

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

NOVEMBER 1999 SESSION

FILED

February 1, 2000

STATE OF TENNESSEE,

Appellee,

VS.

PATRICK LAMONT MARTIN,

Appellant.

C.C.A. NO. 01001-99-025
M1999-00017-CCA-R5-CD
DAVIDSON COUNTY
Cecil Gowson, Jr.
Appellate Court Clerk

HON. J. RANDALL WYATT, JR.,
JUDGE

(Second-degree murder; sentencing)

FOR THE APPELLANT:

FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED PURSUANT TO RULE 20

JOHN H. PEAY,
Judge

OPINION

The defendant was indicted for premeditated murder. He pled guilty to second-degree murder, with no agreement as to his sentence. After a hearing, the trial court sentenced defendant as a Range I offender to twenty-two years incarceration, to be served at one hundred percent. See T.C.A. § 40-35-501(i). In this appeal as of right, defendant contends that his sentence is excessive. Upon our review of the record, we affirm the judgment of the trial court.

Second-degree murder is a Class A felony. T.C.A. § 39-13-210(b). The Range I sentence for a Class A felony is fifteen to twenty-five years. T.C.A. § 40-35-112(a)(1). The presumptive sentence is twenty years, to be increased as appropriate for enhancement factors, and then reduced as appropriate for mitigating factors. T.C.A. § 40-35-210(c) & (e). In this case, the trial court applied three enhancement factors: that defendant had a previous history of criminal convictions; that he had a previous history of unwillingness to comply with the conditions of a sentence involving release in the community; and that he used a deadly weapon during the commission of the offense. See T.C.A. § 40-35-114(1), (8) & (9). The court also found two mitigating factors: that defendant had been somewhat provoked, and that he suffered from a low I.Q. See T.C.A. 40-35-113(2) & (8).

The evidence does not preponderate against the trial court's findings. The sentence was imposed in a proceeding before the trial judge without a jury and was not a determination of guilt. Accordingly, we affirm the trial court's judgment pursuant to Rule 20 of the Court of Criminal Appeals.

It is so ordered.

JOHN H. PEAY, Judge

CONCUR:

GARY R. WADE, Presiding Judge

NORMA MCGEE OGLE, Judge