

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

MARCH SESSION, 1998

FILED

January 13, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)

Appellee,)

VS.)

CONNIE LEE WILSON,)

Appellant.)

C.C.A. NO. 02C01-9706-CC-00217

MADISON COUNTY

HON. JOHN FRANKLIN MURCHISON
JUDGE

(Direct Appeal - Sentencing)

FOR THE APPELLANT:

C. MICHAEL ROBBINS
3074 East Street
Memphis, TN 38128
Appellate Counsel

GEORGE MORTON GOOGE
District Public Defender
227 West Baltimore St.
Jackson, TN. 38301

FOR THE APPELLEE:

JOHN KNOX WALKUP
Attorney General and Reporter

GEORGIA BLYTHE FELNER
Assistant Attorney General
425 Fifth Avenue North
Nashville, TN 37243

JERRY WOODALL
District Attorney General

NICK NICOLA
Assistant District Attorney
P. O. Box 2825
Jackson, TN 38301

ORDER FILED _____

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

ORDER

On December 19, 1996, Appellant, Connie Lee Wilson, pled guilty to Driving After Having Been Declared an Habitual Motor Vehicle Offender and Driving Under the Influence. The Circuit Court for Madison County entered a show cause order as to why Appellant's probation for three previous D.U.I. offenses should not be revoked. On February 14, 1997, after a sentencing hearing, the trial court revoked Appellant's probation on the prior offenses and sentenced Appellant to two years in the Tennessee Department of Correction for the offense of Driving After Being Declared an Habitual Motor Vehicle Offender and to eleven months and twenty-nine days to be served at 75% for the offense of Driving Under the Influence 5th offense. The trial court further ordered these sentences to be served consecutively to one of Appellant's sentences for a prior offense (indictment number 94-827). In this appeal, Appellant presents the following issue for review:

(1) whether the trial court erred in running Appellant's sentence for the current offense consecutive to her sentence in indictment number 94-827.

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

Appellant contends that the trial court erred in ordering her sentence for the current offense to run consecutive to the sentence in indictment number 94-827. Appellant contends that the probationary period on 94-827 had run prior to the show cause hearing, effectively preventing the trial court from revoking her

probation for that offense. Appellant has failed to present a record upon which this Court can determine the timing of her service of the prior sentences. Upon appeal, the burden of presenting to this Court a record which provides all necessary materials for disposition of the issues on appeal rests on the appellant. Rules of Appellate Procedure Rule 24; State v. Banes, 874 S.W.2d 73 (Tenn. Crim. App. 1993) (citing State v. Bunch, 646 S.W.2d 158, 160 (Tenn.1983); State v. Roberts, 755 S.W.2d 833, 836 (Tenn. Crim. App. 1988), perm. to appeal denied, (Tenn.1988)). Due to the incomplete nature of this record, this Court is precluded from considering this issue. See State v. Bennett, 798 S.W.2d 783 (Tenn. Crim. App. 1990) cert denied, 500 U.S. 915, 111 S.Ct. 2009, 114 L.Ed. 2d 98 (1991).

Accordingly, we affirm the judgment of the trial court pursuant to Court of Criminal Appeals Rule 20. Appellant may remain on current bond pending the timely filing and or disposition of an application for permission to appeal. Costs of the appeal will be paid by the State.

JERRY L. SMITH, JUDGE

CONCUR:

See Below

JOE B. JONES, PRESIDING JUDGE¹

GARY R. WADE, JUDGE

¹The Honorable Joe B. Jones died May 1, 1998. We appreciate his service to the State of Tennessee and this Court.