

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

JANUARY 2000 SESSION

FILED
March 6, 2000
Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,
Appellee,

vs.

CHRISTOPHER WALLS,
Appellant.

} C.C.A. No. E1999-00617-CCA-R3-CD
}
} Morgan County
}
} Hon. E. Eugene Eblen, Judge
}
} (Escape and Theft over \$1000)
}

FOR THE APPELLANT:

JOE H. WALKER
District Public Defender

ROLAND COWDEN (at trial)
WALTER B. JOHNSON, II (on appeal)
Asst. District Public Defenders
P.O. Box 334
Harriman, TN 37748-0334

FOR THE APPELLEE:

PAUL G. SUMMERS
Attorney General & Reporter

ELIZABETH B. MARNEY
Asst. Attorney General
425 Fifth Ave. North
Nashville, TN 37243-0493

J. SCOTT McCLUEN
District Attorney General

FRANK HARVEY
Asst. District Attorney General
P.O. Box 703
Kingston, TN 37763-0703

OPINION FILED: _____

AFFIRMED

JAMES CURWOOD WITT, JR., JUDGE

OPINION

The defendant, Christopher Walls, appeals from the denial of his motion for reduction of sentence by the Criminal Court of Morgan County. The defendant pleaded guilty to escape, a Class E felony, Tenn. Code Ann. § 39-16-601 (1997), and theft of property valued over \$1000, a Class D felony, Tenn. Code Ann. § 39-14-103 (1997). In accordance with his plea agreement, the trial court sentenced the defendant to serve his bargained-for sentence of three years in the Department of Correction. In his appeal, he complains that the trial court erred in failing to grant his motion to reduce his sentence. Following a review of the record and the briefs of the parties, we affirm the trial court's judgment.

The offenses in the case at bar occurred while the defendant was serving an eight-year sentence in the Tennessee Department of Correction for offenses committed in Knox County. While on a work detail, the defendant escaped, stole a truck, and eluded capture by a Tennessee Highway Patrol officer. After finally being recaptured, he pleaded guilty to the offenses of escape and theft in exchange for an effective three year sentence as a Range I standard offender. Less than one month after sentencing, the defendant filed a *pro se* motion for reduction of sentence in accordance with Tennessee Rule of Criminal Procedure 35(b). In his motion, the defendant asked to serve his sentence on probation instead of in continuous confinement.

The defendant complains that the trial court abused its discretion in denying his motion for reduction of sentence. A sentence may be modified under Rule 35 of the Tennessee Rules of Criminal Procedure when the trial court finds that the original sentence must be reduced "in the interests of justice." State v. Hodges, 815 S.W.2d 151,154 (Tenn. 1991); State v. Irick, 861 S.W.2d 375, 276 (Tenn. Crim. App. 1993); Tenn. R. Crim. P. 35(b) (Advisory Comm'n Comments). On appeal, the trial court's disposition of a motion to modify will not be disturbed absent an abuse of discretion. Irick, 861 S.W.2d at 376.

In the case at bar, the defendant pleaded guilty in exchange for the state's agreement to recommend a three-year sentence at sentencing. See Tenn.

R. Crim. P. 11(e)(1)(B). At the motion hearing, the defendant testified that after returning to prison after his escape, he has tried to better himself. He has obtained a GED and learned a trade. He testified that he participates in Alcoholics Anonymous and Narcotics Anonymous. While we approve of this conduct, we find no abuse of discretion on the part of the trial court in denying the petition. Accordingly, we affirm the trial court's judgment.

JAMES CURWOOD WITT, JR., JUDGE

CONCUR:

GARY R. WADE, PRESIDING JUDGE

NORMA McGEE OGLE, JUDGE