

IN THE COURT OF CRIMINAL APPEALS OF
AT JACKSON
MARCH SESSION, 1999

TENNESSEE
FILED
May 18, 1999
Cecil Crowson, Jr.
Appellate Court Clerk

PATRICK TRAWICK,
Appellant,

V.

STATE OF TENNESSEE
Appellee.

) C.C.A. NO. 02C01-9802-CR-00054
)
)
) SHELBY COUNTY
)
)
) HON. CHRIS CRAFT, JUDGE
)
)
) (POST-CONVICTION)

FOR THE APPELLANT:

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FOR THE APPELLEE:

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OPINION FILED _____

AFFIRMED PURSUANT TO RULE 20

THOMAS T. WOODALL, JUDGE

ORDER

In this case, the Petitioner, Patrick Trawick, appeals from the Shelby County Criminal Court's dismissal of his petition for post-conviction relief.

Originally charged with one (1) count of aggravated rape, Petitioner was convicted of the lesser included offense of rape and sentenced to nine (9) years in the Department of Correction. On April 16, 1996, Petitioner filed a petition for post-conviction relief which was correctly dismissed without a hearing because Petitioner's direct appeal was still pending. Following the supreme court's denial of his application for permission to appeal, Petitioner filed the instant petition for post-conviction relief on May 1, 1997. Counsel was appointed to represent Petitioner and an amended petition was filed on June 16, 1997. Following an evidentiary hearing, the trial court entered an order denying the petition on January 27, 1998. Timely notice of appeal was filed by Petitioner. In this appeal, Petitioner alleges that his trial counsel rendered ineffective assistance of counsel.

Trial counsel testified during the evidentiary hearing. Her testimony was contrary in all material points to the testimony of Petitioner. Further, Petitioner failed to produce at the post-conviction hearing any of the alleged witnesses whom he said counsel failed to interview. He is therefore unable to establish that he suffered prejudice by counsel's failure to subpoena these witnesses. See Denton v. State, 945 S.W.2d 793, 803 (Tenn. Crim. App. 1996), perm. to appeal denied (Tenn. 1997). In a detailed memorandum of findings of fact and conclusions of law, the trial court addressed all issues raised and dismissed the petition for post-conviction relief. The

trial court concluded that Petitioner had not proven the facts alleged by clear and convincing evidence.

The judgment dismissing the petition for post-conviction relief was rendered by the trial court without a jury, the judgment is not a determination of guilt, and the evidence does not preponderate against the findings of the trial court. There is no error of law apparent on the record which would require a reversal of the judgment of the trial court.

Neither a detailed discussion of the facts nor a lengthy opinion concerning the law would be of precedential value in this case. We are satisfied that the result reached by the trial court is correct. Based on a thorough reading of the record, the briefs of the parties, and the law governing the issues presented for review, the judgment of the trial court is affirmed in accordance with Rule 20 of the Court of Criminal Appeals of Tennessee.

THOMAS T. WOODALL, Judge

CONCUR:

GARY R. WADE, Presiding Judge

JOSEPH M. TIPTON, Judge