

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

APRIL, 1998 SESSION

EARL E. COLLIER, )  
 )  
 Appellant, )  
 )  
 VS. )  
 )  
 STATE OF TENNESSEE, )  
 )  
 Appellee. )

C.C.A. NO. 03C01-9709-CR-00388  
  
KNOX COUNTY  
  
RAY L. JENKINS, JUDGE  
  
(Post Conviction)

**FILED**  
  
October 13, 1998  
  
Judge Crowson, Jr.  
Appellate Court Clerk

FOR THE APPELLANT:

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FOR THE APPELLEE:

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

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

## **ORDER**

The Appellant filed the instant appeal to preserve his rights to post-conviction relief in the event the Tennessee Supreme Court were to rule that the case of State v. Anthony, 817 S.W.2d 299 (Tenn. 1991), announced a new constitutional rule which requires retroactive application. In fact our Supreme Court has now held that Anthony did not announce a new constitutional rule. Moore v. State, 943 S.W.2d 878 (Tenn. 1997). The Appellant now acknowledges that his petition for post-conviction relief is time-barred and that the trial court was correct in dismissing it. The State agrees.

Accordingly, the judgment of the trial court is AFFIRMED pursuant to Rule 20, Rules of the Court of Criminal Appeals. It appearing that the Appellant is indigent costs of the appeal will be paid by the State.

PER CURIAM

SMITH, SUMMERS, HAYES