

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

MAY SESSION, 1998

FILED
September 3, 1998
Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,

Appellee,

VS.

VINCENT WALKER,

Appellant.

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C.C.A. NO. 01C01-9705-CC-00390

MAURY COUNTY

HON. JIM T. HAMILTON
JUDGE

(Direct Appeal)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED _____

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

OPINION

On January 6, 1997, the trial court issued a community corrections violation warrant for failure to pay court costs, fines, supervision fees, and maintain employment. On May 5, 1997, a second revocation warrant was issued, this time for aggravated robbery. On June 2, 1997, the trial court revoked Appellant's community corrections placement and imposed his original sentence of incarceration.

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

Appellant raises the following issues on appeal: Whether the trial court should have waited to rule on the second warrant until Appellant was tried for the charge, and whether there is substantial evidence to support the trial court's decision to revoke Appellant's probation.

"The court shall also possess the power to revoke the sentence imposed at any time due to the conduct of the defendant." Tenn. Code Ann. § 40-36-106(e)(4) The trial court did not have to wait until Appellant was tried for the aggravated robbery charge before revoking community corrections.

The decision to revoke community corrections is entrusted to the sound discretion of the trial court who may revoke a defendant's placement in such a program if a violation of the terms and conditions thereof is established by a preponderance of the evidence. State v. Harkin, 811 S.W.2d 79, 82 (Tenn.

1991). There is no requirement that the trial judge wait for a criminal conviction to occur when a violation is brought to his or her attention and is established by a preponderance of evidence.

The testimony of Juanita Stewart, that Appellant was the robber she saw and the testimony of Appellant's community corrections officer, that Appellant violated the terms of his placement in community corrections provide ample basis to revoke Appellant's community corrections placement.

Pursuant to Court of Criminal Appeals Rule 20 the judgment of the trial court is affirmed for the above stated reasons.

JERRY L. SMITH, JUDGE

CONCUR:

GARY R. WADE, PRESIDING JUDGE

DAVID G. HAYES, JUDGE