

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JUNE 1998 SESSION

<p>FILED</p> <p>October 28, 1998</p> <p>Cecil W. Crowson Appellate Court Clerk</p>

DWIGHT A. MAYTON,)

Appellant,)

v.)

STATE OF TENNESSEE,)

Appellee.)

No. 01C01-0708-CC-00376

Cannon County

Honorable Don R. Ash, Judge

(Post-Conviction)

CONCURRING OPINION

I concur in the results reached and reasoning used in the majority opinion, although I do not believe that we are bound by the trial court's findings when they are based solely upon a deposition, a transcript of the guilty plea hearing, and the remaining documents of record. Under these circumstances, I believe the standard of review to be de novo.

Joseph M. Tipton, Judge