

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

MARCH 1997 SESSION

FILED
April 29, 1997
Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,

Appellee,

VS.

BILLY RAY MOORE,

Appellant.

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C.C.A. NO. 03C01-9604-CC-00163

CARTER COUNTY

HON. ARDEN L. HILL,
JUDGE

(Certified question)

FOR THE APPELLANT:

FOR THE APPELLEE:

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OPINION FILED: _____

AFFIRMED

JOHN H. PEAY,
Judge

OPINION

The defendant pled guilty to felony escape and was sentenced to two years, consecutive to his current sentence. The parties stipulated that the defendant had been “punitively segregated’ or placed in ‘The Hole,’ as part of the remedial action taken by the Tennessee Department of Corrections based on the Defendant’s escape” and reserved the following certified question of law:

Whether the Double Jeopardy provisions of the Tennessee and United States’ Constitutions prohibit the State from prosecuting the Defendant in State Court after he has been ‘punitively segregated’ from other inmates as part of the remedial action taken by the Tennessee Department of Corrections for the act of escaping.

The short and dispositive answer to this question is no. Ray v. State, 577 S.W.2d 681, 682 (Tenn. Crim. App. 1978) (“administrative disciplinary action by prison authorities does not preclude prosecution for escape on principles of double jeopardy”). See also United States v. Galan, 82 F.3d 639, 640 (5th Cir. 1996) (federal double jeopardy principles did not protect defendant from prosecution for conspiracy to escape after he had been “punished” in prison by being held in segregation, transferred to a higher level security facility, and losing good-time credit).

Accordingly, the judgment below is affirmed.

JOHN H. PEAY, Judge

CONCUR:

PAUL G. SUMMERS, Judge

CORNELIA A. CLARK, Judge