

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON

**RONALD PAUL ALLEN, SR. v. STATE OF TENNESSEE**

**Direct Appeal from the Circuit Court for Benton County  
No. CR-991; CR-992 Julian P. Guinn, Judge**

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**No. W2005-01149-CCA-R3-PC - Filed March 7, 2006**

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The Petitioner, Ronald Paul Allen, Sr., appeals the lower court's denial of his petition for post-conviction relief. The State has filed a motion requesting that this Court affirm the trial court pursuant to Rule 20, Rules of the Court of Criminal Appeals. The petition for post-conviction relief is time-barred. Accordingly, we affirm the trial court's dismissal.

**Tenn. R. App. P. 3; Judgment of the Trial Court Affirmed Pursuant to Rule 20, Rules of the Court of Criminal Appeals**

ALAN E. GLENN, J., delivered the opinion of the court, in which DAVID G. HAYES AND J.C. McLIN, JJ. joined.

Ronald Paul Allen, Sr., pro se.

Paul G. Summers, Attorney General & Reporter; Jennifer L. Bledsoe, Assistant Attorney General, for the appellee, the State of Tennessee.

**MEMORANDUM OPINION**

On July 9, 2002, Petitioner Ronald Paul Allen, Sr., entered guilty pleas to one count of criminal attempt to commit rape of a child, a class B felony, and two counts of aggravated assault, class C felonies. For these offenses, the Petitioner received an effective sentence of twelve years confinement in the Department of Correction. No direct appeal of the sentence was taken.

On May 2, 2005, the Petitioner filed a petition for post-conviction relief in the Benton County Circuit Court. As grounds for relief, the Petitioner asserted, *inter alia*, that his guilty pleas were not voluntarily entered, his convictions were the result of an unlawful arrest, his convictions were based upon the use of evidence obtained pursuant to an unlawful search and seizure, his convictions were obtained in violation of his privilege against self-incrimination, the prosecution failed to disclose exculpatory evidence, trial counsel was ineffective, and newly discovered evidence. By order entered May 9, 2005, the trial court dismissed the petition as being time-barred. A timely notice of appeal document was filed on May 16, 2005.

The State has filed a motion requesting that this Court affirm the lower court's denial of post-conviction relief pursuant to Rule 20, Rules of the Tennessee Court of Criminal Appeals. As basis for its motion, the State asserts that the petition for post-conviction relief was filed outside the statute of limitations. The Petitioner has not filed a response to the State's motion.

Pursuant to Tennessee Code Annotated section 40-30-102(a) (2003 Repl.), a person in custody under a sentence of a court of this state must petition for post-conviction relief within one year of the date of the final action of the highest state appellate court to which an appeal is taken or, if no appeal is taken, within one year of the date on which the judgment becomes final. The statute emphasizes that "[t]ime is of the essence of the right to file a petition for post-conviction relief or motion to reopen established by this chapter, and the one-year limitations period is an element of the right to file such an action and is a condition upon its exercise." T.C.A. § 40-30-202(a). The Petitioner's guilty pleas were entered on July 9, 2002. No direct appeal was taken. Thus, the Petitioner had one year in which to pursue a post-conviction remedy. The present petition was not filed until May 2, 2005, well outside the applicable statute of limitations. While due process dictates that the statute of limitations not be so strictly applied as to deny a person the opportunity to have his claim heard and determined at a meaningful time and in a meaningful manner, *State v. McKnight*, 51 S.W.3d 559 (Tenn. 2001); *Seals v. State*, 23 S.W.3d 272 (Tenn. 2000); *Burford v. State*, 845 S.W.2d 204 (Tenn. 1992), the exceptions to the statute of limitations are explicitly limited, *i.e.*, (1) claims based upon a new rule of constitutional law applicable to a petitioner's case, (2) claims based upon new scientific evidence showing innocence, and (3) claims based upon enhanced sentences that were enhanced because of convictions subsequently found to be illegal. *See* T.C.A. § 40-30-102(b)(1)-(3). Petitioner has failed to assert one of these exceptions for tolling the statute. He cites no new constitutional rule, refers to no new scientific evidence, and makes no claim that an earlier conviction has been overturned. *See* T.C.A. § 40-30-106(g) (2003 Repl). Thus, no grounds exist as an exception to the statute of limitations.

For the reasons stated herein, we conclude that the trial court did not err in summarily dismissing the petition for post-conviction relief as time-barred. Accordingly, it is ordered that the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

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ALAN E. GLENN, JUDGE