

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JUNE SESSION, 1997

**FILED**  
September 2, 1997  
Cecil Crowson, Jr.  
Appellate Court Clerk

**MICHAEL P. MEEHAN,**

Appellant,

**V.**

**STATE OF TENNESSEE,**

Appellee.

) **C.C.A. NO. 01C01-9608-CC-00366**

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) **HICKMAN COUNTY**

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) **HON. DONALD P. HARRIS, JUDGE**

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) **(HABEAS CORPUS)**

FOR THE APPELLANT:

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

AFFIRMED

THOMAS T. WOODALL, JUDGE

# OPINION

The Petitioner appeals as of right pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure from the trial court's dismissal of his "Application for Writ of Habeas Corpus Relief." The Petitioner argues four issues in this appeal: (1) The trial court erred in dismissing his Application for Writ of Habeas Corpus Relief without having an evidentiary hearing; (2) whether Petitioner's sentence as imposed by the trial court has expired as provided by law; (3) whether the TDOC can apply an inmate's earned and awarded sentence credits to reduce the earliest release eligibility date; (4) whether there is statutory authority that would allow the TDOC to award the amount of sentence reduction credits claimed by the Petitioner. We affirm the judgment of the trial court.

The basis of the Petitioner's argument is that he has been credited with only half of his sentence reduction credits and that his credits have been applied to his sentence incorrectly. Therefore, the Petitioner contends that his sentence has expired.

The trial court's order dismissing the Petitioner's Writ of Habeas Corpus reads as follows:

The petitioner has filed an Application for Writ of Habeas Corpus Relief alleging his sentence has expired. The petitioner received two concurrent 15 year sentences from the Criminal Court for Davidson County for aggravated sexual battery and use of a minor for obscene purposes. His sentence effective date is August 13, 1987. According to the records submitted by the petitioner, during the almost 9 years he has been incarcerated he has earned over 4 1/3 years in sentencing credits and his sentence is scheduled to expire April 4, 1998. While the petitioner asserts he has only

been credited with one-half of the credits he has earned, he has cited the court to no statute and the court is aware of no statute that would entitle the petitioner to sentencing credits of the magnitude he is claiming. The application for relief shows on its face that petitioner's sentence has not expired and should be dismissed.

We agree with the trial court. In Archer v. State, 851 S.W.2d 157 (Tenn. 1993), the court held:

Habeas corpus relief is available in Tennessee only when "it appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered" that a convicting court was without jurisdiction or authority to sentence a defendant, or that a defendant's sentence of imprisonment or other restraint has expired.

Archer, 851 S.W.2d at 164. There is no indication in either the judgment or the record on appeal to show that the Petitioner's sentence has expired as he contends. In fact, an Affidavit from Candace Whitman, the Sentence Technician of Sentence Information Services states that the Petitioner's sentence has not expired. There is no authority submitted by the Petitioner that shows that he is entitled to the number of credits to which he claims he is entitled.

The Petitioner has argued only that his sentence has expired. We have concluded that this is not so. He has not argued that his sentence is void and there is no evidence in this record that it is void. We find no error in the trial court's determination that the application for relief shows on its face that the Appellant's sentence has not expired.

The Petitioner's remaining arguments concern the improper computation of his sentencing credits. If a defendant wants to challenge the application of his sentence reduction credits he must do so through the Administrative Procedures

Act, Tennessee Code Annotated section 4-5-101, et. seq. Maurice Hughley v. State, No. 03C01-9403-CR-00116, Knox County, slip. op. 4 (Tenn. Crim. App., Knoxville, filed Feb. 13, 1995); James A. Vaughn v. State, No. 01C01-9308-CR-00258, Sumner County, (Tenn. Crim. App., Nashville, filed Feb. 24, 1994). Judicial review of the Petitioner's sentencing reduction credits must occur in the Chancery Court of Davidson County. Tenn. Code Ann. § 4-5-322(b)(1); Brigham v. Lack, 755 S.W.2d 469, 471 (Tenn. Crim. App. 1988).

The judgment of the trial court is affirmed.

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THOMAS T. WOODALL, Judge

CONCUR:

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JOSEPH B. JONES, Presiding Judge

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WILLIAM M. BARKER, Judge