

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED

ALAN D. HEAD,

Appellant,

VS.

STATE OF TENNESSEE,

Appellee.

)
) C.C.A. NO. 01C01-9802-CR-00082
) (No. 95C-1699 Below) August 27, 1998
)
) DAVIDSON COUNTY Cecil W. Crowson
) The Hon. Seth N. Appellate Court Clerk
)
) (Dismissal of Post-Conviction Petition)
) AFFIRMED PURSUANT TO RULE 20

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. Having reviewed the petitioner's brief, the state's motion, and the entire record, we find that the state's motion is well taken. Accordingly, we affirm the judgment of the trial court pursuant to Rule 20.

It appears that the petitioner was indicted on five counts of aggravated sexual battery and on three counts of rape of a child. He subsequently pled guilty to three counts of aggravated sexual battery. The petitioner contends that the indictment was fatally defective and that the trial court was without jurisdiction to enter a plea of guilty. In his brief, the petitioner concedes that our Supreme Court's opinion in State v. Hill, 974 S.W.2d 725 (Tenn. 1997), is contrary to his position, but he contends that the issue should be revisited. As an intermediate appellate court, it is our duty to apply the law as promulgated by the legislature or as announced by our Supreme Court.

IT IS, THEREFORE, ORDERED that the state's motion to affirm the judgment pursuant to Rule 20 is granted. The judgment of the trial court is hereby affirmed. The petitioner being indigent, costs of this appeal are taxed to the state.

JERRY L. SMITH, JUDGE

CONCUR:

JOHN H. PEAY, JUDGE

DAVID H. WELLES, JUDGE