

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

FILED

July 23, 1998

ALFRED E. GRIZZELL,

Appellant,

VS.

STATE OF TENNESSEE,

Appellee.

)
) C.C.A. NO. 01C01-9709-CR-00409
) Cecil W. Crowson
) Appellate Court Clerk
) DAVIDSON COUNTY
) (No. B-7976 & B-7977 Below)
)
) The Hon. Seth Norman
)
) **AFFIRMED PURSUANT TO RULE 20**
) **(Denial of Post-Conviction Relief)**

ORDER

This matter is before the Court upon the state's motion to affirm the judgment of the trial court pursuant to Rule 20, Rules of the Court of Criminal Appeals. The petitioner is appealing the trial court's denial of his petition for post-conviction relief and opposes the state's motion.

From a review of the record, the pleadings, and this Court's previous opinions, it is clear that the trial court properly granted the state's motion to dismiss. Specifically, all but one of the issues presented in this appeal have been previously determined, see T.C.A. § 40-30-206(h). Moreover, the appellant's remaining issue in which he claims that appellate counsel was ineffective by failing to raise certain issues on direct appeal is also without merit. The issues which the petitioner claims appellate counsel should have raised on direct appeal were raised by the petitioner in a pro se supplemental brief. This Court considered the issues in the supplemental brief and held that they were without merit. See State v. Alfred Eugene Grizzell, No. 85-56-III, Slip Op. at 12 (Tenn. Crim. App., at Nashville, Sept. 27, 1985), perm. to app. denied, (Tenn. Nov. 25, 1985). In order to succeed on an ineffective assistance claim, a petitioner must show that the deficiencies of counsel "actually had an adverse effect on the defense." Strickland v. Washington, 466 U.S. 668, 693, 104 S. Ct. 2052, 2067 (1984). Here, the petitioner has failed to show prejudice.

IT IS, THEREFORE, ORDERED that the judgment of the trial court is

affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules. The petitioner being indigent, costs are taxed to the state.

DAVID H. WELLES, JUDGE

CONCUR:

JERRY L. SMITH, JUDGE

THOMAS T. WOODALL, JUDGE