

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

OCTOBER 1996 SESSION

FILED

January 28, 1997

Cecil Crowson, Jr.
Appellate Court Clerk

JAMES MICHAEL ROBBINS,	*	C.C.A. # 03C01-9508-CC-00243
Appellant,	*	SEVIER COUNTY
VS.	*	Hon. William R. Holt, Jr., Judge
STATE OF TENNESSEE,	*	(Post Conviction)
Appellee.	*	

For Appellant:

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OPINION FILED: _____

AFFIRMED

GARY R. WADE, JUDGE

OPINION

The petitioner, James Michael Robbins, appeals the trial court's denial of post-conviction relief. The single issue presented for review is whether the petition was barred by the statute of limitations. Tenn. Code Ann. § 40-30-102. We affirm the judgment of the trial court.

On February 19, 1985, the petitioner entered pleas of guilt to felony murder, felonious assault, armed robbery, and concealing stolen property under the value of \$200.00. Under the terms of his plea agreement, the effective Range II sentence is life plus 25 years. Nine months later, the petitioner filed a post-conviction relief petition alleging that his counsel had been ineffective. The trial court denied relief. This court affirmed on direct appeal. State v. James Michael Robbins, No. 73 (Tenn. Crim. App., at Knoxville, Dec. 22, 1986). Thereafter, the petitioner filed an application for writ of habeas corpus. The trial court denied relief. This court affirmed on direct appeal. James Michael Robbins v. State, No. 03C01-9106-CR-00172 (Tenn. Crim. App., at Knoxville, Oct. 29, 1991).

On January 7, 1994, the petitioner filed a petition for "writ of habeas corpus or in the alternative post conviction relief." The petitioner, among other things, alleged that he was not properly advised of his constitutional rights before entering his pleas of guilt and that his guilty plea was not knowingly and voluntarily entered. Because each of the grounds alleged by the petitioner were of a constitutional nature, the trial court properly considered the application as one for post-conviction relief. Tenn. Code Ann. § 40-30-108; see Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993). There was a three-year statute of limitations in effect at the time the petitioner filed this action. The time for filing had expired for the petitioner by July 3, 1989. See Tenn. Code Ann. § 40-30-102; see also Abston

v. State, 749 S.W.2d 487 (Tenn. Crim. App. 1988). Thus, the petition was properly dismissed.

Accordingly, the judgment is affirmed.

Gary R. Wade, Judge

CONCUR:

David H. Welles, Judge

Jerry L. Smith, Judge