

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

FILED

12/11/2025

Clerk of the  
Appellate Courts

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

**Criminal Court for Sullivan County  
No. S51080**

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**No. E2025-00281-CCA-R3-CD**

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**ORDER**

Before the court is the State's motion to affirm the judgment of the trial court by memorandum opinion. *See* Tenn. Ct. Crim. App. R. 20. The State argues that the trial court properly denied the Appellant's motion for plain error review of his sentence, filed pursuant to Tennessee Rule of Appellate Procedure 36, because no such pleading is contemplated by the rules of criminal procedure. The pro se Appellant has filed a response in opposition to the State's motion.

Rule 20 of the Rules of Tennessee Court of Criminal Appeals provides that this court "when an opinion would have no precedential value, may *affirm* the judgment or action of the trial court by memorandum opinion" under certain circumstances. Tenn. Ct. Crim. App. R. 20 (emphasis added). These circumstances include when

(1)(a) The judgment is rendered or the action is taken in a proceeding before the trial judge 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; or

(b) The judgment rendered or action taken relates to a finding of guilt before the trial judge without a jury, or with a jury, and the evidence is sufficient to support the finding by the trier of fact of guilt beyond a reasonable doubt; and

(2) No error of law requiring a reversal of the judgment or action is apparent on the record.

Tenn. Ct. Crim. App. R. 20.

“A defendant in a criminal case does not have an appeal as of right in every instance.” *State v. Bobo*, 672 S.W.3d 299, 301 (Tenn. Crim. App. 2023). Tennessee Rule of Appellate Procedure 3(b) provides when a defendant in a criminal case may appeal as of right from the trial court’s judgment. Tenn. R. App. P. 3(b). Rule 3(b) does not provide for an appeal as of right from the trial court’s adjudication of a motion for plain error review brought pursuant to Rule 36 of the appellate rules. Therefore, “the instant appeal is not properly before us and should be dismissed.” *Bobo*, 672 S.W.3d at 302.

That said, Rule 20 allows this court to *affirm* the judgment or order of the trial court under certain circumstances. The rule does not contemplate *dismissing* an appeal when no appeal as of right lies from the trial court’s judgment or order. Thus, employing Rule 20 is inapt in this case.

Accordingly, the State’s motion to affirm the trial court’s order denying Rule 36 plain error review is DENIED. An appeal as of right does not lie from the challenged order. Therefore, this appeal is DISMISSED. Because the Appellant has been determined to be indigent, the costs associated with this appeal are taxed to the State of Tennessee.

JUDGE KYLE A. HIXSON  
JUDGE TOM GREENHOLTZ  
JUDGE STEVEN W. SWORD