

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
NOVEMBER 1997 SESSION

FILED
December 23, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

ABEL RODRIQUEZ, JR.,)
)
 APPELLANT,)
)
)
 v.)
)
)
 STATE OF TENNESSEE,)
)
 APPELLEE,)

No. 03-C-01-9612-CR-00463
Greene County
James E. Beckner, Judge
(Post-Conviction Relief)

FOR THE APPELLANT:

Abel Rodriguez, Jr., Pro Se
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FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

Joe B. Jones, Presiding Judge

OPINION

The appellant, Abel Rodriguez, Jr. (petitioner), appeals as of right from a judgment of the trial court summarily dismissing his action for post-conviction relief. The trial court found the action was barred by the statute of limitations. The petitioner contends the time should be calculated from the time this court's opinion in State v. Roger Dale Hill, Sr., Wayne County No. 01-C-01-9508-CC-00267 (Tenn. Crim. App., Nashville, June 20, 1996), was filed -- not from the date of his conviction. He argues Hill created new law, and the indictment in his case, like the indictment in Hill, was void because it did not allege the requisite mens rea.

The trial court properly found the statute of limitations barred this action. Moreover, the indictment in this case was adequate. It mirrors the indictment in Hill. The supreme court recently held the indictment in Hill passed constitutional, statutory, and common law muster. State v. Hill, _____ S.W.2d _____ (Tenn. 1997) (opinion filed in Nashville on November 3, 1997).

After a thorough review of the record, the briefs submitted by the parties, and the law governing the issue presented for review, it is the opinion of this court that the judgment of the trial court should be affirmed.

JOE B. JONES, PRESIDING JUDGE

CONCUR:

PAUL G. SUMMERS, JUDGE

CURWOOD WITT, JUDGE