

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY 1998 SESSION

**FILED**  
**March 11, 1998**  
**Cecil Crowson, Jr.**  
Appellate Court Clerk

SHANNON YOUNG, )  
 )  
 APPELLANT, )  
 )  
 )  
 )  
 v. )  
 )  
 )  
 )  
 STATE OF TENNESSEE, )  
 )  
 )  
 APPELLEE. )

No. 02-C-01-9704-CR-00144

Shelby County

Joseph B. Dailey, Judge

(Post-Conviction Relief)

FOR THE APPELLANT:

Robert C. Brooks  
Attorney at Law  
707 Adams Avenue  
Memphis, TN 38105

FOR THE APPELLEE:

John Knox Walkup  
Attorney General & Reporter  
425 Fifth Avenue, North  
Nashville, TN 37243-0493

Kenneth W. Rucker  
Assistant Attorney General  
425 Fifth Avenue, North  
Nashville, TN 37243-0493

William L. Gibbons  
District Attorney General  
201 Poplar Avenue, Suite 3-01  
Memphis, TN 38103

James M. Lammey  
Assistant District Attorney General  
201 Poplar Avenue, Suite 3-01  
Memphis, TN 38103

OPINION FILED: \_\_\_\_\_

AFFIRMED

Joe B. Jones, Presiding Judge

# OPINION

The appellant, Shannon Young<sup>1</sup> (petitioner), appeals as of right from a judgment of the trial court dismissing his post-conviction action. He contends he was denied his constitutional right to the effective assistance of counsel because the lawyer who represented the petitioner in the earlier post-conviction action failed to seek permission to appeal this court's opinion pursuant to Rule 11, Tennessee Rules of Appellate Procedure.

After a thorough review of the record, the briefs submitted by the parties, and law governing the issue presented for review, it is the opinion of this court that the judgment of the trial court should be affirmed.

The petitioner was convicted when he pled guilty and was sentenced pursuant to the terms of a plea agreement. No appeal was taken following the entry of the judgment of conviction. Subsequently, the petitioner filed an action for post-conviction relief. The trial court denied the relief. This court affirmed the judgment of the trial court. The opinion and judgment of this court was filed February 2, 1994. Counsel did not file an application for permission to appeal to the Supreme Court pursuant to Rule 11, Tennessee Rules of Appellate Procedure.

In this case, the petitioner's second action for post-conviction, it is alleged:

Petitioner was denied his right to an appeal as of right from the trial court's decision to the Tennessee Supreme Court, due process of law and effective assistance of counsel on appeal from the trial court's decision on petitioner's petition for post conviction relief, in violation of the Sixth and Fourteenth Amendments of the United States Constitution.

The petitioner is not entitled to the relief sought.

The applicable statute, Tenn. Code Ann. § 40-30-213, does not apply to post-conviction actions. This statute is limited in scope to the denial of the right to appeal or the failure to file an application for permission to appeal from "the original conviction." See Joe Henry Moore v. State, Davidson County No. 01-C-01-9608-CR-00383, 1997 WL 578970 (Tenn. Crim. App., Nashville, September 19, 1997); Darrel D. Hayes v. State,

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<sup>1</sup>The petitioner's initial post-conviction case was styled "Shannon Darrell Young v. State." Shannon Young and Shannon Darrell Young are the same person.

Davidson County No. 01-C-01-9604-CR-00163, 1997 WL 537079 (Tenn. Crim. App.,  
Nashville, September 2, 1997).

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JOE B. JONES, PRESIDING JUDGE

CONCUR:

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JOHN H. PEAY, JUDGE

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THOMAS T. WOODALL, JUDGE