

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

RICKEY LEWIS HILLIARD,

Petitioner,

V.

STATE OF TENNESSEE,

Respondent.

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C.C.A. NO. 02C01-9511-CC-00348

HENRY COUNTY

NO. 12250

FILED

April 17, 1996

Cecil Crowson, Jr.
Appellate Court Clerk

ORDER

This matter is before the Court upon the state's motion, pursuant to Rule 20 of the Rules of the Court of Criminal Appeals, to affirm the judgment of the trial court by order rather than by opinion. This case represents an appeal from the trial court's denial of the petitioner's petition for writ of habeas corpus. The record in this matter was filed with the Court on November 22, 1995, and the petitioner filed his brief on January 19, 1996.

On February 17, 1995, the petitioner filed a petition for writ of habeas corpus in the Circuit Court for Henry County. It appears from the record that the petition alleges that the sentence imposed is contrary to the plea agreement the petitioner entered into with the District Attorney General, thus in effect challenging the voluntariness of the guilty plea which led to his present confinement. At the time of the filing, however, the petitioner was incarcerated in the Northwest Correctional Center in Tiptonville, Lake County. On March 7, 1995, the trial court denied the petition, stating:

it was not made to the Court or Judge most convenient in point of distance nor any reason given for the failure to do so; and further, that the petitioner was sentenced by this Court on August 30, 1994, to a term of three (3) years and designated a Range I, Standard Offender, from all of which this Court is of the opinion that he is presently properly incarcerated.

Having reviewed the record in light of the petitioner's brief and the state's motion, and having found that the trial court appropriately denied the petition for writ of habeas corpus because it was filed in the wrong court, see T.C.A. § 29-21-105, it is hereby ORDERED that the state's motion is granted. Pursuant to Rule 20 of the Rules of the Court of Criminal Appeals, we affirm the trial court's judgment.

dismissal of the petitioner's petition for writ of habeas corpus. By our affirmance, however, we address any of the merits raised by the petitioner in his petition for writ of habeas corpus. Cost appeal shall be assessed against the petitioner.

ENTER, this the ____ day of March, 1996.

PAUL G. SUMMERS, JUDGE

JOE B. JONES, PRESIDING JUDGE

DAVID G. HAYES, JUDGE