

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

MAY 1997 SESSION

<p>FILED</p> <p>September 26, 1997</p> <p>Cecil Crowson, Jr. Appellate Court Clerk</p>

ROBERT DALE CHRISTOPHER,)

Appellant,)

v.)

STATE OF TENNESSEE,)

Appellee.)

No. 03C01-9608-CC-00306

Cocke County

Honorable Rex Henry Ogle, Judge

(Post-Conviction)

For the Appellant:

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For the Appellee:

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OPINION FILED: _____

AFFIRMED

Joseph M. Tipton
Judge

OPINION

The petitioner, Robert Dale Christopher, appeals as of right from the dismissal of his petition for post-conviction relief by the Circuit Court for Cocke County as being untimely filed. He contends that his petition was timely under the 1995 Post-Conviction Procedure Act as interpreted in Arnold Carter v. State, No. 03C01-9509-CC-00270, Monroe County (Tenn. Crim. App. July 11, 1996). The trial court is affirmed.

The petitioner collaterally attacks his 1985 convictions for third degree burglary and attempt to commit a felony. He filed his petition on May 7, 1996. Under this court's opinion in Carter, the petition would have been deemed timely because it was filed within one year of the effective date of the 1995 Act. However, the Tennessee Supreme Court reversed this court and concluded that the 1995 Act did not reinstate a filing period for post-conviction cases relative to convictions for which the former three-year post-conviction statute of limitations had run. Arnold Carter v. State, No. 03-S-01-9612-CR-00117, Monroe County (Tenn. Sept. 8, 1997) (for publication). The judgment of the trial court is affirmed.

Joseph M. Tipton, Judge

CONCUR:

Joe B. Jones, Presiding Judge

Curwood Witt, Judge