

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JULY 1999 SESSION

FILED

December 7, 1999

**Cecil Crowson, Jr.
Appellate Court Clerk**

ESTIL GREEN, * CCA.
No.M1999 01434 CCA R3 PC
Appellant, *
WAYNE COUNTY
v. * Hon.
Stella Hargrove, Judge
KEVIN MYERS, Warden, *
(Petition for Writ of Habeas Corpus)
Appellee. *

For Appellant:

Estil Green
South Central Correctional Center
P.O. Box 279
Clifton, TN 38425-5346

For Appellee:

Paul G. Summers
Attorney General and Reporter
425 Fifth Avenue North
Nashville, TN 37243-0493

Marvin E. Clements, Jr.
Assistant Attorney General
Criminal Justice Division
425 Fifth Avenue North
Nashville, TN 37243-0493

OPINION FILED: _____

AFFIRMED - RULE 20

NORMA MCGEE OGLE, JUDGE

OPINION

The petitioner, Estil Green, appeals the summary dismissal of his petition for a writ of habeas corpus by the Wayne County Circuit Court on December 9, 1998, without the appointment of counsel or an evidentiary hearing. Following a thorough review of the record, we conclude that this is an appropriate case for affirmance pursuant to Ct. of Crim. App. Rule 20.

The petitioner filed a petition for a writ of habeas corpus on October 24, 1998. According to his petition, the petitioner was convicted in the Rutherford County Circuit Court on February 15, 1980, of two counts of armed robbery and two counts of kidnapping. Pursuant to his convictions, the convicting court imposed an effective sentence of thirty years incarceration in the Tennessee Department of Correction. In his petition and on appeal, the petitioner essentially contends that the Tennessee Department of Correction has miscalculated the number of sentence reduction credits to which he is entitled and that, but for the Department's miscalculation, his sentences have expired.

Initially, the State correctly notes that the petitioner has failed to attach to his petition the underlying judgments of conviction as required by Tenn. Code Ann. § 29-21-107(b)(2)(1980), an omission warranting the summary dismissal of his petition. See, e.g., State ex rel. Wood v. Johnson, 393 S.W.2d 135, 136 (Tenn. 1965). Moreover, the Habeas Corpus Act requires a court to review a petition and dismiss it unless it alleges a cognizable ground for relief. Tenn. Code Ann. §§ 29-21-101 to -109 (1980). In other words, a petition for a writ of habeas corpus may be summarily dismissed by the trial court without appointment of counsel, without an evidentiary hearing, and without the opportunity to amend the petition, if the face of the petition does not present a cognizable claim. Mitchell v. Carlton, No. 03C01-9704-CR-00125, 1998 WL 8505, at *2 (Tenn. Crim. App. at Knoxville, January 12, 1998). See also State ex rel. Byrd v. Bomar, 381 S.W.2d 280, 283 (Tenn. 1964). This court has previously held that "complaints regarding sentence credit miscalculations that relate to release eligibility short of full service of [a] sentence" do not constitute cognizable claims in these habeas corpus proceedings. Hancock

v. State, No. 01C01-9710-CR-00489, 1998 WL 453682, at *1 (Tenn. Crim. App. at Nashville, July 30, 1998), perm. to appeal denied, (Tenn. 1999). See also Brown v. Bell, No. 01C01-9508-CC-00281, 1996 WL 724781, at *2 (Tenn. Crim. App. at Nashville, December 13, 1996)(“[w]hile courts may consider whether sentence credits not in dispute caused the sentence to expire, they should not consider the validity of disputed credits”). The Uniform Administrative Procedures Act is the proper vehicle for challenging a denial of sentence reduction credits. Carroll v. Raney, 868 S.W.2d 721, 723 (Tenn. Crim. App. 1993); Tenn. Code. Ann. § 4-5-101 to 325 (1998 and 1999 Supp.).

For the foregoing reasons, we affirm the judgment of the trial court pursuant to Ct. of Crim. App. Rule 20.

Norma McGee Ogle, Judge

CONCUR:

Jerry L. Smith, Judge

Thomas T. Woodall, Judge