

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED
November 4, 1997
Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,)
Appellee,) C.C.A. NO. 01C01-9707-CR-00296
VS.) SUMNER COUNTY
) (Nos. 7674, 7675, 8535, 8930, 9012,
) 9265 Below)
)
JAMES THOMAS MANNING,) The Hon. Jane Wheatcraft
)
Appellant,) (Probation Revocation)
) **AFFIRMED PURSUANT TO RULE 20**

ORDER

This matter is before the Court upon the state's motion requesting that the judgment in the above-styled cause be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules. The appellant opposes the motion. Having reviewed the pleadings and the record in the above-styled cause, the Court finds that this is an appropriate case for affirmance pursuant to Rule 20.

The appellant contends that the trial court erred in revoking his probation. After a hearing on the matter, the trial court stated:

Well this Court agrees with the State of Tennessee: This Court has given Mr. Manning every single chance. He comes in here and says he hasn't been given a chance, but he has. He has six convictions in this Court. He has been placed on probation. This last time since he has been on probation, he has gotten an assault in Kentucky. There is a bench warrant out on him, \$50,000 bond; got a driving on suspended license, criminal impersonation. He had another assault in Trousdale County, which was dismissed because the victim died. He had evading arrest to which he pled guilty. He has pending charges for possession for resale and criminal impersonation in Putnam County.

If there is anybody this Court is as familiar with as I am Mr. Manning, I know he is not going to respond to any community-based program. I think that the State is correct, that he just does what he pleases, and he certainly has gotten in a great deal of trouble. He has no respect for what probation is. I, therefore, revoke his probation and order that he serve each of these sentences in the Department of Corrections [sic].

In probation revocation hearings, the credibility of the witnesses is for the

determination of the trial judge. Bledsoe v. State, 215 Tenn. 553, 387 S.W.2d 811, 814 (1965); State v. Delp, 614 S.W.2d 395, 398 (Tenn. Crim. App.1980). On review, the findings of the trial judge have the weight of a jury verdict. Delp, 614 S.W.2d 398; Carver v. State, 570 S.W.2d 872, 875 (Tenn. Crim. App. 1978). We will not disturb the judgment of the trial judge in the absence of an abuse of discretion. For this Court to find an abuse of the trial court's discretion, the appellant must demonstrate "that the record contains no substantial evidence to support the conclusion of the trial judge that a violation of the conditions of probation has occurred." State v. Harkins, 811 S.W.2d 79, 82 (Tenn. 1991).

We find that in this case there was substantial evidence to support the trial court's conclusion that the appellant violated the terms of his probation.

IT IS, THEREFORE, ORDERED that the judgment of the trial court is hereby affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeal Rules.

ENTER this the ____ day of _____, 1997.

JOHN H. PEAY, JUDGE

CONCUR:

DAVID H. WELLES, JUDGE

THOMAS T. WOODALL, JUDGE