

complaint to his guilty plea by consenting to the probation revocation, the trial court dismissed the petition without a hearing or appointment of counsel. On appeal from that dismissal, the petitioner contends the judgment should be corrected to reflect that he received a three year sentence rather than an eight year sentence as a result of his guilty plea. The state contends the petition was properly dismissed.

Pursuant to T.C.A. § 40-30-202(a)¹, a person in custody under a sentence of a court of this state must petition for post-conviction relief within one year of the date of the final action of the highest state appellate court to which an appeal is taken or, if no appeal is taken, within one year of the date on which judgment became final. The Post-Conviction Procedure Act provides several limited exceptions to the one-year statute of limitations, however none of them are applicable to the present case. See T.C.A. § 40-30-202(b). The petition in this case was filed well beyond the applicable statute of limitations, and is, therefore, untimely.² Accordingly, the post-conviction court was without jurisdiction to consider this petition, id., and the petition, therefore, was properly dismissed without an evidentiary hearing. T.C.A. § 40-30-206(b).

For the reasons stated above, we conclude that the trial court did not err in dismissing the petitioner's petition for post-conviction relief. Accordingly, it is hereby ORDERED that the judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

Enter, this the ____ day of April, 1998.

¹ The petition in this case was filed on December 8, 1997, and is therefore governed by the provisions of the 1995 Post-Conviction Procedure Act. See Compiler's Notes, T.C.A. § 40-30-201 (1997).

² Because the old three year statute of limitations had not expired on the effective date of the new act, the petitioner had until May 10, 1996, in which to file his petition for post-conviction relief. See Compiler's Notes, T.C.A. § 40-30-201 (1997); Maney v. State, 03C01-9612-CR-00470 (Tenn. Crim. App., Oct. 10, 1997). The petition in this case, however, was filed beyond that date.

PAUL G. SUMMERS, JUDGE

JOE B. JONES, PRESIDING JUDGE

DAVID G. HAYES, JUDGE