

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
JANUARY 1999 SESSION

FILED

May 5, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

CHARLES RAY DOWLING,

Appellant,

vs.

STATE OF TENNESSEE,

Appellee.

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C.C.A. No. 03C01-9801-CC-00039

Blount County

Hon. D. Kelly Thomas, Judge

(Post-Conviction)

FOR THE APPELLANT:

STEVE MERRITT

Attorney at Law
116 E. Harper Ave.
Maryville, TN 37804

FOR THE APPELLEE:

JOHN KNOX WALKUP

Attorney General & Reporter

GEORGIA BLYTHE FELNER

Counsel for the State
425 Fifth Ave. N., 2d Floor
Nashville, TN 37243-0493

MICHAEL L. FLYNN

District Attorney General

EDWARD P. BAILEY, JR.

Asst. District Attorney General
363 Court St.
Maryville, TN 37804

OPINION FILED: _____

AFFIRMED - RULE 20

JAMES CURWOOD WITT, JR., JUDGE

OPINION

The petitioner, Charles Ray Dowling, filed this post-conviction action attacking his especially aggravated burglary and aggravated assault convictions. He alleged that he received ineffective assistance of counsel, but for which he would not have entered guilty pleas. At the post-conviction hearing, the testimony of the petitioner and his trial attorney differed sharply on the material points. After receiving the evidence, the trial court accredited the evidence offered by the state over that presented by the petitioner. Thus, the petitioner failed to carry his burden of proof, and the petition was dismissed.¹ See McBee v. State, 655 S.W.2d 191, 195 (Tenn. Crim. App. 1983). Upon our review of this appeal, we have determined that the petitioner has failed to demonstrate that the evidence preponderates against the trial court's findings. See Butler v. State, 798 S.W.2d 898, 899 (Tenn. 1990). Moreover, we have discerned no apparent error of law which requires reversal of the judgment. See Tenn. R. Ct. Crim. App. 20.

Accordingly, the judgment of the trial court is affirmed pursuant to Court of Criminal Appeals Rule 20.

JAMES CURWOOD WITT, JR., JUDGE

CONCUR:

GARY R. WADE, PRESIDING JUDGE

JOHN K. BYERS, SENIOR JUDGE

¹This action was filed prior to enactment of the Post-Conviction Act of 1995. Accordingly, its provisions do not apply.