

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
October 21, 2014 Session

**RICHARD LOWELL BLANCHARD, II v. DAVID OSBORNE, WARDEN
AND STATE OF TENNESSEE**

**Appeal from the Criminal Court for Morgan County
No. 2010-CR-101 E. Eugene Eblen, Judge**

No. E2014-00859-CCA-R3-HC - Filed November 20, 2014

The Petitioner, Richard Lowell Blanchard, II, filed a petition for writ of habeas corpus, seeking relief from nine misdemeanor convictions spread across four separate indictments for which he received four consecutive sentences of 11 months 29 days. The habeas corpus court denied the petition, and the Petitioner appeals. Upon review, we affirm the judgment of the habeas corpus court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

ROBERT L. HOLLOWAY, JR., J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., and D. KELLY THOMAS, JR., JJ., joined.

Cashauna C. Lattimore, Knoxville, Tennessee, for the appellant, Richard Lowell Blanchard, II.

Robert E. Cooper, Jr., Attorney General and Reporter; John H. Bledsoe, Senior Counsel, Tennessee, for the appellees, State of Tennessee.

OPINION

In 2007, the Petitioner pleaded guilty to five misdemeanors and was sentenced to serve nine months “day-for-day” in the Bedford County Jail, followed by three years and three months supervised probation (the misdemeanor sentence). After being released from jail, the Petitioner was convicted of aggravated robbery and sentenced to serve eleven years in prison. The sentence was ordered to be served consecutively to the misdemeanor sentence. A detainer was placed with the Department of Corrections requiring him to serve the balance of the misdemeanor sentence upon his release from prison. In September 2010, the Petitioner

filed a Petition for Writ of Habeas Corpus Relief challenging the misdemeanor sentence. The trial court summarily dismissed the petition and this appeal was perfected.

Stipulation During Oral Argument

Counsel for the Petitioner announced at the beginning of oral argument that the Petitioner had been released from the Department of Corrections and that the challenged misdemeanor sentence has expired. The Petitioner and the State stipulated that the Petitioner was no longer restrained of his liberty as a result of the challenged sentence.

Analysis

Habeas corpus relief is only available to a “person imprisoned or restrained of liberty.” Tenn. Code Ann. § 29–21–101(a). A person is not restrained of liberty for purposes of the habeas corpus statute unless the challenged judgment itself imposes the restraint. Hickman v. State, 153 S.W.3d 16 (Tenn. 2004). The challenged misdemeanor judgments in this case do not impose a restraint on the Petitioner’s liberty.

CONCLUSION

For the reasons above, the judgment of the trial court is affirmed and the appeal is dismissed.

ROBERT L. HOLLOWAY, JR., JUDGE