

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

JANUARY 1998 SESSION

FILED
January 8, 1998
Cecil Crowson, Jr.
Appellate Court Clerk

SHEDRICK CARRUTHERS,

Appellant,

vs.

STATE OF TENNESSEE,

Appellee.

)
)
) C. C. A. NO. 02C01-9703-CR-00112
)
) SHELBY COUNTY
)
) Honorable John P. Colton, Judge
)
) (Post-Conviction: Aggravated Rape)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

PAUL G. SUMMERS,
Judge

OPINION

This case represents an appeal from the dismissal of the petitioner's petition for post-conviction relief. On May 10, 1990, the petitioner pled guilty to aggravated rape and was sentenced to seventeen years imprisonment. No appeal was taken. On January 28, 1997, the petitioner filed a petition for post-conviction relief alleging an invalid indictment. Finding that the statute of limitations had expired, the trial court dismissed the petition without a hearing.

Pursuant to T.C.A. § 40-30-202(a), a person in custody under a sentence of a court of this state must petition for post-conviction relief within one year of the date of the final action of the highest state appellate court to which an appeal is taken or, if no appeal is taken, within one year of the date on which judgment became final. The Post-Conviction Procedure Act provides several limited exceptions to the one-year statute of limitations, however none of them are applicable to the present case. See § 40-30-202(b). Judgment in this case became final on May 10, 1990, and the petitioner did not file his petition for post-conviction relief until January 28, 1997. Accordingly, his petition is clearly barred by the statute of limitations.

We conclude, therefore, that the trial court did not err in dismissing the petitioner's petition for post-conviction relief. Accordingly, it is hereby ORDERED that the judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

PAUL G. SUMMERS, JUDGE

CONCUR:

DAVID G. HAYES, JUDGE

JOE G. RILEY, JUDGE