

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

OCTOBER 1995 SESSION

FILED
December 28, 1995
Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)
) C.C.A. No. 02C01-9503-CR-00087
 Appellee,)
) Shelby County
 V.)
) Hon. Arthur T. Bennett, Judge
)
 WALTER THOMAS ALLEN,) (DUI - Second Offense)
)
 Appellant.)

FOR THE APPELLANT:

Charles D. Wright
Attorney at Law
150 Court Avenue
Second Floor
Memphis, TN 38103

FOR THE APPELLEE:

Charles W. Burson
Attorney General & Reporter

Amy L. Tarkington
Assistant Attorney General
Criminal Justice Division
450 James Robertson Parkway
Nashville, TN 37243-0493

Robin L. Harris
Legal Assistant

John W. Pierotti
District Attorney General

Charles W. Bell, Jr.
Asst. Dist. Attorney General
201 Poplar, Second Floor
Memphis, TN 38103

OPINION FILED: _____

AFFIRMED

PAUL G. SUMMERS,
Judge

OPINION

On October 6, 1983, Walter Thomas Allen appellant pled guilty and was convicted of driving under the influence of an intoxicant, second offense. The court sentenced him to 90 days in the county workhouse, with 45 days suspended. Upon the appellant's request, execution of the sentence was deferred until November 14, 1983. Apparently, he fled the jurisdiction and forfeited his bond. On November 18, 1983, a capias was issued. The appellant was not apprehended until 1994. On October 19, 1994, he appeared before the court for execution of sentence. He appeals, arguing that he should not be required to serve his sentence because he was arrested on a void warrant.

We affirm the judgment of the trial court.

On appeal, the appellant argues that the court lacked jurisdiction to "impose" sentence because the capias was void pursuant to Tenn. Code Ann. § 40-6-206 (Supp. 1994). The court imposed sentence in 1983, so we assume that the appellant is arguing that the court lacked jurisdiction to order execution of the sentence.

Tenn. Code Ann. § 40-6-206 provides:

Time of issuance and return -Misdemeanor cases.- Any process, warrant, precept or summons authorized to be issued by any of the judges or clerks of the court, in any criminal prosecution on behalf of the state, may be issued at any time and made returnable to any day of the term. In a misdemeanor case, if such a process, warrant, precept or summons has not been served, returned or quashed within five (5) years from the date of its issuance, such process, warrant, precept or summons shall be automatically terminated and removed from the records.

The legislative history in the record indicates that this is a statute of limitations for misdemeanor processes. The bill was designed as a housecleaning measure to unclog the computers and rid the justice system of stale, unserved, unadjudicated cases.

We hold that the warrant is valid because the statute is inapplicable to the appellant. Courts will give statutory terms their well-recognized common law meaning as long as doing so is consistent with the remainder of the statute and is harmonious with its general purpose. Davenport v. Chrysler Credit Corp. 818 S.W.2d 23, 28 (Tenn. Ct. App. 1991). The statute reads "any . . . warrant . . . in any criminal prosecution." Criminal prosecution has concluded when an accused is adjudicated guilty and is sentenced. This appellant has been prosecuted and convicted. Sentence was imposed. In the context of Tenn. Code Ann. § 40-6-206, criminal prosecution does not encompass warrants issued for execution of sentence after a defendant is convicted.

AFFIRMED

PAUL G. SUMMERS, JUDGE

CONCUR:

JOE B. JONES, JUDGE

WILLIAM M. BARKER, JUDGE