

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED
C.C.A. NO. 01C01-9704-CR-00137
November 14, 1997
DAVIDSON COUNTY
Cecil W. Crowson
Appellate Court Clerk

GARY S. MAYES,

Appellant,

VS.

STATE OF TENNESSEE,

Appellee.

)
) C.C.A. NO. 01C01-9704-CR-00137
)
) DAVIDSON COUNTY
) (No. 2528 Below)
)
) The Hon. Cheryl Blackburn
)
) (Dismissal of Habeas Corpus Petition)

ORDER

This matter is before the Court upon the state's motion to affirm the judgment of the trial court pursuant to Rule 20, Rules of the Court of Criminal Appeals. The petitioner is appealing the trial court's denial of his petition for writ of habeas corpus. In April of 1993, the petitioner was indicted on one count of aggravated sexual battery, and subsequently pled guilty to the same. In the present appeal, the petitioner contends the judgment entered against him is void because the indictment failed to allege the mens rea of the offense charged.

Regardless of whether this type claim should be raised in a petition for writ of habeas corpus, on the merits, the petitioner is not entitled to relief based on our Supreme Court's recent opinion in State v. Roger Dale Hill, Sr., No. 01S01-9701-CC-00005 (Tenn. Nov. 3, 1997).

IT IS, THEREFORE, ORDERED that the judgment of the trial court is affirmed pursuant to Rule 20, Tennessee Court of Criminal Appeals Rules. The petitioner being indigent, costs are taxed to the state.

ENTER, this the ____ day of November, 1997.

THOMAS T. WOODALL, JUDGE

CONCUR:

DAVID H. WELLES, JUDGE

JERRY L. SMITH, JUDGE