

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

JUNE 1997 SESSION

**FILED**  
September 10, 1997  
Cecil Crowson, Jr.  
Appellate Court Clerk

LARRY EDWARD CLAWSON, )  
 )  
Appellant, )  
 )  
VS. )  
 )  
STATE OF TENNESSEE, )  
 )  
Appellee. )

C.C.A. NO. 03C01-9610-CR-00380  
CARTER COUNTY  
HON. LYNN W. BROWN,  
JUDGE  
(Post-conviction)

FOR THE APPELLANT:

FOR THE APPELLEE:

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

**AFFIRMED**

**JOHN H. PEAY,**  
Judge

## OPINION

The petitioner pled guilty on June 5, 1985, to armed robbery. He took no direct appeal from this conviction. This petition for post-conviction relief was filed on May 9, 1996. The court below dismissed the petition finding that it was barred by the three year statute of limitations. We affirm.

The statute of limitations applicable to this petition was three years pursuant to T.C.A. § 40-30-102 (1990 Repl). See Abston v. State, 749 S.W.2d 487, 488 (Tenn. Crim. App. 1988). Therefore, the statute of limitations for filing a claim for post-conviction relief ran in 1988. Accordingly, the court below was correct in holding, without a hearing, that the claim for relief was time-barred.

The petitioner argues that the 1995 Post-Conviction Procedure Act allows him an additional year within which he may file a petition. The Act provides, in pertinent part, that “notwithstanding any other provision of this part to the contrary, any person having [a] ground for relief recognized under this part shall have at least one (1) year from May 10, 1995, to file a petition or a motion to reopen a petition under this part.” Compiler’s Notes to T.C.A. § 40-30-201 (1996 Supp.) referring to Acts 1995, ch. 207, § 3. This Court has recently held that this language does not apply to those petitioners who are already barred by the three year statute of limitations that was in effect prior to the new Act. See Johnny L. Butler v. State, No. 02C01-9509-CR-00289, Shelby County (Tenn. Crim. App. filed Dec. 2, 1996, at Jackson) and Wallace Butler v. Ricky Bell, Warden, No. 02C01-9510-CC-00297, Fayette County (Tenn. Crim. App. filed Nov. 19,

1996, at Jackson).<sup>1</sup> According to the petitioner, he pled guilty in June 1985 but did not file this petition for post-conviction relief until 1996. He is clearly barred by the three year statute of limitations.

As held by the court below, the instant petition is time-barred. Therefore, the court's action in dismissing the petition was appropriate and we therefore affirm the judgment below.

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JOHN H. PEAY, Judge

CONCUR:

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JOSEPH M. TIPTON, Judge

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J. CURWOOD WITT, JR., Judge

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<sup>1</sup>We do note that one panel of this Court has held, with one member dissenting, that the new Post-Conviction Procedure Act provides a "one-year window" in which every defendant may file a petition. See Arnold Carter v. State, No. 03C01-9509-CC-00270, Monroe County (Tenn. Crim. App. filed July 11, 1996, at Knoxville), cert. granted, Dec. 2, 1996.