

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

OCTOBER 1995 SESSION

<p><b>FILED</b></p> <p><b>November 29, 1995</b></p> <p><b>Cecil Crowson, Jr.</b> Appellate Court Clerk</p>
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DARRYLE L. MARTIN, )  
 )  
 APPELLANT, )  
 )  
 v. )  
 )  
 STATE OF TENNESSEE, )  
 )  
 APPELLEE. )

No. 02-C-01-9502-CR-00030

Shelby County

Arthur T. Bennett, Judge

(Post-Conviction Relief)

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OPINION FILED: \_\_\_\_\_

AFFIRMED PURSUANT TO RULE 20

Joe B. Jones, Judge

## OPINION

The appellant, Darryle L. Martin, appeals as of right from a judgment of the trial court dismissing his suit for post-conviction relief. The trial court found that the appellant received the effective assistance of counsel when he entered guilty pleas to the offense of attempting to commit rape, a Class C felony, and theft over \$1,000, a Class D felony. In this Court, the appellant contends that the evidence preponderates against the judgment of the trial court and supports his claim that he was denied his constitutional right to the effective assistance of counsel.

The evidence adduced at the evidentiary hearing consisted of the testimony of two witnesses, the appellant and the attorney who represented him incident to the entry of the pleas of guilty. The testimony of these two witnesses regarding the grounds raised in the petition cannot be reconciled. The trial court accredited the testimony of the attorney in determining the grounds raised in the petition.

This Court has thoroughly reviewed the record, the briefs of the parties, as well as the statutes and common law decisions that govern the issue presented for review. Since the evidence contained in the record does not preponderate against the factual findings made by the trial court, the judgment is affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals.

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JOE B. JONES, JUDGE

CONCUR:

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PAUL G. SUMMERS, JUDGE

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WILLIAM M. BARKER, JUDGE