

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

JANUARY SESSION, 1997

FILED
April 28, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

LARRY RAY FULLER,)
)
Appellant,)
)
V.)
)
STATE OF TENNESSEE,)
)
Appellee.)

C.C.A. NO. 02C01-9603-CR-00075

SHELBY COUNTY

HON. W. FRED AXLEY, JUDGE

(MOTION FOR AMENDED
JAIL CREDIT)

ON APPEAL FROM THE JUDGMENT OF THE
CIRCUIT COURT OF SHELBY COUNTY

FOR THE APPELLEE:

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OPINION FILED _____

AFFIRMED

THOMAS T. WOODALL, JUDGE

OPINION

The Appellant appeals as of right pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure from the trial court's denial of his pro se "Motion for Amended Judgment Order Granting Pre-trial Jail Credit and Correcting Sentence Effective Date for Concurrent Sentence." The Appellant's sole issue is that the trial court erred in denying his motion for pre-trial jail credit. We affirm the judgment of the trial court.

Appellant was arrested on January 14, 1981. He was subsequently indicted on two separate counts of aggravated rape. He went to trial on one count on May 13, 1982 and was convicted by a jury. He was sentenced to twenty (20) years imprisonment. He was given jail credit of 485 days with his sentence being effective on January 14, 1981. On the other count, he entered a guilty plea on October 8, 1982. His sentence was for twenty (20) years to run concurrently to his other twenty (20) year sentence. This sentence was effective October 8, 1982.

In his motion to the trial court, the Appellant asked for the 485 days, before he was convicted in the jury trial, and 148 days, the days between his conviction and his guilty plea, for a total of 633 days, to be applied to his sentence arising out of his guilty plea. The trial court's order denying the Appellant's motion stated its reasons as follows:

1. That the defendant is not entitled to jail credit for his guilty plea on October 8, 1992 [sic]. St. v. Moore 814 S.W.2d 381 (Tenn. Crim. App.) (Tenn. 1991)

2. That this Court does not have jurisdiction to address the defendant's grievance. This must be addressed through the Administrative Procedures Act. James A. Vaughn v. State, No. 01C01-9308-CR-00258 (Tenn. Crim. App., Nashville, Feb. 24, 1994)

A trial court's judgment become final thirty days after its entry unless a timely notice of appeal or specified post-trial motion is filed. State v. Moore, 814 S.W.2d 381, 382 (Tenn. Crim. App. 1991). The trial court generally loses jurisdiction to amend an order once it has become final. Moore, 814 S.W.2d at 382. There is nothing to show that the Appellant appealed his sentencing following his guilty plea. Therefore, the thirty days has passed and the trial court does not have jurisdiction to amend the judgment.

Furthermore, this court has held on more than one occasion that once a prisoner is in the custody of the Department of Corrections, the trial court no longer has jurisdiction over the defendant's sentence reduction credits, and the proper avenue to address sentence reduction credits is through the Administrative Procedure Act, Tennessee Code Annotated section 4-5-101 et. seq. E.g. Maurice Hughley v. State, No. 03C01-9403-CR-00116, Knox County (Tenn. Crim. App., Knoxville, filed Feb. 13, 1995); James A. Vaughn v. State, No. 01C01-9308-CR-00258 (Tenn. Crim. App., Nashville, Feb. 24, 1994); Violet B. Dalton v. State, No. 03C01-9308-CR-00248, Knox County (Tenn. Crim. App., Knoxville, filed Dec. 22, 1993).

Therefore, the trial court did not have jurisdiction to rule on the Appellant's motion, and properly denied the motion. Appellant should seek relief through the Administrative Procedure Act to correct any perceived problem with his jail credits.

We affirm the judgment of the trial court.

THOMAS T. WOODALL, JUDGE

CONCUR:

JOE B. JONES, PRESIDING JUDGE

PAUL G. SUMMERS, JUDGE