

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

MILBURN L. EDWARDS v. STATE OF TENNESSEE

**Appeal from the Circuit Court for Wayne County
No. 15181**

No. M2012-01492-CCA-R3-HC - Filed March 21, 2013

The Appellant, Milburn L. Edwards, appeals the trial court's summary dismissal of his petition for habeas corpus relief. The judgment of the trial court is affirmed.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Trial Court Affirmed
Pursuant to Rule 20, Rules of the Court of Criminal Appeals**

ROBERT W. WEDEMEYER, J., delivered the opinion of the court, in which JERRY L. SMITH and JEFFREY S. BIVINS, JJ. joined.

Milburn L. Edwards, pro se.

Robert E. Cooper, Jr., Attorney General & Reporter; Clark B. Thornton, Assistant Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

The Appellant was convicted by a Davidson County jury of multiple counts of rape, two counts each of first degree burglary and aggravated burglary, and one count each of second degree burglary, aggravated rape, assault with intent to commit rape, and robbery. *State v. Edwards*, 868 S.W.2d 682 (Tenn. Crim. App. 1993). The trial court sentenced the Appellant to an effective sentence of life plus 415 years. *Id.* On appeal, this Court affirmed the Appellant's convictions but modified his sentence to an effective sentence of life plus 195 years. *Id.* Subsequently, the Appellant unsuccessfully pursued post-conviction relief, and he also filed at least four prior petitions seeking writs of habeas corpus, all of which were dismissed. *See Milburn L. Edwards v. State*, No. M2010-02001-CCA-R3-HC, 2011 WL 3480994 (Tenn. Crim. App., at Nashville, Aug. 5, 2011), *perm. to app. denied* (Tenn. Dec. 14, 2011) (affirming summary dismissal of fourth habeas corpus petition); *Milburn L. Edwards v. Cherry Lindamood, Warden*, No. M2009-01132-CCA-MR3-HC, 2010 WL 2134156 (Tenn. Crim. App., at Nashville, May 27, 2010) (affirming summary dismissal of

third habeas corpus petition); *Milburn L. Edwards v. Cherry Lindamood, Warden*, No. M2006-01092-CCA-R3-HC, 2007 WL 152233 (Tenn. Crim. App., at Nashville, Jan. 17, 2007), *perm. to app. denied* (Tenn. Apr. 16, 2007) (affirming summary dismissal of second habeas corpus petition); *Milburn L. Edwards v. State*, No. M2004-01378-CCA-R3-HC, 2005 WL 544714 (Tenn. Crim. App., Mar. 7, 2005), *perm. to app. denied*, (Tenn., Aug. 29, 2005) (affirming summary dismissal of first habeas corpus petition); *Milburn L. Edwards v. State*, No. M2002-02124-CCA-R3-PC, 2003 WL 23014683 (Tenn. Crim. App., at Nashville, Dec. 15, 2003) (affirming denial of post-conviction relief).

The subject of this appeal is the fifth petition for a writ of habeas corpus filed by the Appellant in which he, again, argues that he was improperly sentenced under the 1982 Sentencing Act as opposed to the 1989 Sentencing Act. This issue was previously determined on direct appeal and also was unsuccessfully raised by the Appellant in at least two of his previous habeas corpus petitions. *See Milburn L. Edwards*, No. M2010-02001-CCA-R3-HC, 2011 WL 3480994 at *3-4 (observing that sentencing issue was resolved on direct appeal and thus could not be re-litigated in habeas corpus petition and that law of case doctrine precluded review of same issue in subsequent habeas corpus petition).

The record reflects that the trial court did not err in summarily dismissing the Appellant's fifth petition for a writ of habeas corpus without a hearing or without the appointment of counsel. Accordingly, the State's motion is granted and the judgment of the trial court is hereby affirmed in accordance with Rule 20.

ROBERT W. WEDEMEYER, JUDGE