

limited in its nature and its scope. Archer v. State, 851 S.W.2d 157, 161-162 (Tenn.1993); Passarella v. State, 891 S.W.2d 619, 626 (Tenn. Crim. App.1994). In Tennessee, habeas corpus relief is available only if "'it appears upon the face of the judgment or the record of the proceedings upon which the judgment is rendered,' that a convicting court was without jurisdiction or authority to sentence a defendant, or that a defendant's sentence of imprisonment or other restraint has expired." Archer v. State, 851 S.W.2d 157, 164 (Tenn.1993) (citation omitted in original). The appellant has the burden of establishing either a void judgment or an illegal confinement by a preponderance of the evidence. Passarella, 891 S.W.2d at 627. If he successfully carries his burden, the appellant is entitled to immediate release. Id.

As held by the chancery court, the appellant has failed to prove that he is entitled to habeas corpus relief. Instead, the appellant's complaints should have been raised in a petitioner for post-conviction relief pursuant to T.C.A. §§ 40-30-101 to -124 (repealed 1995). Under T.C.A. § 40-30-108 (repealed 1995), trial courts were to treat habeas petitions as post-conviction petitions "when the relief and procedure authorized by [the Post-Conviction Procedure Act] appear adequate and appropriate." Nonetheless, a petition for post-conviction relief must be filed with the clerk of the court where the conviction occurred. T.C.A. § 40-30-103 (repealed 1995). It appears that in this case, the proper court would have been the Criminal Court for Shelby County.

Based on our review of the appellant's pleadings, the state's motion, and the record in this case, we conclude that this is an appropriate case for affirmance under Rule 20.

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

ENTER, this the ____ day of March, 1997.

THOMAS T. WOODALL, JUDGE

CONCUR:

DAVID H. WELLES, JUDGE

JERRY L. SMITH, JUDGE