

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

NOVEMBER SESSION, 1996

**FILED**  
January 16, 1997  
Cecil W. Crowson  
Appellate Court Clerk

STATE OF TENNESSEE, )

Appellee, )

VS. )

ROOSEVELT BIGBEE, )

Appellant. )

C.C.A. NO. 01C01-9601-CR-00045

SUMNER COUNTY

HON. JANE W. WHEATCRAFT  
JUDGE

(Sentencing-First Degree Murder)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH

## ORDER

This is an appeal as of right pursuant to Tenn. R. App. P. 3. On March 15, 1991, Appellant was convicted in Sumner County Criminal Court of the felony murder of Monty Climer and sentenced to death. On October 3, 1994, the Tennessee Supreme Court upheld Appellant's conviction, but reversed the sentence of death and ordered a new sentencing hearing. See, State v. Bigbee, 885 S.W.2d 797 (Tenn. 1994).

Sometime prior to the re-sentencing hearing the Sumner County District Attorney's Office announced it would not seek the death penalty again. Thus, the only issue at the re-sentencing hearing was whether Appellant's life sentence in this case would run consecutively to a life sentence he received in Montgomery County for the murder of Vada E. Langston, and the 11 year prison term he received for the robbery of Ms. Langston. Following the re-sentencing hearing the trial court ordered that the life sentence in this case run consecutively to the Montgomery County sentences. It is from the imposition of consecutive sentences that Appellant files the instant appeal. We affirm the decision of the trial court.

The record reflects that Appellant has an extensive juvenile record including acts of larceny, arson, receiving and concealing stolen property, burglary, and assault and battery. When Appellant was 18 years old he committed the murder in the instant case; one month after he was released from his last juvenile probation. By the age of 20 Appellant had yet another murder to his credit as well as a conviction for aggravated robbery.

Based on this record we have no reservation in affirming the findings of the trial court that Appellant has an extensive record of criminal activity sufficient to warrant consecutive sentencing. See, Tenn. Code Ann. Sec. 40-35-115(a)(2). Further, it is apparent that Appellant has no hesitation whatsoever about committing crimes which present a high degree of risk to human life. See, Tenn. Code Ann. Sec. 40-35-115(a)(4). Appellant has been convicted of three of the most serious felonies in our code. Consecutive sentencing is therefore reasonably related to the severity of these offenses. The failure of previous efforts at rehabilitating Appellant and deterring him from further criminal activity make it abundantly clear that a lengthy term of consecutive sentences are necessary to protect the public from further criminal conduct by Appellant. Under these circumstances consecutive sentencing as a “dangerous offender” is clearly proper. See, State v. Wilkerson, 905 S.W.2d 933, 938-39 (Tenn. 1995).

Since this case does not involve a determination of guilt, and the action of the trial judge is fully supported by the law and evidence, we affirm pursuant to Rule 20, Rules of the Tennessee Court of Criminal Appeals.

JERRY L. SMITH, JUDGE

CONCUR:

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JOHN H. PEAY, JUDGE

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DAVID H. WELLES, JUDGE