

IN THE COURT OF CRIMINAL APPEALS OF

TENNESSEE

FILED

AT JACKSON

MARCH SESSION, 1999

May 6, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

STEVE TURNAGE,

Appellant,

V.

STATE OF TENNESSEE,

Appellee.

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C.C.A. NO. 02C01-9803-CR-00074

SHELBY COUNTY

**HON. CAROLYN WADE
BLACKETT, JUDGE**

(POST-CONVICTION)

FOR THE APPELLANT:

FOR THE APPELLEE:

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OPINION FILED _____

AFFIRMED PURSUANT TO RULE 20

THOMAS T. WOODALL, JUDGE

ORDER

In this case, the Petitioner, Steve Turnage, appeals from the trial court's dismissal of his petition for post-conviction relief following an evidentiary hearing.

Originally charged with one (1) count of premeditated first degree murder, one (1) count of felony murder, and one (1) count of attempted aggravated robbery, Petitioner pled guilty to felony murder and attempted aggravated robbery and received sentences of life imprisonment with possibility of parole and six (6) years, respectively, to be served concurrent with each other.

Petitioner timely filed a petition for post-conviction relief. In the petition and on appeal, he argues that he received the ineffective assistance of counsel and that his guilty pleas were involuntary. Regarding the issue of voluntariness of the guilty pleas, Petitioner says that he did not understand the explanation by the trial court of his right against self-incrimination, and that his mother was not allowed to discuss with him whether or not he should plead guilty. Petitioner was a juvenile at the time of the offense and the guilty plea and had been transferred to criminal court to be tried as an adult.

Trial counsel testified during the evidentiary hearing. His testimony was contrary in all material points to the testimony of Petitioner and Petitioner's mother. In a detailed memorandum of findings of fact and conclusions of law, the trial court dismissed the petition for post-conviction relief. The trial court made findings of fact contrary to Petitioner's allegations on both issues. The trial court concluded that Petitioner had not proven the facts alleged by clear and convincing evidence. We

have carefully reviewed the record, and the evidence does not preponderate against the findings of the trial court.

The judgment dismissing the petition for post-conviction relief was rendered by the trial court without a jury, the judgment is not a determination of guilt, and the evidence does not preponderate against the finding of the trial court. There is no error of law apparent on the record which would require a reversal of the judgment of the trial court.

It is, accordingly, ordered that the judgment of the trial court is affirmed in accordance with Rule 20 of the Court of Criminal Appeals of Tennessee.

THOMAS T. WOODALL, Judge

CONCUR:

GARY R. WADE, Presiding Judge

JOSEPH M. TIPTON, Judge