## IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON NOVEMBER SESSION, 1996

LARRY DARNELL LAKE, Appellant vs. STATE OF TENNESSEE, Appellee	) ) ) ) ) ) )	No. 02C01-9512-CC-0 HARDEMAN COUNTY Hon. Jon Kerry Blacky (Post-Conviction)	Y
For the Appellant:  Pro Se Larry Darnell Lake #115184 Cold Creek Correctional Facility Henning, TN 38041-1000		Cecil Crowson, Jan Appellate Court Clerk Appellate Court Clerk Charles W. Burson Attorney General and Reporter  Cyril V. Fraser Assistant Attorney General Criminal Justice Division 450 James Robertson Parkway Nashville, TN 37243-0493  Elizabeth T. Rice District Attorney General Jerry Norwood Asst. District Attorney General 302 Market Street Somerville, TN	
OPINION FILED:			

**David G. Hayes** Judge

## **OPINION**

The appellant, Larry Darnell Lake, pled guilty, on May 9, 1988, to two counts of armed robbery. Subsequently, the Hardeman County Circuit Court sentenced the appellant to forty years imprisonment on each count to run concurrently. No direct appeal was taken. On April 29, 1989, the appellant timely filed a petition for post-conviction relief alleging ineffective assistance of counsel. The trial court dismissed the petition. On January 18, 1995, the appellant filed a second post-conviction petition alleging the ineffectiveness of post-conviction counsel. This petition was dismissed as time-barred. The appellant now appeals this dismissal.

We agree with the trial court's finding that the applicable three year statute of limitations barred the appellant's petition. Tenn. Code Ann. § 40-30-102 (1986 Supp.) (repealed). In addition to the expiration of the limitations period, the appellant fails to allege a cognizable ground for post-conviction relief. Post-conviction relief may only be granted when the conviction or sentence is void or voidable because of an abridgement of a constitutional right. Overton v. State, 874 S.W.2d 6, 11 (Tenn. 1994) (citations omitted). The appellant's petition alleges ineffectiveness of post-conviction counsel. There is no constitutional right to the effective assistance of counsel in post-conviction proceedings. See Pennsylvania v. Finley, 481 U.S. 551, 554-555, 107 S.Ct. 1990, 1993 (1987); House v. State, 911 S.W.2d 705, 711 (Tenn. 1995), cert. denied, --U.S.--, 116 S.Ct. 1685 (1996). As such, the appellant's reliance upon Burford v. State, 845 S.W.2d 204 (Tenn. 1992), and Sands v. State, 903 S.W.2d 297 (Tenn. 1995), is misplaced. We affirm the judgment of the trial court.

DAVID G. HAYES, Judge

<sup>&</sup>lt;sup>1</sup>These decisions set forth a three step process to determine whether the strict application of the three year limitations period violates one's due process rights.

CONCUR:
GARY R. WADE, Judge
WILLIAM M. BARKER, Judge