

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

MARCH 1996 SESSION

**FILED**  
June 10, 1996  
Cecil Crowson, Jr.  
Appellate Court Clerk

**STATE OF TENNESSEE**

Appellee,

V.

**CARLOS D. CRUTCHER**

Appellant,

) C.C.A. No. 03C01-9508-CR-00248

)

) Hamilton County

)

) Hon. Douglas A. Meyer, Judge

)

) (Post-Conviction)

FOR THE APPELLANT:

J. Estes Cocke  
Attorney At Law  
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FOR THE APPELLEE:

Charles W. Burson  
Attorney General and  
Michael J. Fahey, II  
Assistant Attorney General  
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Assistant District Attorney  
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Chattanooga, Tn. 37402

OPINION FILED: \_\_\_\_\_

**AFFIRMED PURSUANT TO RULE 20**

**CHARLES LEE,**  
Special Judge

## OPINION

Appellant, Carlos D. Crutcher, appeals as of right from the trial court's dismissal of his petition for post-conviction relief. The appellant had originally been charged with First Degree Murder. On March 14, 1991, appellant pled guilty to Murder in the Second Degree and received a sentence of 50 years as a Range III offender.

Two issues are presented for review. Appellant contends that trial counsel was ineffective in her failure to fully investigate his case and but for her ineffectiveness he would not have plead guilty. Further he complains that his plea was not voluntarily made. In reality, after arriving at the penitentiary, appellant was apparently informed by advisors purporting to be more knowledgeable in the law than trial counsel that appellant could have gotten a better deal than his plea. Only two witnesses testified in the evidentiary hearing in this matter, the original trial counsel who denied the allegations and the appellant who candidly admitted that he was guilty, did not now desire a trial, but wished to renegotiate his sentence.

The evidence contained in the record does not preponderate against the trial judge's finding that appellant entered his guilty plea knowingly, intelligently and voluntarily and that, even if appellant's allegations of ineffective assistance were true, there was no reasonable probability that, but for counsel's errors, appellant would have plead not guilty and insisted on going to trial. Hill v. Lockhart, 474 U.S. 52, 59, 88 L. Ed. 2d 203, 106 S. Ct. 366 (1985); Bankston v. State, 815 S.W.2d 213, 215 (Tenn. Crim. App. 1991). Thomas v. Foltz, 818 F.2d 476, 480 (6th Cir.), cert. denied, 484 U.S. 870, 98 L. Ed. 2d 149, 108 S. Ct. 198 (1987).

Based upon a thorough reading of the record, the briefs of the parties, and the law governing the issue presented for review, the judgment of the trial court is affirmed pursuant to Rule 20, Rules of the Court of Criminal Appeals of Tennessee.

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Charles Lee, Special Judge

CONCUR:

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Paul G. Summers, Judge

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Joseph M. Tipton, Judge