

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE  
Assigned on Briefs July 26, 2023

FILED  
07/31/2023  
Clerk of the  
Appellate Courts

**STATE OF TENNESSEE v. JERMAINE R. CARPENTER**

**Appeal from the Criminal Court for Sullivan County  
No. S51080 James F. Goodwin, Jr., Judge**

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**No. E2022-01352-CCA-R3-CD**

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The Defendant, Jermaine R. Carpenter, appeals the trial court's summary dismissal of his second motion to correct an illegal sentence pursuant to Tennessee Rule of Criminal Procedure 36.1. Following our review, we affirm the judgment of the trial court pursuant to Rule 20 of the Rules of the Court of Criminal Appeals.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed**

KYLE A. HIXSON, J., delivered the opinion of the court, in which JOHN W. CAMPBELL, SR., and TOM GREENHOLTZ, JJ., joined.

Jermaine R. Carpenter, Whiteville, Tennessee, Pro Se.

Jonathan Skrmetti, Attorney General and Reporter; Ronald L. Coleman, Assistant Attorney General; and Barry P. Staubus, District Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

The Defendant received an effective twenty-five-year sentence after a Sullivan County jury convicted him of multiple drug-related offenses occurring in a drug-free zone. *See State v. Carpenter*, No. E2007-02498-CCA-R3-CD, 2009 WL 331330, at \*1 (Tenn. Crim. App. Feb. 11, 2009), *perm. app. denied* (Tenn. Aug. 17, 2009). His challenges to the sufficiency of the evidence and the sentences imposed were unsuccessful on direct appeal. *See id.* His subsequent challenges in post-conviction and habeas corpus proceedings were likewise unsuccessful. *See Carpenter v. Ford*, No. W2017-01383-CCA-R3-HC, 2018 WL 2727951 (Tenn. Crim. App. June 6, 2018) (affirming summary dismissal of habeas corpus petition), *no perm. app. filed*; *Carpenter v. State*, No. E2011-02294-CCA-R3-PC, 2012 WL 6738388 (Tenn. Crim. App. Dec. 28, 2012) (affirming denial of post-conviction relief), *perm. app. denied* (Tenn. Apr. 9, 2013).

In 2015, the Defendant filed his first motion pursuant to Tennessee Rule of Criminal Procedure 36.1 related to this case. *See State v. Carpenter*, No. E2016-00450-CCA-R3-CD, 2016 WL 5416350, at \*2 (Tenn. Crim. App. Sept. 28, 2016), *no perm. app. filed*. The trial court summarily dismissed the motion, finding that the Defendant's sentences "were specifically authorized by statute and that the [D]efendant had failed to state a cognizable ground for relief under Rule 36.1." *Id.* A panel of this court affirmed, holding that the Defendant's sentences were not illegal because they "were authorized by the Code at the time of the [D]efendant's convictions." *Id.* at \*3.

On August 9, 2022, the Defendant filed the instant motion pursuant to Rule 36.1. Without elaboration, the Defendant states in his motion, "[Defendant's] illegal sentence is one that is not authorized by the applicable statutes or that directly contravenes an applicable statute." The Defendant then asks the trial court to "review this matter for resentence[ing]" in light of a recent amendment to the drug-free zone statute. The trial court summarily dismissed the motion by written order, finding that the Defendant's allegations were insufficient to set forth a colorable claim for relief under Rule 36.1. The trial court noted that the Defendant had filed a separate motion to be resentenced in this case pursuant to the 2022 amendment to the drug-free zone statute, *see* Tennessee Code Annotated section 39-17-432(h) and 2022 Tennessee Public Acts, chapter 927, and that counsel had been appointed to represent the Defendant in that pending matter.

We affirm the trial court's summary dismissal of the Defendant's Rule 36.1 motion. The Defendant's conclusory statement that his sentences were illegal because they were not authorized by statute directly contravenes the prior holding of this court. *See Carpenter*, 2016 WL 5416350, at \*3. This prior holding is the law of the case, and we are obliged to follow it. *See State v. Jefferson*, 31 S.W.3d 558, 560-61 (Tenn. 2000). While we have no opinion on the merits of the Defendant's motion for resentencing referenced above, nothing in this decision prevents the Defendant from seeking relief in the trial court through that avenue.

When an opinion would have no precedential value, the Court of Criminal Appeals may affirm by memorandum opinion when the judgment is rendered or the action is taken in a proceeding without a jury and such judgment or action is not a determination of guilt, and the evidence does not preponderate against the finding of the trial judge. *See* Tenn. Ct. Crim. App. R. 20. We conclude that this case satisfies the criteria of Rule 20. We, therefore, affirm the judgment of the trial court in accordance with Rule 20 of the Rules of the Court of Criminal Appeals.

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KYLE A. HIXSON, JUDGE