

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE
JULY 1996 SESSION

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

DAVID E. RUTHERFORD)	C.C.A. NO. 03CO1-9610-CR-00373
)	
Petitioner/Appellant)	KNOX COUNTY
)	
v.)	HON. RICHARD BAUMGARTNER,
)	JUDGE
)	
STATE OF TENNESSEE,)	reduction of sentence
)	
Respondent/Appellee)	

For the Appellant:

For the Appellee:

Mark E. Stephens
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Sixth Judicial District

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OPINION FILED: _____

AFFIRMED.

JOHN K. BYERS
SENIOR JUDGE

OPINION

The appellant was convicted and sentenced to twenty years as a range I standard offender in September 1984. On September 17, 1993 the appellant filed a motion reduction of sentence under Rule 35 of the Tennessee Rules of Criminal Procedure.

On May 9, 1996, the trial court dismissed the motion as not being timely filed as required by Rule 35.

Rule 35 requires a motion to reduce or commute a sentence to be filed within 120 days of entry thereof. The trial judge properly dismissed the petition, and we affirm the dismissal.

John K. Byers, Senior Judge

CONCUR:

David H. Welles, Judge

Thomas T. Woodall, Judge