

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON  
Assigned on Briefs June 2, 2015

**STATE OF TENNESSEE V. RODNEY JEFFRIES**

**Appeal from the Criminal Court for Shelby County  
No. 9607098     Chris Craft, Judge**

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**No. W2014-02464-CCA-R3-CD - Filed July 7, 2015**

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Rodney Jeffries, the Defendant, appeals the summary dismissal of his Tennessee Rule of Criminal Procedure 36.1 motion to correct what he believes to be an illegal sentence. Discerning no error, we affirm the summary dismissal of his motion.

**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 ROBERT W. WEDEMEYER, and D. KELLY THOMAS, JR., JJ., joined.

Rodney Jeffries, Only, Tennessee, pro se.

Herbert H. Slatery III, Attorney General and Reporter; Tracy L. Alcock, Assistant Attorney General; John W. Pierotti, District Attorney General; and Reginald Henderson, Assistant District Attorney General, for the Appellee, State of Tennessee.

**OPINION**

The Defendant filed a Motion for Correction of an Illegal Sentence pursuant to Tennessee Rule of Criminal Procedure 36.1, claiming he bargained for and plead to first degree murder with a sentence of “25 years with 40% release eligibility.” He claims the sentence was illegal. The trial court summarily denied the motion without appointing counsel. The trial court found the judgment “clearly shows a life sentence, which was the

sentence authorized by the statute at the time of the offense and the time of the plea.”<sup>1</sup> As the trial court stated in its order, “an illegal sentence is one that is not authorized by the applicable statute.”

Therefore, the trial court found the sentence the Defendant received was not illegal and the motion did not state a colorable claim. We agree.

### **Analysis**

Rule 36.1. Correction of Illegal Sentence, provides:

(a) Either the defendant or the state may, at any time, seek the correction of an illegal sentence by filing a motion to correct an illegal sentence in the trial court in which the judgment of conviction was entered. For purposes of this rule, an illegal sentence is one that is not authorized by the applicable statutes or that directly contravenes an applicable statute.

(b) Notice of any motion filed pursuant to this rule shall be promptly provided to the adverse party. If the motion states a colorable claim that the sentence is illegal, and if the defendant is indigent and is not already represented by counsel, the trial court shall appoint counsel to represent the defendant. The adverse party shall have thirty days within which to file a written response to the motion, after which the court shall hold a hearing on the motion, unless all parties waive the hearing.

(c) (1) If the court determines that the sentence is not an illegal sentence, the court shall file an order denying the motion.

(2) If the court determines that the sentence is an illegal sentence, the court shall then determine whether the illegal sentence was entered pursuant to a plea agreement. If not, the court shall enter an amended uniform judgment document, *see* Tenn. Sup. Ct. R. 17, setting forth the correct sentence.

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<sup>1</sup>The trial court’s order denying the Defendant’s Rule 36.1 motion references “the attached copy of the judgment.” No judgment is attached. The record does contain the judgment signed by the trial court on May 1, 1997. In the prior habeas corpus appeal, this court stated that there was “a mere clerical error [in the original judgment] which the [trial] court should remedy by entry of [a] corrected judgment[.]” See Rodney Jeffries v. State, No. W2009-02188-CCA-R3-HC, 2010 WL 4674307, at \*3 (Tenn. Crim. App. Nov. 17, 2010). Although, no corrected judgment has been entered by the trial court, the original judgment, even though it contains a clerical error that needs to be corrected, still imposes a legal sentence.

(3) If the illegal sentence was entered pursuant to a plea agreement, the court shall determine whether the illegal provision was a material component of the plea agreement. If so, the court shall give the defendant an opportunity to withdraw his or her plea. If the defendant chooses to withdraw his or her plea, the court shall file an order stating its finding that the illegal provision was a material component of the plea agreement, stating that the defendant withdraws his or her plea, and reinstating the original charge against the defendant. If the defendant does not withdraw his or her plea, the court shall enter an amended uniform judgment document setting forth the correct sentence.

(4) If the illegal sentence was entered pursuant to a plea agreement, and if the court finds that the illegal provision was not a material component of the plea agreement, then the court shall enter an amended uniform judgment document setting forth the correct sentence.

(d) Upon the filing of an amended uniform judgment document or order otherwise disposing of a motion filed pursuant to this rule, the defendant or the state may initiate an appeal as of right pursuant to Rule 3, Tennessee Rules of Appellate Procedure.

The term “colorable claim” is not defined in Rule 36.1. This court has adopted the definition of colorable claim from post-conviction cases: “A colorable claim is a claim . . . that, if taken as true, in light most favorable to [the Defendant], would entitle [the Defendant] to relief[.]” State v. Mark Edward Greene, No. M2013–02710–CCA–R3–CD, 2014 WL 3530960, at \*3 (Tenn. Crim. App. July 16, 2014).

