

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

JULY SESSION, 1999

FILED
July 23, 1999
Cecil W. Crowson
Appellate Court Clerk

CHARLES SCRUGGS,)
)
Appellant,)
)
VS.)
)
STATE OF TENNESSEE,)
)
Appellee.)

C.C.A. NO. 01C01-9903-CC-0079

WILLIAMSON COUNTY

HON. CORNELIA A. CLARK
JUDGE

(Post-Conviction)

FOR THE APPELLANT:

CHARLES SCRUGGS
Pro Se
CCA, P. O. Box 279
Clifton, TN 38425

FOR THE APPELLEE:

PAUL G. SUMMERS
Attorney General & Reporter

CLINTON J. MORGAN
Counsel for the State
425 Fifth Avenue North
Nashville, TN 37243-0493

JOE D. BAUGH, JR.
District Attorney General

RON DAVIS
Assistant District Attorney
P. O. Box 937
Franklin, TN 37065-0937

ORDER FILED _____

AFFIRMED PURSUANT TO RULE 20

JERRY L. SMITH, JUDGE

ORDER

The appellant, Charles Scruggs, appeals the order of the Williamson County Circuit Court denying his “Motion to Correct an Illegal Judgment and Sentence.” The appellant is presently serving a life sentence for the homicide of Rosie Lee Hunter committed on January 10, 1982. He claims that he was illegally sentenced to a life sentence for second degree murder under the 1982 Sentencing Act. The trial court denied the appellant’s motion, finding that because he was convicted of first degree felony murder, not second degree murder, a sentence of life imprisonment is proper. We affirm pursuant to Rule 20 of the Tennessee Court of Criminal Appeals.

In 1982, the appellant and two co-defendants were indicted for one (1) count of premeditated first degree murder, one (1) count of first degree felony murder in the perpetration of a robbery, and one (1) count of robbery accomplished by the use of a deadly weapon. The jury found the appellant and his co-defendants guilty of felony murder as alleged in Count Two of the indictment. Their convictions were affirmed by this Court on appeal. State v. Charles Allen, Jr., Earl Haynes and Charles Scruggs, C.C.A. No. 83-225-III, Williamson County (Tenn. Crim. App. filed May 2, 1985).

Because the state did not seek the death penalty in this case, a sentence of life imprisonment was mandatory upon the jury’s verdict of guilt for first degree felony murder. See Tenn. Code Ann. §§ 39-2402(b) (Supp. 1981), 39-2-202(b) (1982). Therefore, the appellant’s sentence is not illegal, and the trial court properly denied the motion to correct the judgment and sentence.

IT IS, THEREFORE, ORDERED that the judgment of the trial court be affirmed pursuant to Tennessee Court of Criminal Appeals Rule 20. Costs of the

appeal will be paid by the State of Tennessee, as it appears that the appellant is indigent.

JERRY L. SMITH, JUDGE

CONCUR:

THOMAS T. WOODALL, JUDGE

NORMA MCGEE OGLE, JUDGE