

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs March 05, 2014

DOMONIC LACY v. STATE OF TENNESSEE

Appeal from the Criminal Court for Shelby County
No. 1003546, 1003547, 1003548, 1003549 Lee V. Coffee, Judge

No. W2013-01260-CCA-R3-PC - Filed June 4, 2014

On November 5, 2010, Petitioner, Domonic Lacy, pleaded guilty in the Shelby County Criminal Court pursuant to a negotiated plea agreement to three counts of aggravated robbery and one count of aggravated burglary. The offenses occurred when Petitioner was a juvenile and he had been transferred from juvenile court to criminal court. He received an agreed total effective sentence of twelve (12) years. No appeal was made from the judgments and they became final thirty days after they were entered on November 5, 2010. More than a year after the judgments became final, Petitioner filed a *pro se* petition for post-conviction relief on March 26, 2013. The trial court summarily dismissed the petition because it was not timely filed within the one-year statute of limitations, and Petitioner has appealed. We affirm the judgment of the trial court pursuant to Rule 20 of the Rules of the Court of Criminal Appeals of Tennessee.

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

THOMAS T. WOODALL, J., delivered the opinion of the Court, in which JAMES CURWOOD WITT, JR. and ROBERT W. WEDEMEYER, JJ., joined.

Domonic Lacy, Tiptonville, Tennessee, *Pro Se*.

Robert E. Cooper, Jr., Attorney General and Reporter; Deshea Dulany Faughn, Assistant Attorney General; Amy P. Weirich, District Attorney General; and Karen Cook, Assistant District Attorney General, for the appellee, the State of Tennessee.

MEMORANDUM OPINION

In his untimely petition for post-conviction relief, Petitioner asserted the following grounds for relief. Petitioner claimed that: (1) the transfer hearing from the juvenile court

to criminal court violated his rights to due process; (2) he received ineffective assistance of counsel; and (3) his guilty pleas were involuntarily and unintelligently entered.

In his petition, Petitioner concedes the judgments became final on December 4, 2010, and that his petition filed on March 13, 2013 was not timely filed in compliance with the one-year statute of limitations set forth in Tennessee Code Annotated section 40-30-102(a). In addition, Petitioner conceded that none of the statutory exceptions to the one-year statute of limitations contained in Tennessee Code Annotated section 40-30-102(b) apply to his case. Petitioner cited case law that permits the tolling of the one-year statute of limitations under due process principles, *see Workman v. State*, 41 S.W.3d 100, 102 (Tenn. 2001), and claims that in his case the statute of limitations should be tolled in order to honor his right to due process. However, he alleged no facts to support a violation of due process to him if there is strict application of the limitations period. He alleged no facts that would show he was denied a reasonable opportunity to present his post-conviction claims in a meaningful time and in a meaningful manner. In his brief on appeal, Petitioner makes allegations about being “abandoned” by this trial counsel. The judgments clearly indicate that he had counsel at his negotiated guilty plea hearing. The only “abandonment” by counsel alleged by Petitioner in his brief is that Petitioner “was abandoned by trial counsel, without any proper advice concerning any possible appeals including the post-conviction proceeding.” The record is clear that in the negotiated plea agreement Petitioner waived his right to appeal. Furthermore, we know of no authority that requires a defense counsel to advise a defendant of the right to file for post-conviction relief.

This case is an appeal from a judgment that was not a determination of guilt, and the record does not preponderate against the finding of the trial judge. No error of law requiring a reversal of the judgment is apparent on the record. Accordingly, the judgment of the trial court is affirmed pursuant to Rule 20 of the Rules of the Court of Criminal Appeals of Tennessee.

THOMAS T. WOODALL, JUDGE