

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

FEBRUARY 1996 SESSION

**FILED**  
**March 13, 1996**  
**Cecil Crowson, Jr.**  
Appellate Court Clerk

AUBREYEL B. AKBAR, )  
 )  
 APPELLANT, )  
 )  
 v. )  
 )  
 STATE OF TENNESSEE, )  
 )  
 APPELLEE. )

No. 02-C-01-9507-CR-00187

Shelby County

John P. Colton, Jr., Judge

(Post-Conviction Relief)

FOR THE APPELLANT:

Aubreyel B. Akbar, Pro Se  
C.C.C.F  
P.O. Box 1000  
Henning, TN 38041

FOR THE APPELLEE:

Charles W. Burson  
Attorney General & Reporter  
450 James Robertson Parkway  
Nashville, TN 37243-0493

Christina S. Shevalier  
Assistant Attorney General  
450 James Robertson Parkway  
Nashville, TN 37243-0493

John W. Pierotti  
District Attorney General  
201 Poplar Avenue, Third Floor  
Memphis, TN 38103

Lorraine Craig  
Assistant District Attorney General  
201 Poplar Avenue, Third Floor  
Memphis, TN 38103

OPINION FILED: \_\_\_\_\_

AFFIRMED PURSUANT TO RULE 20

Joe B. Jones, Presiding Judge

**OPINION**

The appellant, Aubreyel B. Akbar, appeals as of right from a judgment of the trial court summarily dismissing his suit for post-conviction relief. The trial court found that the suit was barred by the statute of limitations, the grounds alleged were not cognizable in a suit for post-conviction relief, the issues had been previously determined, and the grounds were not supported by factual allegations. The appellant contends in this Court that he was entitled to the appointment of counsel and an evidentiary hearing on his claim that the state withheld exculpatory evidence.

The petition alleged that one of the victims described his assailants as being "dark complected." The appellant contends that he could not have committed the crime because he is "very, very bright complected." The trial record reflects that a police officer related the descriptions given by the witness. He testified that the witness told him both men were "dark complected." Consequently, this evidence was not concealed or withheld by the state. Given these facts, the suit was barred by the statute of limitations.

This Court has made a thorough review of the record, the briefs of the parties, and the law governing the issue raised by the appellant. It is the opinion of this Court that the judgment of the trial court should be affirmed pursuant to Rule 20 of this Court.

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JOE B. JONES, PRESIDING JUDGE

CONCUR:

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GARY R. WADE, JUDGE

(Not Participating)  

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JERRY L. SMITH, JUDGE