

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

MARTIN THOMAS TERRELL,

Petitioner,

vs.

STATE OF TENNESSEE,

Respondent.

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C. C. A. NO. 02C01-9903-CC-00083

LAUDERDALE COUNTY

No. 5212

FILED

July 7, 1999

Cecil Crowson, Jr.
Appellate Court Clerk

ORDER

This matter is before the Court upon motion of the state to affirm the judgment of the trial court by order rather than formal opinion. See Rule 20, Rules of the Court of Criminal Appeals. This case represents an appeal from the trial court's dismissal of the petitioner's petition for writ of habeas corpus. In November 1995, the petitioner was indicted for especially aggravated kidnapping. After trial, the jury found the petitioner guilty of aggravated kidnapping and he was sentenced to fifteen years imprisonment. In his present petition, the petitioner claims that his conviction is void because the indictment did not allege all elements of the offense. The trial court found that the indictment was valid and dismissed the petition.

The indictment in this case alleged that the petitioner "did unlawfully and knowingly remove [the victim] so as to interfere substantially with [the victim's] liberty and did accomplish this removal with a deadly weapon." T.C.A. § 39-13-305 defines especially aggravated kidnapping as false imprisonment (the knowing removal or confinement of another unlawfully which interferes substantially with the other's liberty, T.C.A. § 39-13-302) accomplished with a deadly weapon, where the victim is under thirteen years of age, committed for ransom or to hold the victim as a hostage, or where the victim suffers serious bodily injury. The indictment in this case tracked the language of the statute, alleging every element present, and is, therefore, valid. T.C.A. § 40-13-202; see also State v. Hill, 954 S.W.2d 725 (Tenn. 1997).

The trial court properly ruled that the petitioner is not entitled to habeas

corpus relief in this case. See Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993).

Accordingly, it is hereby ORDERED that the state's motion is granted and the judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals. Costs of this appeal shall be taxed to the state.

JOE G. RILEY, JUDGE

DAVID G. HAYES, JUDGE

JOHN EVERETT WILLIAMS, JUDGE