

IN THE CIRCUIT COURT OF LAUDERDALE COUNTY, TN

ROOSEVELT BIGBEE, JR

v.

JONATHAN LEBO, Warden
STATE OF TENNESSEE

FILED

MAR 16 2020 SR

RICHARD JENNINGS
CIRCUIT COURT CLERK

ORDER

The petitioner filed a for Habeas Corpus on February 19, 2020, alleging he is currently incarcerated in Lauderdale County with TDOC for a conviction from Montgomery County. He received a sentence of life plus 11 years.

His conviction was affirmed on appeal. State v. Bigbee, No 01-019106CC00173, 1992 WL 75849.

He has previously filed for habeas corpus, which he alleged in this petition that the "legality of the restraint has already been adjudged upon prior proceeding." His prior petition, alleging similar grounds was dismissed which was affirmed on appeal. *See, Bigbee v. Lindamood, No. M2016-00440-CCA-R3-HC.*

See also, Bigbee v. Lebo, 2019 Tenn. Crim. App. LEXIS 483, No. W2019-00051-CCA-R3-HC. The Petitioner was subsequently resentenced to life imprisonment, to be served consecutively to the life plus eleven year sentence he had received for the previous felony murder and robbery convictions in Montgomery County. The sentence was affirmed by this court on direct appeal, and our supreme court denied his application for permission to appeal. *State v. Roosevelt Bigbee, No. 01C01-9601-CR-00045, 1997 Tenn. Crim. App. LEXIS 32, 1997 WL 13738, at *1 (Tenn. Crim. App. Jan. 16, 1997), perm. app. denied (Tenn. Sept. 15, 1997).*

Habeas Corpus relief is available "only when '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." Hickman v. State, 153 S.W.3d 16 (Tenn. 2004). Archer v. State, 851 S.W.2d 157, 164 (Tenn. 1993).

Petitioner's sentences have not expired. The Criminal Court has jurisdiction or authority to sentence a defendant to the sentence he received. Habeas corpus relief is not appropriate.

The petitioner's sentences have not expired, and the courts had jurisdiction. The petition must be dismissed.

The petition is dismissed.

The petitioner attached an affidavit of indigency and costs are assessed against the State.

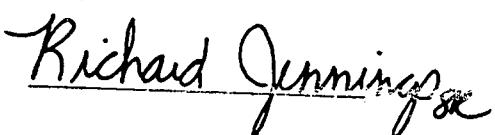
All of which is so ordered this March 16, 2020



Judge

To the clerk: Mail a copy of this order to Petitioner, Mr. Bigbee, the respondent warden, and the attorney general in Nashville.

CERTIFICATE: I certify that I have mailed a copy of this order as directed this 16th day of March 2020



Richard Jennings Jr.

62

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
Assigned on Briefs October 19, 2016

ROOSEVELT BIGBEE, JR. v. CHERRY LINDAMOOD, WARDEN

Appeal from the Circuit Court for Wayne County
No. 15783 Robert L. Jones, Judge

No. M2016-00440-CCA-R3-HC

FILED

NOV 29 2016

Clerk of the Courts

The Petitioner, Roosevelt Bigbee, Jr., appeals the dismissal of his habeas corpus petition in which he challenged the legality of his convictions for first degree murder and robbery and his sentences of life for the murder conviction and eleven years for the robbery conviction, to be served consecutively. After a thorough review of the record, we conclude that the petition was properly dismissed, and we affirm the judgment of the habeas corpus court.

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

JOHN EVERETT WILLIAMS, J., delivered the opinion of the court, in which THOMAS T. WOODALL, P.J., and NORMA McGEE OGLE, J., joined.

Roosevelt Bigbee, Jr., Henning, Tennessee, pro se.

Herbert H. Slatery III, Attorney General and Reporter; Brent C. Cherry, Senior Counsel; and Brent A. Cooper, District Attorney General, for the appellee, State of Tennessee.

