reinstated. If the movant fails to respond within ten (10) days or fails to show cause, the trial court shall reinstate the vacated judgment. If upon the movant's showing the trial court is satisfied that the movant's failure to appeal should not be deemed a waiver of his right to do so, it shall grant the movant an additional thirty (30) days in which to file notice of his appeal.

All sitting. All concur.

ENTERED: September 12, 2012.


CHIEF JUSTICE