

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON  
JANUARY 1997 SESSION

**FILED**  
Feb. 20, 1997  
Cecil Crowson, Jr.  
Appellate Court Clerk

**STATE OF TENNESSEE,** )  
 ) C.C.A. No. 02C01-9601-CR-00041  
 Appellee, )  
 ) Shelby County  
 V. )  
 ) Honorable Arthur T. Bennett, Judge  
 )  
 **ANTHONY F. DRIES,** ) (Possession of Gambling Device;  
 ) Gambling Promotion - 2 cts.)  
 Appellant. )

FOR THE APPELLANT:

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FOR THE APPELLEE:

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

**AFFIRMED**

**PAUL G. SUMMERS,**  
Judge

**OPINION**

The appellant, Anthony F. Dries, pled nolo contendere to one count of possession of a gambling device and two counts of gambling promotion. He was fined one hundred dollars. He filed a motion to dismiss and expunge. The motion was denied. On appeal, he argues that his plea should have been voided because prosecution was commenced outside the statute of limitations. We disagree and affirm the trial court.

The trial court found that appellant's offenses occurred from March 29, 1993 until April 6, 1993. A warrant was issued on April 7, 1993 for felony gambling charges. He appeared before the General Sessions Court on May 18, 1993 and waived a preliminary hearing. On December 16, 1993, the grand jury indicted him for three misdemeanor gambling offenses. He pled nolo contendere to the indicted offenses.

The trial court held that pursuant to Tenn. Code Ann. § 40-2-102, prosecution for misdemeanor gambling offenses must be commenced within six months of the offenses. Prosecutions may be commenced by: (1) returning an indictment, (2) finding a presentment, (3) issuing a warrant, (4) binding over the offender, (5) filing an information, (6) appearing in person or through counsel in general sessions or municipal court to continue the matter, or (7) appearing in court for any purpose involving the offense. The court found that within six months of the offenses, a warrant was issued for the appellant's arrest, he appeared in sessions court, and he was bound over to the grand jury. The court, therefore, held that prosecution was timely commenced.

We have reviewed the record and applicable case law. Upon review, we find no error of law mandating reversal. The trial court's order denying the appellant's Motion to Void Judgment is, therefore, affirmed.

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PAUL G. SUMMERS, Judge

CONCUR:

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JOE B. JONES, Presiding Judge

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THOMAS T. WOODALL, Judge