

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

OCTOBER 1999 SESSION

FILED

HAROLD HALLESON, _____ *

_____ **Appellant,** *

V. *

STATE OF TENNESSEE, _____ *

_____ **Appellee.** *

No. W199-00131-CCAP-300
March 3, 2000

SHELBY COUNTY **Cecil Crowson, Jr.**
Appellate Court Clerk

Hon. Cardyn Wade Beckett, Judge

(Robbery, Forgery)

For Appellant

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For Appellee

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OPINION FILED.

AFFIRMED - RULE 20

NORMA MOGEE OGLE, JUDGE

OPINION

The appellant, Harold Halleson, pled guilty in the Shelby County Criminal Court on December 11, 1998, to one count of robbery and one count of forgery. Following a sentencing hearing, the trial court sentenced the appellant as a standard, Range I offender to concurrent terms of three years incarceration in the Shelby County Workhouse for the robbery conviction and one year incarceration in the workhouse for the forgery conviction. The trial court denied the appellant's application for judicial diversion and also declined to grant the appellant any sentencing alternative to incarceration. However, the trial court informed the appellant that it would again consider a petition for probation after the appellant had served one year of his sentences. In this appeal as of right, the sole issue raised by the appellant is whether the trial court should have granted the appellant a sentencing alternative to incarceration. Following a review of the record and the parties' briefs, we conclude that this is an appropriate case for affirmance pursuant to Ct. of Crim. App. Rule 20.

When an appellant challenges the length, range, or the manner of service of a sentence, this court has a duty to conduct a de novo review of the sentence with a presumption that the determinations made by the trial court are correct. Tenn. Code Ann. § 40-35-401(d) (1997). In conducting its de novo review, this court must consider, among other factors, the evidence received at the trial. Tenn. Code. Ann. § 40-35-210 (1997). With respect to those appellants who have pled guilty, "the guilty plea hearing is the equivalent of trial, in that it allows the State the opportunity to present the facts underlying the offense." State v. Keen, 996 S.W.2d 842, 843 (Tenn. Crim. App.), perm. to appeal denied, (Tenn. 1999). "For this reason, a transcript of the guilty plea hearing is often (if not always) needed in order to conduct a proper review of the sentence imposed." Id. at 844.

In this case, the appellant has failed to include in the record before this court the transcript of the guilty plea hearing. Just as the burden is upon the appellant to demonstrate the impropriety of his sentences, Tenn. Code. Ann. § 40-35-401, Sentencing Commission Comments, the

burden is upon the appellant to ensure that the record before this court conveys a fair, accurate, and complete account of what transpired in the court below with respect to those issues that are the bases of appeal. Tenn. R. App. P. 24(b). See also State v Ballard, 855 S.W.2d 557, 560-561 (Tenn. 1993). While some of the basic facts underlying the appellant's offenses appear in the indictments, the transcript of the sentencing hearing, and the pre-sentence report, we decline to disturb the trial court's sentencing determinations in the absence of a complete record. Keen, 996 S.W.2d at 844.

Accordingly, the judgment of the trial court is affirmed pursuant to Ct. of Crim. App. Rule 20.

Norma McGee Ogle, Judge

CONCUR:

John H. Peay, Judge

Alan E. Glenn, Judge