

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JANUARY SESSION, 1998

**FILED**  
June 12, 1998  
Cecil W. Crowson  
Appellate Court Clerk

GEORGE WILLIAM "SONNY")  
CARROLL )  
Appellant, )

C.C.A. NO. 01001-97-00130

VS. )

WAYNE COUNTY

STATE OF TENNESSEE, )

HON. JIM T. HAMILTON  
JUDGE

Appellee. )

(Habeas Corpus Relief)

FOR THE APPELLANT:

FOR THE APPELLEE:

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ORDER FILED \_\_\_\_\_

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

# ORDER

Appellant George William "Sonny" Carroll was convicted by a jury in the Davidson County Criminal Court of twelve counts of aggravated rape. As a Range II persistent offender, he was sentenced to twelve concurrent terms of sixty-five years incarceration with the Tennessee Department of Correction. This Court affirmed the convictions. State v. George William Carroll, No. 89-124-III, Davidson County (Tenn. Crim. App., Nashville, March 8), perm. to appeal denied, (Tenn. 1990). On September 23, 1996, Appellant filed an application for writ of habeas corpus in the Wayne County Circuit Court, alleging that he was being illegally restrained on a conviction and sentence based upon two fatally defective indictments which failed to properly set forth a mens rea. On January 31, 1997, the trial court denied the writ. Appellant presents the following issue for our consideration in this appeal: whether the trial court erred in dismissing the petition for habeas corpus relief.

After a review of the record, we affirm the judgment of the trial court pursuant to Court of Criminal Appeals Rule 20.

The Davidson County grand jury indicted Appellant on two counts of aggravated rape. According to the petition, the first indictment complained of reads as follows:

That George William "Sonny" Carroll. . . on the 11th day of July, 1987, . . . in the County aforesaid, unlawfully and feloniously did engage in sexual penetration of [name omitted], a child less than thirteen (13) years of age, contrary to Tennessee Code Annotated, Section 39-2-603, and against the peace and dignity of the State of Tennessee.

Both the Sixth Amendment to the United States Constitution and Article I, § 9 of the Tennessee Constitution afford the accused the right to be informed of the "nature and cause of the accusation." Moreover, our legislature has prescribed the contents of indictments. Tenn. Code Ann. § 40-13-202 provides:

The indictment must state the facts constituting the offense in ordinary and concise language, without prolixity or repetition, in such a manner as to enable a person of common understanding to know what is intended, and with that degree of certainty which will enable the court, on conviction, to pronounce the proper judgment; and in no case are such words as "force and arms" or "contrary to the form of the statute" necessary.

Tenn. Code Ann. § 40-13-202.

The Tennessee Supreme Court's decision in State v. Hill governs the disposition of the case sub judice. 954 S.W.2d 725 (Tenn. 1997). The Hill court held that:

[F]or offenses which neither expressly require nor plainly dispense with the requirement for a culpable mental state, an indictment which fails to allege such mental state will be sufficient to support prosecution and conviction for that offense so long as (1) the language of the indictment is sufficient to meet the constitutional requirements of notice to the accused of the charge against which the accused must defend, adequate basis for entry of a proper judgment, and protection from double jeopardy; (2) the form of the indictment meets the requirements of Tenn. Code Ann. § 40-13-202; and (3) the mental state can be logically inferred from the conduct alleged.

Id. at 726-27.

The indictment in this case meets these criteria. Accordingly, we affirm the trial court's judgment pursuant to Court of Criminal Appeals Rule 20.

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JERRY L. SMITH, JUDGE

CONCUR:

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JOHN H. PEAY, JUDGE

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DAVID H. WELLES, JUDGE