

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

FEBRUARY SESSION, 1998

FILED
August 7, 1998
Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)

Appellee,)

VS.)

TYRONE PAUL LINTNER,)

Appellant.)

C.C.A. NO. 03C01-9708-CC-00338

SEVIER COUNTY

HON. REX HENRY OGLE
JUDGE

(Sentencing)

ON APPEAL FROM THE JUDGMENT OF THE
CRIMINAL COURT OF SEVIER COUNTY

FOR THE APPELLANT:

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AL SCHMUTZER, JR.
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CHARLES E. ATCHLEY, JR.
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OPINION FILED _____

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

ORDER

Appellant Tyrone Paul Lintner pleaded guilty in the Sevier County Criminal Court on March 3, 1997 to two counts of forgery. As a Range I standard offender, Appellant was sentenced to four years incarceration with the Tennessee Department of Correction for the first count and two years for the second count, to be served consecutively. The trial court ordered him to pay \$48,195.45 in restitution. Appellant raises the following issue on appeal: whether the trial court should have instituted an alternative sentence.

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

Appellant forged 21 checks for a total of \$48,195, all while he was on federal probation for tax evasion.¹

“Sentences involving confinement should be based on the following considerations: (A) Confinement is necessary to protect society by restraining a defendant who has a long history of criminal conduct; (B) Confinement is necessary to avoid depreciating the seriousness of the offense or confinement is particularly suited to provide an effective deterrence to others likely to commit similar offenses; or (C) Measures less restrictive than confinement have frequently or recently been applied unsuccessfully to the defendant.”

Tenn. Code Ann. § 40-35-103.

Appellant was apparently never punished directly for his embezzlement of \$785,731.00 from his previous employer, rather he was convicted of federal tax

¹The four counts of tax evasion stemmed from the Appellant's failure to pay taxes on \$785,731.00 he embezzled from a previous employer.

evasion in connection with the embezzled funds. He received a federal sentence of twenty-one months confinement followed by a probationary period. While on federal probation he committed the instant offenses using forgery to steal from his subsequent employer. It is clear that measures less restrictive than continuous confinement have not made an impact on Appellant. We have no trouble concluding that the trial court's decision to incarcerate is fully supported by this record.

For the above stated reasons, the decision of the trial court is affirmed in accordance with Court of Criminal Appeals Rule 20.

JERRY L. SMITH, JUDGE

CONCUR:

THOMAS T. WOODALL, JUDGE

WILLIAM B. ACREE, JR., SPECIAL JUDGE