

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

JANUARY 1998 SESSION

<p>FILED</p> <p>April 1, 1998</p> <p>Cecil Crowson, Jr. Appellate Court Clerk</p>
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SHERMAN SANDERS,)
 also known as NEILTON E. SANDERS,)
)
 APPELLANT,)
)
 v.)
)
 STATE OF TENNESSEE,)
)
 APPELLEE.)

No. 02-G-01-9701-CG-00027
 Obion County
 Honorable William B. Acree, Jr., Judge
 (Post-Conviction Relief)

FOR THE APPELLANT:

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OPINION FILED: _____

AFFIRMED PURSUANT TO RULE 20

Joe B. Jones, Presiding Judge

OPINION

The appellant, Sherman Sanders, also known as Neilton E. Sanders (petitioner), appeals as of right from a judgment of the trial court dismissing his post-conviction action following an evidentiary hearing. The trial court found the petitioner was afforded the effective assistance guaranteed by the United States and Tennessee Constitutions; and pleas of guilty entered by the petitioner were voluntarily, understandingly, and intelligently entered. In this court, the petitioner contends the evidence contained in the record preponderates against the trial court's findings of fact. After a thorough review of the record, the briefs submitted by the parties, and the law governing the issues presented for review, it is the opinion of this court that the judgment of the trial court should be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals. The evidence clearly does not preponderate against the trial court's findings of fact.

The petitioner and the attorney who represented the petitioner testified at the evidentiary hearing. The testimony conflicts on every material fact. Their testimony cannot be reconciled. The trial court accredited the testimony of the attorney. The transcript of the submission hearing supports the trial court's findings of fact. The transcript refutes parts of the petitioner's testimony.

JOE B. JONES, PRESIDING JUDGE

CONCUR:

PAUL G. SUMMERS, JUDGE

DAVID G. HAYES, JUDGE