

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY 1997 SESSION

**FILED**

Feb. 24, 1997

**Cecil W. Crowson  
Appellate Court Clerk**

ANDREA JONES, )  
 )  
 APPELLANT, )  
 )  
 v. )  
 )  
 STATE OF TENNESSEE, )  
 )  
 APPELLEE. )

No, 02-C-01-9603-CR-00084

Shelby County

W. Fred Axley, Judge

(Post-Conviction Relief)

FOR THE APPELLANT:

Andrea Jones, Pro Se  
 Lake County Regional Facility  
 Route 1, Box 330  
 Tiptonville, TN 38079-9775

FOR THE APPELLEE:

Charles W. Burson  
 Attorney General & Reporter  
 500 Charlotte Avenue  
 Nashville, TN 37243-0497

Deborah A. Tullis  
 Assistant Attorney General  
 450 James Robertson Parkway  
 Nashville, TN 37243-0493

John W. Pierotti  
 District Attorney General  
 201 Poplar Avenue, Suite 3-01  
 Memphis, TN 38103

Alanda Horne  
 Assistant District Attorney General  
 201 Poplar Avenue, Suite 3-01  
 Memphis, TN 38103

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

AFFIRMED PURSUANT TO RULE 20

Joe B. Jones, Presiding Judge

# OPINION

The appellant, Andrea Jones, has appealed as of right from a judgment of the trial court summarily dismissing his suit for post-conviction relief. The trial court found the ground alleged in the petition is not cognizable in a post-conviction suit and the suit is barred by the statute of limitations. The appellant contends the sentences imposed by the trial court are illegal. After a thorough review of the record, the briefs submitted by the parties, and the law which governs the issue presented for review, it is the opinion of this Court the judgment of the trial court should be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals.

This Court affirmed the appellant's convictions and sentences in State v. Herrod, 754 S.W.2d 627 (Tenn. Crim. App.), per. app. denied (Tenn. 1988). The supreme court denied the appellant's application for permission to appeal on April 4, 1988. This suit was not filed until October 20, 1995, well beyond the statute of limitations in post-conviction cases. See Tenn. Code Ann. § 40-30-102 (Supp. 1990).

The appellant's contention that the sentences imposed by the trial court are illegal is totally without merit. He predicates his argument on the ground he should have been sentenced pursuant to the Tennessee Criminal Sentencing Reform Act of 1989. The fallacy in this argument is that he committed the crimes in question, was tried, convicted and sentenced, and the appeal final before the effective date of the Act. The appellant was properly sentenced pursuant to the Tennessee Criminal Sentencing Reform Act of 1982.

The appellant cannot seek review of the length and manner of serving sentences in a post-conviction suit. This is true under the 1982 Act, Tenn. Code Ann. § 40-35-402(a)(1982), as well as the 1989 Act. Tenn. Code Ann. § 40-35-401(a)(1989). In other words, a ground predicated upon a sentence imposed by the trial court is not cognizable in a post-conviction proceeding unless the sentence is illegal.

The appellant did not challenge his sentences on direct appeal. Therefore, he waived this issue.

The judgment of the trial court is affirmed.

---

JOE B. JONES, PRESIDING JUDGE

CONCUR:

---

JOHN H. PEAY, JUDGE

---

JOE G. RILEY, JUDGE