OPINION

The Petitioner was convicted of first degree murder and robbery by the use of a deadly weapon. He was sentenced to life for the murder conviction and eleven years for the robbery conviction, to be served consecutively. On direct appeal, this court rejected the Petitioner's argument that the evidence was insufficient to support his convictions and upheld the judgment of the trial court. *See State v. Roosevelt Bigbee*, No. 01-C019106CC00173, 1992 WL 75849, at *1 (Tenn. Crim. App. Apr. 16, 1992).

charging him with felony murder during the perpetration of a robbery and robbery with a deadly weapon violated the constitutional protection against double jeopardy and, thus, the indictment was void on its face. The petition was summarily dismissed. On appeal, this Court affirmed the dismissal of the petition, holding that “[t]he Petitioner failed to establish a double jeopardy violation and, therefore, is not entitled to relief.” *Roosevelt Bigbee, Jr., v. Cherry Lindamood, Warden*, No. M2016-00440-CCA-R3-HC, 2016 WL 6956811, at *2 (Tenn. Crim. App. Nov. 29, 2016), *perm. app. denied* (Tenn. Feb. 15, 2017).

On February 19, 2020, the Petitioner filed a second petition for writ of habeas corpus in the Lauderdale County Circuit Court, which is the subject of this appeal. The Petitioner again alleged that his indictments were void because they violated the constitutional protection against double jeopardy. The petition was summarily dismissed on March 16, 2020. The Petitioner filed a timely notice of appeal.

In Tennessee, “[a]ny person imprisoned or restrained of his liberty, under any pretense whatsoever . . . may prosecute a writ of habeas corpus, to inquire into the cause of such imprisonment and restraint.” T.C.A. § 29-21-101. While there is no statute of limitations for filing a petition for a writ of habeas corpus, the grounds upon which relief may be granted are narrow. *Hickman v. State*, 153 S.W.3d 16, 20 (Tenn. 2004). Habeas corpus relief is only available when it appears on the face of the judgment or record of the proceedings that the convicting court was without jurisdiction or that the defendant is still imprisoned despite the expiration of his sentence. *Id.*; *Archer v. State*, 851 S.W.2d 157, 164 (Tenn. 1993). In other words, habeas corpus relief may be granted only when the judgment of conviction is void, rather than merely voidable. *Summers v. State*, 212 S.W.3d 251, 255 (Tenn. 2007). A void judgment is “one that is facially invalid because the court did not have the statutory authority to render such judgment.” *Id.* at 256 (citing *Dykes v. Compton*, 978 S.W.2d 528, 529 (Tenn. 1998)). A voidable judgment is “one that is facially valid and requires proof beyond the face of the record or judgment to establish its invalidity.” *Id.*

The petitioner bears the burden of showing by a preponderance of the evidence that the judgment is void. *Wyatt v. State*, 24 S.W.3d 319, 322 (Tenn. 2000). However, if the habeas corpus court determines that there is nothing on the face of the judgment to indicate that it is void, the court may summarily dismiss the petition without the appointment of counsel and without an evidentiary hearing. *Summers*, 212 S.W.3d at 261; T.C.A. § 29-21-109. Because the issue of whether habeas corpus relief should be granted is a question of law, we conduct a de novo review without any presumption of correctness given to the decision of the lower court. *Summers*, 212 S.W.3d at 255.

On appeal, the Petitioner argues that his indictments violate the constitutional protection against double jeopardy because the indictment for felony murder includes language from the robbery statute, which is a lesser-included offense of robbery with a

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present and say that on the date aforesaid, and in the State and County aforesaid, the said JOEL PATRICK HOOSIER, JOE T. BAKER and ROOSEVELT BIGBEE unlawfully and feloniously did kill and murder Vada E. Langston, a reasonable creature in being and under the peace of the State, in the perpetration of the crime of Robbery, that of feloniously, willfully and maliciously, that of taking property from the person of Vada E. Langston against her will by the use of physical force or violence, and by putting her in the fear by threats and intimidation, all this with the intent to permanently deprive said victim of the property, in violation of TCA 39-2-501 and against the peace and dignity of the State of Tennessee.

