

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs December 9, 2015

**STATE OF TENNESSEE v. EARL JEROME LEE, JR.**

**Appeal from the Circuit Court for Madison County  
No. 87467, 87347 Donald H. Allen, Judge**

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**No. W2015-00968-CCA-R3-CD - Filed July 13, 2016**

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Defendant, Earl Jerome Lee, Jr., filed various *pro se* motions seeking relief from his convictions in case numbers 87-467 and 87-347 in the Madison County Circuit Court. One motion sought relief pursuant to Tennessee Rule of Criminal Procedure (Tenn. R. Crim. P.) 36.1 based upon the fact that he received illegal concurrent sentences upon his guilty pleas in 1988. One of the sentences was for forty years of imprisonment, so the sentences have not all expired. Defendant asserted that concurrent sentencing was illegal pursuant to Tenn. R. Crim. P. 32(c)(3)(C) because he was on bond for the felony offenses in case number 87-347 when he committed the offenses in case number 87-467, and he was convicted of all the felonies. Another motion was “for exculpatory evidence” and yet another was “for review extraordinary appeal.” Defendant’s notice of appeal in the present case was filed May 13, 2015, appealing the trial court’s judgments filed May 1, 2015, which denied the three motions. For the reasons stated below, we affirm the judgments of the trial court pursuant to Rule 20 of the Rules of the Court of Criminal Appeals of Tennessee.

**Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed  
Pursuant to Rule 20 of the Rules of the Court of Criminal Appeals of Tennessee**

THOMAS T. WOODALL, P.J., delivered the opinion of the Court, in which ALAN E. GLENN and ROBERT W. WEDEMEYER, JJ., joined.

Earl Jerome Lee, Jr., Henning, Tennessee, *pro se*.

Herbert H. Slatery III, Attorney General and Reporter; Clark B. Thornton, Senior Counsel; James G. (Jerry) Woodall, District Attorney General; and Al Earls, Assistant District Attorney General, for the appellee, State of Tennessee.

## MEMORANDUM OPINION

As noted in the style of this case, the Court of Criminal Appeals docket number is W2015-00968-CCA-R3-CD. Defendant had previously appealed the trial court's earlier order which denied a motion for relief pursuant to Tenn. R. Crim. P. 36.1 on the same grounds as presented in the motions pertinent to the instant appeal. That case was styled *State of Tennessee v. Earl Jerome Lee, Jr.*, No. W2015-00623-CCA-R3-CD. It pertained to the same convictions in Madison County Circuit Court which are the subject of the present appeal.

In the Court of Criminal Appeals case number W2015-00623-CCA-R3-CD, the trial court's judgment denying relief pursuant to Tenn. R. Crim. P. 36.1 became a final judgment because Defendant did not timely file a notice of appeal, and in an order filed on April 24, 2015, this Court denied Defendant's motion for this Court to late-file his notice of appeal. Our supreme court, in an order filed August 24, 2015, denied Defendant's petition for permission to appeal, and the mandate was issued August 25, 2015. Accordingly, there is a final judgment denying relief to Defendant pursuant to Tenn. R. Crim. P. 36.1 under his theory that his concurrent sentences are illegal on the basis that he was released on bond in case number 87-347 when he committed the offenses in case number 87-467.

Defendant has no appeal as of right of the denial of a "motion for exculpatory evidence" or "motion for review extraordinary appeal." As to denial of the motion for relief pursuant to Tenn. R. Crim. P. 36.1, Defendant does have a right to appeal, but he is not entitled to relief because relief on the same grounds was previously denied in a judgment that is now final.

In this case the judgment of the trial court was in a proceeding without a jury, the judgment was not a determination of guilt, and the evidence does not preponderate against the finding of the trial court. Furthermore, no error of law requiring a reversal of the trial court's judgment is apparent on the record.

Accordingly, the judgment of the trial court is affirmed pursuant to Rule 20 of the Rules of the Court of Criminal Appeals of Tennessee.

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THOMAS T. WOODALL, PRESIDING JUDGE