

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON  
Assigned on Briefs February 4, 2020

**FILED**  
04/24/2020  
Clerk of the  
Appellate Courts

**STATE OF TENNESSEE v. DANNY RAY LACY**

**Appeal from the Circuit Court for Madison County  
No. C99-144 Donald H. Allen, Judge**

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**No. W2019-00748-CCA-R3-CD**

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The Defendant, Danny Ray Lacy, filed a motion under Tennessee Rule of Criminal Procedure 36 to correct a clerical error in the judgment convicting him of first degree felony murder and sentencing him to serve life in prison without the possibility of parole rather than the number of years that he was to be incarcerated. The trial court dismissed the motion, concluding that there was no clerical error in the omission of a sentence in terms of years in the judgment. On appeal, we affirm the trial court's judgment.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed**

JOHN EVERETT WILLIAMS, P.J., delivered the opinion of the court, in which ALAN E. GLENN and CAMILLE R. MCMULLEN, JJ., joined.

Danny Ray Lacy, Clifton, Tennessee, pro se.

Herbert H. Slatery III, Attorney General and Reporter; T. Austin Watkins, Assistant Attorney General; Jody Pickens, District Attorney General; and Al Earls, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**FACTUAL AND PROCEDURAL HISTORY**

The Defendant was convicted of the November 20, 1994 first degree felony murder of the five-year-old victim during the perpetration of aggravated child abuse, and he was sentenced to life imprisonment without the possibility of parole. *State v. Lacy*, 983 S.W.2d 686, 687 (Tenn. Crim. App. 1997), *perm. app. denied* (Tenn. Sept. 21, 1998). This court affirmed the judgment on appeal. *Id.* at 696-97; *see also State v. Danny Ray*

*Lacy*, No. 02C01-9701-CC-00013, 1997 WL 729261, at \*1 (Tenn. Crim. App. Nov. 25, 1997) (Wade, J., concurring). The Defendant filed a timely but unsuccessful petition for post-conviction relief. *Danny Ray Lacy v. State*, No. W2000-01898-CCA-R3-PC (Tenn. Crim. App. June 7, 2001), *perm. app. denied* (Tenn. Oct. 8, 2001). He subsequently filed a petition for habeas corpus, the dismissal of which was affirmed on appeal. *Danny Ray Lacy v. Lindamood*, No. M2009-00072-CCA-R3-CO, 2009 WL 3029619, at \*1 (Tenn. Crim. App. Sept. 22, 2009), *no perm. app. filed*. His petition for writ of error coram nobis was likewise dismissed, and the dismissal was affirmed. *Danny Ray Lacy v. State*, No. W2015-02345-CCA-R3-ECN, 2016 WL 4037296, at \*1 (Tenn. Crim. App. July 25, 2016), *perm. app. denied* (Tenn. Oct. 21, 2016).

On March 22, 2019, the Defendant filed a motion to correct a clerical error in his judgment under Tennessee Rule of Criminal Procedure 36. The Defendant asserted that the Tennessee Supreme Court’s decision in *Brown v. Jordan*, 563 S.W.3d 196, 200 (Tenn. 2018), stood for the proposition that his sentence of life without parole was a determinate sentence of sixty years of incarceration, and he argued that the failure to include the number of years he was to be incarcerated on his judgment form constituted a clerical error subject to correction under Rule 36. The Defendant attached the judgment of his conviction, which reflects that his sentence was designated as “Life Without Parole.” The State filed a response, and the trial court subsequently dismissed the motion, concluding that *Brown* had no application to the Defendant’s sentence because it concerned a sentence of life imprisonment rather than life imprisonment without the possibility of parole. The Defendant filed several other motions prior to his notice of appeal, including a reply to the State’s response, a motion for a hearing, a motion for recusal, a motion for “Relief from Judgment,” and a motion requesting counsel. The trial court did not rule on any of these motions prior to the filing of the notice of appeal, the Defendant on appeal asserts no error related to them, and we conclude they are not within the scope of appellate review. The Defendant appeals the dismissal of his Rule 36 motion, contending that his judgment form contains a clerical error because it does not list the length of his sentence in years.

## ANALYSIS

The Defendant cites to *Brown* for the proposition that “Tennessee does not have indeterminate sentences for criminal offenses.” 563 S.W.3d at 200. He reasons that his sentence is a sentence for a specific number of years and that the term of years must be included on the judgment form, and he argues that failure to include his sentence as a term of years constitutes a clerical error which must be corrected. We conclude that there is no clerical error on the Defendant’s judgment form.

