

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

SEPTEMBER 1996 SESSION

FILED
October 17, 1996
Cecil Crowson, Jr.
Appellate Court Clerk

WILLIAM NEWSON,)
)
 APPELLANT,)
)
 v.)
)
 STATE OF TENNESSEE,)
)
 APPELLEE.)

No. 02-C-01-9602-CC-00066
Madison County
Franklin Murchison, Judge
(Post-Conviction)

FOR THE APPELLANT:

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OPINION FILED: _____

REVERSED AND REMANDED

Joe B. Jones, Presiding Judge

OPINION

The issue presented for review is whether the appellant, William Newson, was entitled to the appointment of counsel and an evidentiary hearing in this post-conviction case. The parties agree the trial court committed reversible error by summarily dismissing this proceeding.

This Court has consistently held that an allegation of ineffective assistance of counsel entitles an indigent petitioner to counsel and a hearing if (a) the petition has been timely filed and (b) it is the petitioner's first suit for post-conviction relief. In this case, the record reflects the petition was timely filed, and it is the appellant's first suit for post-conviction relief.

The judgment of the trial court is reversed. This cause is remanded to the trial court for the appointment of counsel and an evidentiary hearing.

JOE B. JONES, PRESIDING JUDGE

CONCUR:

DAVID H. WELLES, JUDGE

JERRY L. SMITH, JUDGE