

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

MARCH 1997 SESSION

**FILED**  
  
July 28, 1997  
  
Cecil Crowson, Jr.  
Appellate Court Clerk

LORENZO HERRON, )  
 )  
 APPELLANT, )  
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 )  
 v. )  
 )  
 )  
 STATE OF TENNESSEE, )  
 )  
 )  
 APPELLEE. )

No. 02-C-01-9605-CR-00141

Shelby County

Bernie Weinman, Judge

(Post-Conviction Relief)

FOR THE APPELLANT:

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(Appeal Only)

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

AFFIRMED PURSUANT TO RULE 20

Joe B. Jones, Presiding Judge

# OPINION

The appellant, Lorenzo Herron (petitioner), appeals as of right from a judgment of the trial court dismissing his suit for post-conviction relief after an evidentiary hearing. In this Court, the petitioner, proceeding pro se, presents eight issues for review. These issues may be characterized as the trial court's failure to apply the proper standard for determining whether his counsel afforded him the effective assistance of counsel, provide him with a full and fair hearing, and rule upon certain issues. After a thorough review of the record, the briefs submitted by the parties, and the law governing the issues presented for review, it is the opinion of this Court the judgment of the trial court should be affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals.

The petitioner, his mother, and trial counsel testified at the evidentiary hearing. A reading of the transcript of the evidence reveals the testimony of the petitioner and trial counsel conflicted regarding every material issue. The testimony cannot be reconciled. The trial court obviously accredited the testimony of trial counsel and rejected the evidence presented by the petitioner.

The record clearly establishes the trial court granted the petitioner a full and fair hearing within the meaning of the Post-Conviction Procedure Act. The petitioner was given the right to present all relevant evidence, including some evidence which was not relevant. The petitioner failed to call the alleged alibi witnesses -- he did not tell trial counsel about these witnesses -- to establish counsel was ineffective for failing to call these witnesses. Contrary to the petitioner's assertion, he was not entitled to relitigate the convicting evidence. Moreover, the record is devoid of evidence to support this claim as the petitioner failed to call relevant witnesses. Finally, the trial court clearly applied the appropriate standard when determining the merits of the ineffective assistance claim.

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JOE B. JONES, PRESIDING JUDGE

CONCUR:

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GARY R. WADE, JUDGE

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CURWOOD WITT, JUDGE