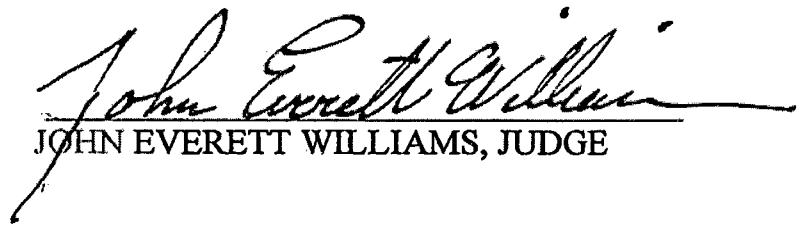
Although the indictment cited to the robbery statute in clarifying the underlying felony and did not cite to the felony murder statute, the language in the remainder of the count makes clear that the Petitioner was indicted for felony murder. We note that a citation to the statute is not necessary to establish the charged offense in the indictment. *Malone v. State*, 707 S.W.2d 541, 543 (Tenn. Crim. App. 1985). Here, when the charge is read in whole, it is clear that the Petitioner was charged with felony murder and that the predicate felony statute citation is simply included in the charge. Even if the citation was erroneous, its inclusion is “mere surplusage” when the charge is read in whole and is “not fatal to the charging instrument.” *State v. Bowers*, 673 S.W.2d 887, 888 (Tenn. Crim. App. 1984) (citations omitted). The Petitioner failed to establish a double jeopardy violation and, therefore, is not entitled to relief. *Id.* (“[U]nless an accused can show a substantial right was prejudiced by an alleged or actual variance a conviction will not be set aside thereon.”).

The Petitioner also argues that his sentence is expired because he is entitled to sentence reduction credits for “good-time” served thus far and that he should accordingly be released. The Petitioner was sentenced to life in prison for the felony murder conviction and eleven years for the robbery conviction to be served consecutively, and the TOMIS report he appended to his petition shows a release eligibility date of May 7, 2051. As an initial matter, the record indicates that the trial court awarded the Petitioner pretrial jail credit. The Petitioner claims that when his pretrial jail credits and his “good-time” jail credits are combined with his sixty percent release eligibility for felony murder committed prior to 1995, the release eligibility date has already been reached. *See* T.C.A. § 40-35-501(h)(1). We note that the Petitioner’s sentences were to be served consecutively, and that even if he had served his sentence for felony murder, his sentence for robbery would not have expired. In any event, we cannot consider the Petitioner’s claim of “good-time” credit, because this court has held that “claims for post-judgment jail credit are not cognizable habeas corpus claims.” *Yates v. Parker*, 371 S.W.3d 152,

156 (Tenn. Crim. App. 2012). Rather, “[t]he proper avenue to address post-judgment jail credit for prisoners is through the TDOC administratively.” *Id.* at 155. Accordingly, we hold that the Petitioner is not entitled to relief on the basis of post-judgment jail credit.

CONCLUSION

Based on the foregoing analysis, we affirm the judgment of the habeas corpus court.



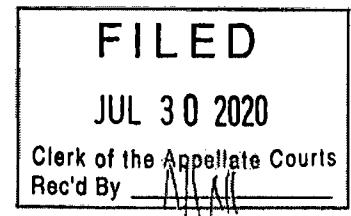
John Everett Williams
JOHN EVERETT WILLIAMS, JUDGE

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

ROOSEVELT BIGBEE, JR. v. JONATHAN LEBO, WARDEN

Appeal from the Circuit Court for Lauderdale County
No. 7138 Joe H. Walker III, Judge

No. W2020-00510-CCA-R3-HC



The Petitioner, Roosevelt Bigbee, Jr., appeals the denial of his petition for writ of habeas corpus. The State has filed a motion asking this Court to affirm pursuant to Court of Criminal Appeals Rule 20. Said motion is hereby granted.

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

CAMILLE R. McMULLEN, J., delivered the opinion of the court, in which JOHN EVERETT WILLIAMS, P.J., and J. ROSS DYER, J., joined.

Roosevelt Bigbee, Jr., Henning, Tennessee, pro se.

Herbert H. Slatery III, Attorney General and Reporter; Sophia Lee, Senior Assistant Attorney General, for the appellee, State of Tennessee.

OPINION

In 1990, the Petitioner was convicted by a Montgomery County jury of one count of first degree felony murder and one count of robbery with a deadly weapon. The Petitioner received consecutive sentences of life and eleven years, respectively.¹ The Petitioner's convictions were upheld on direct appeal. *State v. Roosevelt Bigbee*, No. 01C01-9106-CC-00173, 1992 WL 75849 (Tenn. Crim. App. Apr. 16, 1992).

