

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
July 27, 2010 Session

MICHAEL WAYNE MAPLES v. STATE OF TENNESSEE

Appeal from the Circuit Court for Blount County
No. C15142 Jon Kerry Blackwood, Judge

No. E2009-02558-CCA-R3-PC - Filed October 13, 2010

JOSEPH M. TIPTON, P.J., concurring.

I concur in the results, but I respectfully disagree with the conclusion that trial counsel's decision not to have the Petitioner's mental condition evaluated, particularly as it related to sentencing, was a reasonable strategic decision in the prosecution of the Petitioner. Given the facts, I believe it was incumbent upon counsel to obtain an evaluation.

The Petitioner told his trial counsel that he needed an evaluation because he feared a nervous breakdown. Also, counsel was aware that the Petitioner had attempted suicide as a juvenile and was evaluated at a mental health facility. Counsel, though, did not obtain the mental health records. The various reasons he gave at the post-conviction hearing for not requesting an evaluation do not justify the failure. Absent the records and an evaluation, I cannot say that counsel's tactics were reasonable and based upon adequate preparation.

Unfortunately, there are no funds available to an indigent petitioner in this type of case to have an evaluation done to determine if the Petitioner was prejudiced. Under these circumstances, I must concur in the decision to affirm the result reached in the trial court.

JOSEPH M. TIPTON, PRESIDING JUDGE