

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
July 19, 2006 Session

WILLIAM THOMPSON v. STATE OF TENNESSEE

**Appeal from the Criminal Court for Davidson County
No. 84-W-582 Cheryl Blackburn, Judge**

No. M2005-01947-CCA-R3-HC - Filed November 1, 2006

The petitioner, William Thompson, is serving a life sentence for his 1985 conviction of rebellion with intent to kill or escape. He appeals from the Davidson County Criminal Court's entry of an amended judgment which effectively modified his life sentence at forty percent release eligibility to a life sentence with no specified release eligibility, which took place after the petitioner successfully challenged the original sentence in a habeas corpus petition in the Bledsoe County Circuit Court. He claims that the Davidson County Criminal Court's resentencing was in error because the Bledsoe County Circuit Court's grant of habeas corpus relief rendered both his sentence and conviction void. We hold that the Davidson County Criminal Court did not err, and we affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court Affirmed

JOSEPH M. TIPTON, P.J., delivered the opinion of the court, in which ALAN E. GLENN, J., and J.S. DANIEL, SR. J., joined.

Cynthia M. Fort, Nashville, Tennessee, for the appellant, William Thompson.

Paul G. Summers, Attorney General and Reporter; C. Daniel Lins, Assistant Attorney General; Victor S. (Torry) Johnson, III, District Attorney General; and Bret Thomas Gunn, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

In July 1995, the Bledsoe County Circuit Court granted the petitioner's habeas corpus petition, in which he alleged he had been illegally sentenced. That court transferred the case to the Davidson County Criminal Court, which was the convicting court, "for sentencing in compliance with T.C.A. Section 40-35-501(f) (1982)." The Davidson County Criminal Court found that the proper sentence under prior law was "a life sentence with no specified percent release eligibility" and that the release eligibility for the defendant's life sentence was thirty

years under then-effective Tennessee Code Annotated section 40-35-501 (1982). The Davidson County Criminal Court entered an amended judgment which did not specify a release eligibility percentage. The petitioner filed an appeal from the Davidson County Criminal Court's order, and he alleges that his "sentence was void thus making it improper for the Davidson County court to resentence him pursuant to the Bledsoe County court order granting his writ of habeas corpus." He claims in his appeal that the Bledsoe County's habeas corpus order was erroneous because "the illegality of the original sentence imposed was so egregious that the sentence must be deemed void."

The shortcoming in the petitioner's argument is that he appealed from the Davidson County Criminal Court's entry of an amended judgment, not the Bledsoe County Circuit Court's order granting habeas corpus relief. A habeas corpus petitioner has an appeal as of right from a final judgment entered against him. T.C.A. § 29-21-127; Tenn. R. App. P. 3(b). The final judgment was the order of the Bledsoe County Circuit Court granting habeas corpus relief.

The petitioner does not challenge the correctness of the sentence imposed by the Davidson County Criminal Court. Rather, he claims that the Davidson County Criminal Court's resentencing did not cure the error of the Bledsoe County Circuit Court in declaring his sentence, but not his conviction, void. The petitioner may not assail the Bledsoe County court's order through the Davidson County case. In any event, based upon the record before us, the sentence imposed by the Davidson County court's amended judgment was not illegal. See T.C.A. §§ 39-5-712 (1982) (repealed) (imposing life sentence for offense of rebellion with intent to kill or escape); 40-35-501(d), (f) (Supp. 1984) (repealed) (imposing release eligibility after thirty years for life sentence for an especially aggravated offense).

In consideration of the foregoing and the record as a whole, the judgment is affirmed.

JOSEPH M. TIPTON, PRESIDING JUDGE