Tennessee Rule of Criminal Procedure 36 provides that “the court may at any time correct clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission.” Tenn. R. Crim. P. 36. “Clerical errors ‘arise simply from a clerical mistake in filling out the uniform judgment document.’” *State v. Wooden*, 478 S.W.3d 585, 595 (Tenn. 2015) (quoting *Cantrell v. Easterling*, 346 S.W.3d 445, 449 (Tenn. 2011)). Correcting such clerical mistakes may include “supply[ing] omitted or overlooked information.” *State v. Carl Allen a/k/a Artie Perkins*, No. W2017-01118-SC-R11-CD, \_\_\_ S.W.3d \_\_\_, 2020 WL 467614, at \*6 (Tenn. Jan. 29, 2020); *see, e.g., Steven Anderson v. Russell Washburn, Warden*, No. M2018-00661-SC-R11-HC, \_\_\_ S.W.3d \_\_\_, 2019 WL 3071311, at \*1 (Tenn. June 27, 2019) (concluding that a failure to award pretrial jail credits would constitute a clerical error); *State v. Armstrong*, 126 S.W.3d 908, 912 (Tenn. 2003) (allowing correction of a clerical error in omitting the certified question when the correction was made while the court retained jurisdiction).

The Defendant received a sentence of life imprisonment without the possibility of parole. This sentence was authorized by statute. T.C.A. § 39-13-202(b)(2) (1994) (including in the list of punishment for first degree murder “[i]mprisonment for life without possibility of parole”). As the Defendant notes, this sentence carried no release eligibility. T.C.A. § 40-35-501(h)(2) (1994) (“There shall be no release eligibility for a defendant receiving a sentence of imprisonment for life without possibility of parole for first degree murder.”).

Here, the Defendant argues that designating his sentence as “Life Without Parole” on the judgment form incorrectly labeled his sentence an indeterminate sentence and that *Brown* requires the trial court to specify his sentence as a determinate sentence of sixty years. In support of his argument, the Defendant points to the conclusion of the Tennessee Supreme Court in *Brown* that “Tennessee does not have indeterminate sentences for criminal offenses.” *Brown*, 563 S.W.3d at 200. He also relies on Tennessee Code Annotated section 40-35-211, which addresses determinate sentences and mandates that the trial court “shall impose a specific sentence length for each offense” and observes that “[t]here are no indeterminate sentences.” T.C.A. § 40-35-211, -211(1) (1994). Although the Defendant argues that this statute requires the judgment form to reflect a term of years, the statute itself specifies that a determinate sentence may include a sentence of “life”: “Specific sentences for a felony shall be for a term of years or months *or life*, if the defendant is sentenced to the department of correction; or a specific term of years, months or days if the defendant is sentenced for a felony to any local jail or workhouse.” T.C.A. § 40-35-211(1) (1994) (emphasis added); *see Brown*, 563 S.W.3d at 200 (“The determinate sentence for a life sentence is sixty years.”).

The Defendant's assertion that the failure to include a term of years in his judgment form incorrectly imposes an indeterminate sentence is without merit. *See* T.C.A. § 40-35-211(1). In *Baker v. State*, this court rejected the argument that a sentence of "life imprisonment" was an indeterminate sentence. 951 S.W.2d 1, 2 (Tenn. Crim. App. 1997) (holding that the petitioner's sentences of life in prison and thirty-five years were not indeterminate sentences and that the Board of Paroles' ability to grant conditional release did not render the sentences indeterminate). Likewise, in *Deandre Blake v. State*, this court concluded that a sentence of life in prison was not an indeterminate sentence. No. W2015-01423-CCA-R3-PC, 2016 WL 4060696, at \*11 (Tenn. Crim. App. July 27, 2016). The court in *Deandre Blake* then addressed the defendant's argument that the sentence should have been designated as a term of years and concluded that "the trial court is not required to specify a term of years in sentencing a defendant to life imprisonment." *Id.* We have found no authority for the proposition that a judgment form sentencing a defendant to life in prison without the possibility of parole must reduce the sentence to a term of years, and we conclude that the Defendant's judgment contains no clerical error. Accordingly, the Defendant is not entitled to relief.

### CONCLUSION

Based on the foregoing, we affirm the trial court's judgment.

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JOHN EVERETT WILLIAMS, PRESIDING JUDGE