



# ORDER

The Petitioner, Kenneth Romines, a/k/a Raymond Romines, appeals as of right from the dismissal of his petition for post-conviction relief by the Knox County Criminal Court. We affirm pursuant to Tennessee Court of Criminal Appeals Rule 20.

The record reflects that Petitioner pled guilty to eight (8) of eleven (11) aggravated robbery charges after being convicted following a jury trial on three (3) additional counts of aggravated robbery. The guilty pleas came prior to sentencing on the three convictions which resulted from the jury trial, and Petitioner received, in a negotiated plea agreement, forty-two (42) years of total confinement on all eleven (11) convictions.

At the post-conviction hearing, Petitioner was the only witness to testify. He asserted that his trial counsel rendered ineffective assistance of counsel in that he did not obtain a satisfactory negotiated plea agreement, allowed Petitioner to go to trial on a faulty indictment, and failed to file certain pretrial motions. Petitioner could not identify the motions that he wanted his trial counsel to file. Other than Petitioner's assertions, there is no proof that any indictments were deficient. Regarding the trial attorney's performance on negotiating a plea agreement, Petitioner testified that he told his counsel to advise the State that he would accept a plea agreement of thirty-two years for all eleven convictions. He stated that the next day his attorney told him that the State had withdrawn the offer and changed it to forty years. Petitioner testified that he rejected the most recent offer, and initially testified that his lawyer did not give him a reason why the State had withdrawn the thirty-two year offer. He later testified that his attorney advised him that the offer of thirty-two years confinement had been withdrawn because his attorney had requested a continuance of the trial.

The transcript of the pretrial proceedings reflects that Petitioner's trial counsel was arguing a motion for continuance because he had not had adequate time to discuss the offer of thirty-two years with his client. The State withdrew the negotiated plea offer of thirty-two years during the hearing on the motion for a continuance.

In its order dismissing the petition, the trial court found that the Petitioner had not met his burden of proving the allegations of fact by clear and convincing evidence. See Tenn. Code Ann. § 40-30-210(f) (1997).

We have reviewed the record de novo as it pertains to the allegations made by Petitioner during the evidentiary hearing. The evidence does not preponderate against the finding of the trial judge. There is no error of law requiring a reversal of the judgment apparent on the record. As this case was a proceeding in the trial court without a jury, and the judgment is not a determination of guilt, the judgment is accordingly affirmed in accordance with Rule 20 of the Court of Criminal Appeals of Tennessee.

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THOMAS T. WOODALL, Judge

CONCUR:

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JOSEPH M. TIPTON, Judge

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JERRY L. SMITH, Judge