In December 2015, the Petitioner filed his first petition for writ of habeas corpus in the Wayne County Circuit Court. The Petitioner alleged that the counts of the indictment

¹ The Petitioner was also convicted of felony murder in Sumner County and eventually received a life sentence to be served consecutively to the sentence in this case. See *Roosevelt Bigbee, Jr. v. Jonathan Lebo, Warden*, No. W2019-00051-CCA-R3-HC, 2019 WL 3814830, at *1 (Tenn. Crim. App. Aug. 14, 2019), perm. app. denied (Tenn. Dec. 10, 2019).

The Petitioner then filed a petition for the writ of habeas corpus, arguing that his convictions violate double jeopardy principles and that he is entitled to “good-time credits.” The trial court granted the State’s motion to dismiss without a hearing. The Petitioner now appeals.

ANALYSIS

The granting or denial of a petition for the writ of habeas corpus is a question of law reviewed *de novo* with no presumption of correctness. *Edwards v. State*, 269 S.W.3d 915, 919 (Tenn. 2008). The petitioner bears the burden of showing by a preponderance of the evidence that the sentence is void or his confinement is illegal. *Wyatt v. State*, 24 S.W.3d 319, 322 (Tenn. 2000).

Article I, section 15 of the Tennessee Constitution guarantees that “the privilege of the writ of Habeas Corpus shall not be suspended, unless when in case of rebellion or invasion, the General Assembly shall declare the public safety requires it.” Tenn. Const. art. I, § 15. The writ, guaranteed constitutionally, is regulated statutorily. *See T.C.A. §§ 29-21-101 et seq.* The grounds upon which the writ will be granted in Tennessee are very narrow. *Taylor v. State*, 995 S.W.2d 78, 83 (Tenn. 1999).

Habeas corpus relief is only available when “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) (quotations omitted). In other words, a habeas corpus petition will only be successful where the judgment challenged is void and not merely voidable. *Summers v. State*, 212 S.W.3d 251, 255 (Tenn. 2007). “A voidable judgment is one that is facially valid and requires proof beyond the face of the record or judgment to establish its invalidity,” whereas “[a] void judgment is one that is facially invalid because the court did not have the statutory authority to render such judgment.” *Id.* at 256 (citations omitted). In deciding whether a judgment is void, the question “is always one of jurisdiction, that is, whether the order, judgment or process under attack comes within the lawful authority of the court or judge rendering or issuing it.” *Edwards*, 269 S.W.3d at 920 (quoting *State ex rel. Anglin v. Mitchell*, 575 S.W.2d 284, 287 (Tenn. 1979) *overruled on other grounds by Archer*, 851 S.W.2d at 162-64).

The Petitioner argues that his judgment is void and, thus, unconstitutional under the Double Jeopardy Clause of the Fifth Amendment of the United States Constitution because the indictment for felony murder contains a citation to the robbery statute when indicating the underlying felony. The Petitioner was charged in the indictment for felony murder as follows:

deadly weapon as charged in the third count of the indictment. However, as stated in this Court's previous opinion, "Although the indictment cited to the robbery statute in clarifying the underlying felony and did not cite to the felony murder statute, the language in the remainder of the count makes clear that the Petitioner was indicted for felony murder." *Roosevelt Bigbee, Jr.*, 2016 WL 6956811, at *2. Thus, the two counts of the indictment charged the Petitioner with two separate and distinct offenses, namely the killing of the victim in Count 2 and the stealing of her property in Count 3. Our Supreme Court has held that double jeopardy principles permit convictions of both felony murder and the underlying felony. *See, e.g., State v. Blackburn*, 694 S.W.2d 934, 936-37 (Tenn. 1985) (opining "that the legislature intended that multiple punishments be imposed on conviction of a defendant for felony murder and for the underlying felony"). The judgments in this case do not violate the constitutional protection against double jeopardy and are not void. Therefore, the Petitioner is not entitled to habeas corpus relief.

