

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

OCTOBER 1996 SESSION

<p><b>FILED</b></p> <p><b>Nov. 19, 1996</b></p> <p><b>Cecil Crowson, Jr.</b> Appellate Court Clerk</p>
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<b>JAMES LIGGINS,</b>	)
Appellant,	) C.C.A. No. 02C01-9512-CR-00361
	)
V.	) Shelby County
	)
<b>STATE OF TENNESSEE,</b>	) Honorable Carolyn Wade Blackett, Judge
Appellee.	)
	) (Post-Conviction)
	)
	)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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

**AFFIRMED**

**PAUL G. SUMMERS,**  
 Judge

## OPINION

The appellant, James Liggins, pled guilty to one count of aggravated robbery and received a nine year sentence. Thereafter, he filed for post-conviction relief alleging that he received ineffective assistance of counsel. Following an evidentiary hearing, the trial court denied the petition. He appeals.

The appellant raises two interrelated issues: ineffective assistance of counsel and an unknowing and involuntary guilty plea. Specifically, the appellant contends that his counsel's ineffectiveness caused him to enter an unknowing and involuntary plea. Upon reviewing the record, we affirm the trial court's judgment.

The appellant alleges that his trial counsel was ineffective for failing to: (1) establish a relationship with the appellant; (2) adequately discuss the details of the case with the appellant; (3) attempt to suppress the state's evidence; and (4) investigate the state's case or the appellant's possible defenses and alibis.

In order for the appellant to be granted relief on grounds of ineffective assistance of counsel, he must establish that the advice given or the services rendered were not within the competence demanded of attorneys in criminal cases and that, but for his counsel's deficient performance, the result of his trial would have been different. Strickland v. Washington, 466 U.S. 668 (1984). This two-part standard, as it applies to guilty pleas, is met when the appellant establishes that, but for his counsel's error, he would not have pled guilty and would have insisted on a trial. Hill v. Lockhart, 474 U.S. 52, 59 (1985).

At the post-conviction hearing, the appellant's trial attorney testified that he took special interest in the appellant's case.<sup>1</sup> He testified that he fully informed the appellant of the charges against him, his rights, and options. Based upon the overwhelming evidence against the appellant,<sup>2</sup> he testified that in his professional judgment any attempt at suppression of evidence would have been fruitless. Also, he stated that the appellant never informed him of any potential alibi witnesses. The trial attorney negotiated a plea agreement whereby several pending juvenile charges would be dropped, and the appellant could plead to one count of aggravated robbery. He informed the appellant that it was in his best interest to accept the plea agreement, and the appellant did so.

Based upon the overwhelming evidence against the appellant, it appears that his trial counsel performed very effectively in negotiating the nine year sentence agreement. This Court finds, based upon the record, the appellant has failed to establish that he received ineffective assistance. This issue is without merit.

The appellant next contends that he entered an unknowing and involuntary guilty plea. The appellant failed to raise this issue during the post-conviction hearing and has, therefore, waived this issue. Tenn. R. App. P. 36(a). Notwithstanding waiver, we will address his contention. The transcript of the guilty plea proceedings indicates that the trial judge followed the standards outlined in State v. Mackey, 553 S.W.2d 337 (Tenn. 1977). The appellant acknowledged that he understood the plea and sentence and accepted both knowingly and intelligently. This issue is, therefore, without merit.

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<sup>1</sup> The trial attorney had a long-standing relationship with the appellant's grandfather. He serves as legal counsel for a local union in which the appellant's grandfather is actively involved. In order to represent the appellant, he had to seek special permission from the union. Also, he represented the appellant in several pending juvenile offenses.

<sup>2</sup> The state's evidence against the appellant consisted of a confession, several eyewitnesses, and fingerprints.

Upon review of the record, this Court finds no error of law mandating reversal. The judgment of the trial court is affirmed.

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PAUL G. SUMMERS, Judge

CONCUR:

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JOHN H. PEAY, Judge

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DAVID G. HAYES, Judge