

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED
November 3, 1998
Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,

Appellee,

VS.

PATRICK LEON SMITH,

Appellant.

) C.C.A. NO. 01C01-9708-CC-00337
) (No. 37643 Below)
) November 3, 1998
) MONTGOMERY COUNTY
) Cecil W. Crowson
) The Hon. Robert Wedemeyer
) Appellate Court Clerk
) (Attempted Aggravated Robbery)
) AFFIRMED PURSUANT TO RULE 20

ORDER

This matter was originally before the Court upon the state's motion to affirm the judgment pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules. The state submitted that the appellant had waived the issues raised on appeal by failing to include the transcripts of evidence in the record. The appellant did not file a response to the motion.

From a review of the state's motion, the appellant's brief, and the record on appeal, it was apparent that the transcripts were necessary for full review of the issues raised on appeal. Accordingly, the Court entered an order on October 7, 1998, giving the appellant 10 days in which to file a response to the state's motion to affirm the judgment. The appellant's response was to address why the transcripts of evidence were not included in the record and why the appellant had not filed a motion to supplement the record pursuant to T.R.A.P. 24(e). The Court indicated that failure to respond would result in the granting of the state's motion to affirm. As of the date of this order, the time for filing a response has expired, and the appellant has not filed a response.

IT IS, THEREFORE, ORDERED that the judgment of the trial court is affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules. The appellant being indigent, costs are taxed to the state. IT IS FURTHER ORDERED that a copy of this order be forwarded to the Tennessee Board of Professional Responsibility.

JOHN H. PEAY, JUDGE

CONCUR:

JERRY L. SMITH, JUDGE

THOMAS T. WOODALL, JUDGE