

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

OCTOBER 1997 SESSION

FILED

November 14, 1997

Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,

Appellee,

VS.

JAMES R. BUSSELL,

Appellant.

C.C.A. No. 01C01-9612-CC-00517

WILLIAMSON COUNTY

HON. HENRY DENMARK BELL,
JUDGE

(DUI - FOURTH OFFENSE)

FOR THE APPELLANT:

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OPINION FILED: _____

AFFIRMED - RULE 20

JOE G. RILEY,
JUDGE

ORDER

This is an appeal resulting from defendant's plea of guilty to driving under the influence of an intoxicant, fourth offense, and driving on a revoked license. For the DUI offense, defendant received a sentence of eleven (11) months and twenty-nine (29) days with a requirement that he serve two hundred twenty (220) days in jail followed by supervised probation for the balance of the eleven (11) months and twenty-nine (29) days. For driving on a revoked license, he received a suspended six (6) month sentence to run consecutively to the DUI sentence. The sole issue on appeal is whether the trial court erred in ordering consecutive sentencing. We affirm the judgment of the trial court pursuant to Rule 20, Tennessee Court of Criminal Appeals.

Defendant had prior DUI convictions in February 1993, August 1994, and April 1995. He had just been released from confinement on the last conviction and was on probation at the time of the present offenses. Although not articulated by the trial court, defendant's being on probation at the time of the instant offenses justified consecutive sentencing. See Tenn. Code Ann. § 40-35-115(b)(6). Furthermore, the sentences reasonably relate to the severity of the offenses and are necessary to protect society from defendant's criminal conduct. See State v. Wilkerson, 905 S.W.2d 933 (Tenn. 1995).

After a thorough review of the records, briefs, and the law governing the issue presented for review, it is the opinion of this Court that the judgment of the trial court should be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals.

JOE G. RILEY, JUDGE

CONCUR:

JOE B. JONES, PRESIDING JUDGE

WILLIAM M. BARKER, JUDGE