

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs December 9, 2014

**STEPHEN W. LEWIS v. STATE OF TENNESSEE**

**Appeal from the Criminal Court for Sullivan County**  
**No. 41206, 38307, 34866, 32798     Robert H. Montgomery, Jr., Judge**

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**No. E2014-01376-CCA-WR-CO - Filed April 7, 2015**

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Petitioner, Stephen Wayne Lewis, proceeds in this court pursuant to an order granting Petitioner's writ of certiorari to the Sullivan County Criminal Court to review the trial court's summary dismissal of Petitioner's *pro se* "Motion to Dismiss Costs or Fines as Time-Barred." The State argues that the trial court should be affirmed. Based upon our review of the record and the briefs, we affirm the judgment of the trial court.

**On Certiorari to the Sullivan County Criminal Court;  
Judgment of the Criminal Court Affirmed**

THOMAS T. WOODALL, P. J., delivered the opinion of the Court, in which ALAN E. GLENN and TIMOTHY L. EASTER, JJ., joined.

Stephen W. Lewis, Wartburg, Tennessee, *Pro Se*.

Herbert H. Slatery III, Attorney General and Reporter; Benjamin A. Ball, Assistant Attorney General; and Barry Staubus, District Attorney General, for the appellee, the State of Tennessee.

**OPINION**

According to the order of the panel of this court which granted the writ of certiorari, Petitioner was convicted of DUI, sixth offense, in June 1994, and was fined \$1,000.00; in July 1998, he was convicted of DUI, eighth offense, and fined \$4,000.00; also in 1998, he was convicted of unlawfully driving while being an habitual motor vehicle offender with costs and fees imposed in the amount of \$304.00.

According to Petitioner's motion, he has attempted to have his driver's license reinstated, but the Tennessee Department of Safety and Homeland Security informed him that all the fines and costs, imposed more than ten years prior to the filing of his motion, had to be either paid in full or "waived as a result of indigence" by the trial court before his driver's license could be reinstated.

In his motion, Petitioner argued that he was entitled to relief because collection of the fines and costs by the State was barred by the ten-year statute of limitations contained in T.C.A. § 28-3-110(a)(2). Petitioner also alleged that the trial court had authority to "release [Petitioner] . . . from the whole or any part of fines or forfeitures accruing to the county or state." T.C.A. § 40-24-102. As noted by the panel of this court in its order granting the writ of certiorari,

The trial court retains jurisdiction, even after final judgment, to modify the payment schedule or to reduce or remit entirely the amount of fines for which the defendant may be obligated. *State v. Blevins*, 968 S.W.2d 888, 895, n. 1 (Tenn. Crim. App. 1997); *see also* Tenn. Code Ann. § 40-24-102.

In its order summarily dismissing the motion, the trial court ruled that the ten-year statute of limitations was not applicable because there was no civil action pending to collect the fines and costs. Furthermore, the trial court ruled that it was without jurisdiction to review the "administrative action" of the Tennessee Department of Safety and Homeland Security which requires Petitioner to pay all fines and costs prior to reinstatement of his driver's license.

The Tennessee Department of Safety and Homeland Security imposed the requirement of payment of all fines and costs by Petitioner prior to reinstatement of his driver's license pursuant to authority granted by the General Assembly in T.C.A. § 55-50-303(b)(1) and (2). That statutory provision provides as follows:

(b)(1) In addition to all other requirements of law, prior to reinstating the driving privileges and/or reissuing a driver license to any person who has been convicted of the offense of driving while under the influence, the department **shall** require certification that all fines and costs have been paid to the court of jurisdiction. The certification shall be made upon a form supplied by the department, and shall indicate the fines and costs levied by the court, **that all fines and costs have been paid to the court, or that the fines and/or costs were waived as a result of the person being found to be indigent by the court, if the court is located within this state.** The form shall be completed and certified by the clerk of the court of

jurisdiction; provided, however, that it is the sole responsibility of the individual seeking reinstatement or reissuance to obtain the certification and present it to the department.

(2) Persons convicted of any other offense requiring mandatory revocation of driving privileges shall be required to present the same certification in subdivision (b)(1) prior to the reinstatement of driving privileges and/or the reissuance of a driver license.

T.C.A. § 55-50-303(b)(1) and (b)(2). (emphasis added).

Thus, the legislature has mandated that before a person in Petitioner's situation can be reinstated to the privilege of lawfully driving in this State, he/she must present a certification to the Department of Safety and Homeland Security that *all* fines and costs have been paid. The *only* exception to this requirement is that if the convicting court is in Tennessee, the privilege to drive may be reinstated if the fines and costs were waived "as a result of the person being found to be indigent by the court."

Petitioner acknowledges that the fines and costs have not been paid. Petitioner did not include allegations of his indigence in his petition. In fact, in his reply brief, he states that he "has not relied upon the *ground of indigence* in order to discharge the fines and/or cost in the case but relied upon the *ground of good cause*."

The Department of Safety and Homeland Security has the statutorily authorized power to deny reinstatement of Petitioner's driver's license if Petitioner does not present an appropriate certificate that: (1) all fines and costs have been paid, or (2) the Tennessee court has waived the fines and costs due to indigency. Petitioner is not entitled to relief.

The judgment of the trial court is affirmed.

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THOMAS T. WOODALL, PRESIDING JUDGE