This court previously affirmed the dismissal of the Defendant’s petition for post-conviction relief stating as follows:

The post-conviction court determined that the petitioner had been advised of the range of punishment at the submission hearing and that the resultant convictions could be used against him in the future. It determined that the petitioner had understood his right not to testify and that he relinquished that right when he entered his pleas of guilt. The post-conviction court found that the petitioner knew that his right to appeal extended only to his sentences and not the convictions; that if trial counsel had failed to inform the petitioner that he could appeal his sentences, the trial court had done so; and that the indictments were facially valid. The trial court also determined that the “heart” of the petitioner's complaint was his displeasure with the life sentence:

The question of credibility comes to play in whether or not Mr. Jeffries was advised that by cooperating, by pleading guilty to the judge, by testifying, that he would get a sentence less than life in prison. And, from an overall view of the transcript, very specifically Judge Craft points out that by pleading guilty to murder the only punishment available is life or life without parole in this case. That the possibility of consecutive sentencing still existed when he entered the plea. The range[s] of punishment[ ] were thoroughly explained to Mr. Jeffries.... And an extensive voir dire for a guilty plea, one of the most extensive ones I think I have ever seen. And, that there is no question that Mr. Jeffries was aware of and advised that by pleading guilty to the charge of murder, the question of sentencing was going to be left to the judge. And, the range of punishment for the murder charge was either life or life without parole.

The trial court then made several observations about the quality of the petitioner's trial counsel taking into account his reputation, his ability, and trial skills. It ruled that the guilty pleas were freely, voluntarily, and knowingly entered and based upon the effective assistance of counsel:

[It further appears to the court] after a full evidentiary hearing on defendant's petitions, testimony from defendant, Ronald Jeffries, his original Attorney, James V. Ball, and the evidence adduced at the hearing, consisting of the Plea Petition and Waiver, the Transcript of the Plea Proceedings, and the Sentencing hearing, that the Petitioner's petitions are not well taken and should be denied.

Rodney L. Jeffries v. State, No. 02C01-9807-CR-00214, 1999 WL 608704, at \*2 (Tenn. Crim. App. Aug. 12, 1999).

This court also affirmed the summary dismissal of the Defendant's "Petition for Writ of Habeas Corpus, or, in the Alternative; Petition to Re-Open Post-Conviction" in which the Defendant alleged that he was illegally restrained of his liberty "because the judgment for his plea of guilty to the first degree murder charge 'clearly' shows that his life sentence, which the trial court indicated that the petitioner serve at 30%, is a void sentence under Tennessee law." Rodney L. Jeffries v. State, No. W2009-02188-CCA-R3-H, 2010 WL 4674307, at \*1 (Tenn. Crim. App. Nov. 17, 2010). This court held that, even though the judgment incorrectly stated that the Defendant was sentenced to serve a life sentence with a 30% release eligibility, the trial court's failure to properly mark the judgment "did not deprive [the Defendant] of any expectation as to release eligibility

because none ever existed.”<sup>2</sup> Id. at \*3. Because there was no negotiated sentence and the trial court informed the Defendant that he was not eligible for parole based on his conviction for first degree murder, this court determined that the proper remedy was to amend the judgment to comply with the statute and denied habeas corpus relief. Id.

In the instant proceedings, the Defendant claims that he negotiated and pled to a “25-year sentence with 40% release eligibility”. The record does not show, nor does it need to show, what the negotiations between the State and the Defendant were. Even if it were true that the State agreed for the Defendant to plead guilty to first degree murder in exchange for a 25-year sentence with 40% release eligibility, that was not, as two previous opinions of this court have stated, the terms of the plea intelligently and voluntarily entered by the Defendant. The Defendant was sentenced to life after the trial court thoroughly explained the range of punishment and the length of his sentence. When the record clearly shows the sentence is legal, as it does in this case, the trial court can summarily dismiss the Rule 36.1 motion, without appointing counsel or conducting a hearing.

The trial court correctly determined that the Defendant’s Rule 36.1 motion did not state a colorable claim. The judgment of the trial court is affirmed.

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ROBERT L. HOLLOWAY, JR., JUDGE

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<sup>2</sup>The original judgment signed by the trial court on May 1, 1997, has a check mark before “TDOC” under “Sentenced to” and a check mark before “Life” under sentence length. In the box above where the two check marks above appear, is a check mark before “Standard 30% Range.” The check should have been before “1<sup>st</sup> Degree Murder.” This was the clerical error mentioned by this court the habeas corpus appeal.