

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

NOVEMBER 1997 SESSION

STATE OF TENNESSEE,)	
)	NO. 02C01-9611-CR-00425
Appellee,)	
)	SHELBY COUNTY
VS.)	
)	HON. JAMES C. BEASLEY, JR.,
DAVID S. PRENTICE,)	JUDGE
)	
Appellant.)	(Habitual Motor Vehicle Offender)

FOR THE APPELLANT:

A. C. WHARTON, JR.
Shelby County Public Defender

WALKER GWINN
Assistant Public Defender
201 Poplar Avenue, Suite 201
Memphis, Tennessee 38103

FOR THE APPELLEE:

JOHN KNOX WALKUP
Attorney General and Reporter

CLINTON J. MORGAN
Assistant Attorney General
450 James Robertson Parkway
Nashville, TN 37243-0493

WILLIAM L. GIBBONS
District Attorney General

LEE V. COFFEE
Assistant District Attorney General
201 Poplar Avenue, Suite 301
Memphis, Tennessee 38103

OPINION FILED: _____

AFFIRMED

JOE G. RILEY,
JUDGE

OPINION

Appellant, David S. Prentice, contends the Habitual Motor Vehicle Offender Act (HMVO Act) violates double jeopardy principles. On May 23, 1996, appellant was declared an Habitual Motor Vehicle Offender (HMVO) based upon appropriate prior convictions. His motion to dismiss based upon double jeopardy was denied.

We AFFIRM the order of the trial court.

DOUBLE JEOPARDY AND THE HMVO ACT

State v. Conley, 639 S.W.2d 435, 437 (Tenn. 1982), found the double jeopardy defense to be unavailable to the HMVO declaration since the revocation of driving privileges is remedial and not punitive in nature. This reasoning has been followed in recent months by this Court. See State v. Watson, C.C.A. No. 02C01-9610-CR-00377 (Tenn. Crim. App. filed September 17, 1997, at Jackson); State v. Rowlett, C.C.A. No. 01C01-9605-CC-00211 (Tenn. Crim. App. filed August 22, 1997, at Nashville); State v. Spears, C.C.A. No. 02C01-9606-CR-00197 (Tenn. Crim. App. filed July 10, 1997, at Jackson). We see no reason to deviate from these holdings.

CONCLUSION

For the foregoing reasons, we AFFIRM the judgment of the trial court.¹

JOE G. RILEY, JUDGE

CONCUR:

GARY R. WADE, JUDGE

DAVID G. HAYES, JUDGE

¹The notice of appeal was untimely filed; however, we waive the timely filing requirement. Tenn. R. Crim. P. 4(a).