When an opinion would have no precedential value, the Court of Criminal Appeals may affirm the judgment or action of the trial court by memorandum opinion when the judgment is rendered or the action taken in a proceeding 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. *See* Tenn. Ct. Crim. App. R. 20. We conclude that this case satisfies the criteria of Rule 20. Accordingly, it is ordered that the State's motion is granted. The judgment of the trial court is affirmed in accordance with Rule 20, Rules of the Court of Criminal Appeals.



CAMILLE R. MCMULLEN, JUDGE

**IN THE SUPREME COURT OF TENNESSEE
AT JACKSON**

ROOSEVELT BIGBEE, JR. v. JONATHAN LEBO, WARDEN

**Lauderdale County Circuit Court
7138**

No. W2020-00510-SC-R11-HC

Date Printed: 10/12/2020

Notice / Filed Date: 10/12/2020

NOTICE - Case Dispositional Decision - TRAP 11 Denied

The Appellate Court Clerk's Office has entered the above action.

James M. Hivner
Clerk of the Appellate Courts

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

FILED
10/12/2020
Clerk of the
Appellate Courts

ROOSEVELT BIGBEE, JR. v. JONATHAN LEBO, WARDEN

**Circuit Court for Lauderdale County
No. 7138**

No. W2020-00510-SC-R11-HC

ORDER

Upon consideration of the application for permission to appeal of Roosevelt Bigbee, Jr. and the record before us, the application is denied.

PER CURIAM

No. 26444

STATE OF TENNESSEE
Sealed as to Count 4 only
vs. { Indictment for

FIRST DEGREE MURDER (statutory)
TCA 39-2-202
FIRST DEGREE MURDER (felony)
TCA 39-2-501
ARMED ROBBERY 39-2-501
*PERJURY, TCA 39-5-601
*(as to Joe T. Baker only)

DEFENDANTS:
JOEL PATRICK HOOSIER,
JOE T. BAKER and
ROOSEVELT BIGBEE

WITNESSES:

Were sworn during open Court before the
Grand Jury to give evidence on the within
indictment, this the 6 day of

March, 1989

Kelly L. Ottens
Foreman of the Grand Jury.

J. Runyon
Prosecutor.

616 MARSHALL & BRUCE-NASHVILLE

A TRUE BILL	
<i>Kelly L. Ottens</i> Foreman of the Grand Jury.	
SUMMONS FOR THE STATE:	
J. Runyon, CPD	
By order of	
Attorney-General.	

No. _____

STATE OF TENNESSEE
vs. { Presentment for

WITNESS,
SUMMONS FOR THE STATE:

By order of

Attorney-General

Filed... day of 19

A TRUE BILL

Signed by

Foreman of the Grand Jury.

And

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____, Grand Jurors.
Term, 19 _____, Clerk.

TRUE BILL

IN THE CIRCUIT COURT, PART II, 19TH JUDICIAL DISTRICT

State of Tennessee

Montgomery

County.

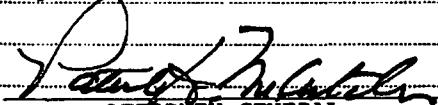
March

Term, A.D. 19 89

The Grand Jurors for the State of Tennessee, duly elected, impaneled, sworn, and charged to inquire in and for the body of the County of Montgomery, in the State aforesaid, upon their oath, present: That JOEL PATRICK HOOSIER, JOE T. BAKER and ROOSEVELT BIGBEE

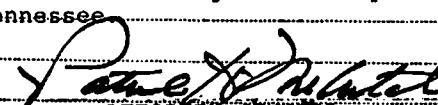
of said County, heretofore, to wit, on or about the 9th day of January, 19 89, and prior to the finding of this indictment

in the County of Montgomery aforesaid, then and there, unlawfully feloniously, willfully, deliberately, premeditatedly, and maliciously did make an assault upon the body of one Vada E. Langston, and then and there did unlawfully, feloniously, willfully, deliberately, premeditatedly, and of their malice aforethought kill and murder the said Vada E. Langston, in violation of TCA 39-2-202 and against the peace and dignity of the State of Tennessee.


