

IN THE COURT OF APPEALS OF TENNESSEE
AT JACKSON

RONNIE BRADFIELD v. STATE OF TENNESSEE

**Appeal from the Criminal Court for Shelby County
No. P-18580 James C. Beasley, Jr., Judge**

No. W2014-01735-CCA-R3-PC - Filed May 18, 2015

The petitioner, Ronnie Bradfield, appeals the trial court's denial of his pro se motion to correct an illegal sentence pursuant to Rule 36.1 of the Tennessee Rules of Criminal Procedure. Following our review, we affirm the trial court's judgment 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
Pursuant to Rule 20 of the Rules of the Court of Criminal Appeals**

ALAN E. GLENN, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and ROGER A. PAGE, JJ., joined.

Ronnie Bradfield, Whiteville, Tennessee, pro se.

Herbert H. Slatery III, Attorney General and Reporter; Caitlin Smith, Assistant Attorney General; Amy P. Weirich, District Attorney General; and Alanda Dwyer, Assistant District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

In March 1993, the petitioner was convicted of three counts of attempted second degree murder. The trial court imposed concurrent sentences of nine years for each conviction. This court affirmed the petitioner's convictions on direct appeal. See State v. Ronnie Bradfield, No. 02C01-9306-CR-00112, 1995 WL 422787, at *1 (Tenn. Crim. App. July 19, 1995). The petitioner subsequently filed a petition for post-conviction relief. The trial court denied the petition, and this court upheld the trial court's judgment on appeal. See Ronnie Bradfield v. State, No. W1999-02344-CCA-R3-PC, 2001 WL 277950, at *1 (Tenn. Crim. App. Mar. 9, 2001).

In August 2008, the petitioner filed a petition for habeas corpus relief. One of the issues that the petitioner raised was that he was illegally sentenced to 9 years rather than

7.2 years as an especially mitigated offender for each of his three attempted second degree murder convictions. The habeas court denied relief, and this Court affirmed the denial on appeal pursuant to Rule 20 of the Court of Criminal Appeals. See Ronnie Bradfield v. Tony Parker, Warden, No. W2008-02231-CCA-R3-HC, 2009 WL 1634887, at *1 (Tenn. Crim. App. June 10, 2009).

On July 1, 2014, the petitioner filed a pro se “Motion to Reopen Post-Conviction Petition and Correct Illegal Sentence.” On August 4, the trial court entered an order denying the motion. The petitioner filed an application in this court pursuant to Tennessee Supreme Court Rule 28 requesting permission to appeal the trial court’s denial of his motion to reopen his post-conviction petition. On October 20, this court entered an order denying the petitioner’s application. On August 11, the petitioner also filed a notice of appeal pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure regarding the trial court’s denial of his motion to correct an illegal sentence.¹

The petitioner contends that his nine-year sentences are illegal and that as a result, he is entitled to relief pursuant to Rule 36.1 of the Tennessee Rules of Criminal Procedure. Rule 36.1 provides:

a) Either the defendant or the state may, at any time, seek the correction of an illegal sentence by filing a motion to correct an illegal sentence in the trial court in which the judgment of conviction was entered. For purposes of this rule, an illegal sentence is one that is not authorized by the applicable statutes or that directly contravenes an applicable statute.

(b) Notice of any motion filed pursuant to this rule shall be promptly provided to the adverse party. If the motion states a colorable claim that the sentence is illegal, and if the defendant is indigent and is not already represented by counsel, the trial court shall appoint counsel to represent the defendant. The adverse party shall have thirty days within which to file a written response to the motion, after which the court shall hold a hearing on the motion, unless all parties waive the hearing.

¹ The State filed a motion to dismiss the petitioner’s Rule 3 appeal arguing that the petitioner failed to comply with the requirements for seeking review of the denial of a motion to reopen post-conviction proceedings. The petitioner filed a response stating that he was seeking relief in this appeal from the denial of his motion to correct an illegal sentence pursuant to Rule 36.1 of the Tennessee Rules of Criminal Procedure. Because the petitioner is not seeking relief from the denial of his motion to reopen, the State’s motion to dismiss is denied.

(c)(1) If the court determines that the sentence is not an illegal sentence, the court shall file an order denying the motion.

(2) If the court determines that the sentence is an illegal sentence, the court shall then determine whether the illegal sentence was entered pursuant to a plea agreement. If not, the court shall enter an amended uniform judgment document, see Tenn. Sup. Ct. R. 17, setting forth the correct sentence.

....

(d) Upon the filing of an amended uniform judgment document or order otherwise disposing of a motion filed pursuant to this rule, the defendant or the state may initiate an appeal as of right pursuant to Rule 3, Tennessee Rules of Appellate Procedure.

Because Rule 36.1 does not define “colorable claim,” we have adopted the definition of a colorable claim used in the context of post-conviction proceedings from Tennessee Supreme Court Rule 28 § 2(H): “A colorable claim is a claim . . . that, if taken as true, in the light most favorable to petitioner, would entitle petitioner to relief. . . .” State v. David Morrow, No. W2014-00338-CCA-R3-CO, 2014 WL 3954071, at *2 (Tenn. Crim. App. Aug. 13, 2014); State v. Mark Edward Greene, No. M2013-02710-CCA-R3-CD, 2014 WL 3530960, at *3 (Tenn. Crim. App. July 16, 2014).

The petitioner first contends that his sentences are illegal because the trial court enhanced his sentences based on judicially-determined facts, which violates Apprendi v. New Jersey, 530 U.S. 466 (2000); Blakely v. Washington, 542 U.S. 296 (2004); and Cunningham v. California, 549 U.S. 270 (2007). The petitioner previously raised this claim in a petition for writ of habeas corpus. See Ronnie Bradfield, 2009 WL 1634887, at *2. In upholding the habeas court’s denial of relief, this court concluded that Apprendi and Blakely do not apply retroactively. Id. This court further concluded that a valid Blakely claim only renders a conviction voidable, no void, and, as a result, is not cognizable in habeas corpus proceedings. Id. This court also has held that a Blakely violation does not meet the definition of an “illegal sentence” in Rule 36.1. State v. Rafeal Antonio Bush, No. M2014-01193-CCA-R3-CD, 2014 WL 7204637, at *4 (Tenn. Crim. App. Dec. 18, 2014).

The petitioner also raises issues on appeal challenging the warrantless entry into his residence and his warrantless arrest, his competency to stand trial, and the prosecutor’s closing arguments. Any such violations, however, do not result in an

“illegal sentence” as defined in Rule 36.1. Accordingly, the Petitioner has failed to state a colorable claim for relief.

When an opinion would have no precedential value, the Court of Criminal Appeals may affirm the judgment or action of the trial court by memorandum opinion when the judgment is rendered or the action is taken in a proceeding without a jury, 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. Crim. App. R. 20. We conclude that this case satisfies the criteria of Rule 20. The judgment of the trial court, therefore, is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.

ALAN E. GLENN, JUDGE