

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

AUGUST 1996 SESSION

FILED
May 20, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

MARVIN ANTHONY MATHEWS,

Appellant,

V.

FRED RANEY, WARDEN,

Appellant.

) No. 02C01-9509-CC-00259

) LAUDERDALE COUNTY

) HON. JOSEPH H. WALKER,
) JUDGE

) (Habeas Corpus)
)
)
)

For the Appellant:

Marvin Anthony Mathews
Cold Creek Correctional Facility
P.O. Box 1000
Henning, TN 38041-1000
(Pro Se)

For the Appellee:

Charles W. Burson
Attorney General and Reporter
450 James Robertson Parkway
Nashville, TN 37243-0493

Charlotte H. Rappuhn
Assistant Attorney General
450 James Robertson Parkway
Nashville, TN 37243-0493

Lisa A. Naylor
Legal Assistant

OPINION FILED: _____

AFFIRMED PURSUANT TO RULE 20

William M. Barker, Judge

ORDER

Appellant, Marvin Anthony Mathews, appeals the summary dismissal of his petition for writ of habeas corpus by the Lauderdale County Circuit Court. Appellant is serving a term of life imprisonment after being convicted in Shelby County of grand larceny and adjudicated a habitual offender in December of 1988. Acting *pro se*, appellant filed a petition for writ of habeas corpus on June 21, 1993. His petition asserts that the Habitual Offender Act under which he was sentenced in 1988 is unconstitutional and thereby the convicting court was without jurisdiction to order his confinement. On August 3, 1995, the trial court summarily dismissed appellant's petition without an evidentiary hearing, finding that the alleged statute was constitutional.

The Habitual Offender Act, Tennessee Code Annotated sections 39-1-801 to -807 (repealed 1989), has repeatedly been upheld as constitutional by this Court. See, e.g., State v. Kilby, 763 S.W.2d 389, 393 (Tenn. Crim. App. 1988); State v. Jackson, 697 S.W.2d 366, 373 (Tenn. Crim. App. 1985); State v. Wilson, 687 S.W.2d 720, 726 (Tenn. Crim. App. 1984), cert. denied, 472 U.S. 1030, 105 S.Ct. 3508, 87 L.Ed.2d 638 (1985); State v. Freeman, 669 S.W.2d 688, 692 (Tenn. Crim. App. 1983). Therefore, appellant is entitled to no relief.

Finding that no error of law was committed by the trial court, we affirm the judgment pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

William M. Barker, Judge

Gary R. Wade, Judge

Jerry L. Smith, Judge