

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

NOVEMBER 1996 SESSION

FILED
March 14, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

HAROLD L. INGRAM,)
)
 Appellant)
)
 V.)
)
 STATE OF TENNESSEE,)
)
 Appellant.)
)
)
)

No. 02C01-9511-CC-00334

MADISON COUNTY

HON. FRANKLIN MURCHISON,
JUDGE

(Post-Conviction)

For the Appellant:

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(On appeal)

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OPINION FILED: _____

AFFIRMED PURSUANT TO RULE 20

William M. Barker, Judge

OPINION

The appellant filed a petition for post-conviction relief in the Circuit Court of Madison County alleging ineffective assistance of counsel and that his guilty pleas were not intelligently, knowingly, and voluntarily made. After an evidentiary hearing, the trial court dismissed the petition. We affirm.

Appellant, Harold L. Ingram, pled guilty to a series of charges on October 13, 1993. These included two counts of simple robbery, aggravated criminal trespass, two counts of assault, carrying a deadly weapon with intent to go armed, and leaving the scene of an accident. The pleas arose out of a series of incidents and several indictments. All the offenses, with the exception of leaving the scene of the accident, were reduced from the indicted charges as part of a plea agreement. He received two consecutive six (6) year sentences for the robbery pleas and eleven (11) months, twenty-nine (29) days on each misdemeanor, except leaving the scene of an accident, for which he received thirty (30) days. All the misdemeanor sentences were ordered consecutive to one another, but concurrent to the robbery sentences. Appellant received an effective sentence of twelve (12) years. At the time of the plea, he had already served 281 days in jail and was immediately placed on intensive probation. In June of 1994 appellant's probation was revoked and he was incarcerated. He filed this post-conviction petition on January 23, 1995. The petition alleged that he received the ineffective assistance of counsel and that his guilty pleas were not voluntary or knowing.

The appellant and his trial counsel both testified at the evidentiary hearing. Not surprisingly, their testimony conflicted on each material issue. After the evidentiary hearing, the trial court made findings of fact and determined that appellant had not been denied any constitutional right. It determined that appellant had received the effective assistance of counsel at trial under the standards enumerated in Baxter v. Rose, 523 S.W.2d 930, 936 (Tenn. 1975). It further found that appellant was fully

informed of the charges and the sentences, as well as all his constitutional rights prior to the entry of his guilty plea. The trial court found that appellant did in fact understand his plea and entered it voluntarily and knowingly.

As stated, the testimony of the witnesses conflicted as to every material fact. Evaluating petitioner's claims amounted to nothing more than a determination of the credibility of the witnesses. By its ruling, the trial court clearly accredited the testimony of the attorney. This Court cannot re-weigh or re-evaluate the evidence, and questions about the credibility of the witnesses, the weight and value to be given their testimony, and the factual issues raised by the evidence are resolved by the trial court. Black v. State, 794 S.W.2d 752, 755 (Tenn. Crim. App. 1990). We are bound to accept its determination, finding that the evidence does not preponderate against it. Id. See also Davis v. State, 912 S.W.2d 689, 697 (Tenn. 1995) (citations omitted); Cooper v. State, 849 S.W.2d 744, 746 (Tenn. 1993) (citation omitted). The evidence in the record fully supports the trial court's factual findings and we affirm its judgment pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

William M. Barker, Judge

Gary R. Wade, Judge

David G. Hayes, Judge