ATTORNEY GENERAL

SECOND COUNT:

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present and say that on the date aforesaid, and in the State and County aforesaid, the said JOEL PATRICK HOOSIER, JOE T. BAKER and ROOSEVELT BIGBEE unlawfully and feloniously did kill and murder Vada E. Langston, a reasonable creature in being and under the peace of the State, in the perpetration of the crime of Robbery, that of feloniously, willfully and maliciously, that of taking property from the person of Vada E. Langston against her will by the use of physical force or violence, and by putting her in fear by threats and intimidation, all this with the intent to permanently deprive said victim of the property, in violation of TCA 39-2-501 and against the peace and dignity of the State of Tennessee.


ATTORNEY GENERAL

against the peace and dignity of the State of Tennessee.

Patrick H. McCutchen, Attorney General

STATE OF TENNESSEE
VERSUS
JOEL PATRICK HOOSIER,
JOE T. BAKER and
ROOSEVELT BIGBEE
PAGE TWO

THIRD COUNT:

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present and say that on the date aforesaid, and in the State and County aforesaid, the said JOEL PATRICK HOOSIER, JOE T. BAKER and ROOSEVELT BIGBEE unlawfully and feloniously, with force and arms, did make an assault upon the body of one Vada E. Langston, and the said Defendants did then and there unlawfully and feloniously put in fear and danger of his life, and then and there unlawfully, feloniously and violently did steal, take and carry away from the person and against the will of the said Vada E. Langston certain personal property, to-wit: U.S. Currency, of a value of under \$200.00, the property of the Beach's Market, said robbery being accomplished by the use of a deadly weapon, to-wit: pistol, in violation of TCA 39-2-501 and against the peace and dignity of the State of Tennessee.


ATTORNEY GENERAL

FOURTH COUNT:

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present and say that on the 25th day of January, 1989, and in the State and County aforesaid, the said JOE T. BAKER unlawfully, having taken a lawful oath upon the Holy Evangelists of Almighty God, to speak the truth, the whole truth and nothing but the truth, in a certain matter, to-wit: the preliminary hearing of the case of State of Tennessee vs. Joel P. Hoosier, Docket No. 907038, charging the said Joel P. Hoosier with First Degree Murder, and Docket No. 907039 charging the said Joel P. Hoosier with Armed Robbery, said offenses constituting felonies in which, by law, an oath is required, before the Honorable Carol A. Catalano, Judge of Division I of the General Sessions Court of Montgomery County, Tennessee, duly elected by the qualified voters thereof, the said General Sessions Court being then and there in session under the control and supervision of the said Honorable Carol Catalano, wherein and before whom it became and was material to inquire as to whether the said Joel P. Hoosier had given a suspected murder weapon to the said Defendant, Joe T. Baker, on January 9, 1989, and whether the said Joel P. Hoosier had told the said defendant, Joe T. Baker "The bitch was alive when I left" later on the day of said murder, the aforesaid oath having been administered by the aforesaid Honorable Carol Catalano, being authorized to administer the aforesaid oath in the aforesaid General Sessions Court, did then and there, unlawfully, willfully, corruptly and falsely swear that the said Joel P. Hoosier had told him "The bitch was alive when I left" later on the day of the murder which said swearing was material to the point under consideration by the said General Sessions Court aforesaid, and the said Joe T. Baker did then and there well know that said statement was false in point of fact when he deposed to it, thereby committing the crime of perjury, in violation of TCA 39-5-601 and against the peace and dignity of the State of Tennessee.


ATTORNEY GENERAL

IN THE CRIMINAL COURT OF MONTGOMERY COUNTY, TENNESSEE
19TH JUDICIAL DISTRICT, DIVISION IV

STATE OF TENNESSEE
VS. *11-90*
Roosevelt Bigbee
(DEFENDANT)
DATE OF BIRTH: 3-15-70
RACE B SEX M
SS# 415-25-1348

CASE # 26444 COUNT # 2
INDICTED CHARGE Robbery by Use of
a Deadly Weapon
AMENDED CHARGE (if any)
CONVICTED CHARGE Robbery by Use of
a Deadly Weapon
CLASS B FELONY/CLASS MISDEMEANOR

JUDGMENT

(Fill in all applicable blanks and check all applicable provisions.)

Comes the District Attorney General for the State and defendant with counsel of record,
Hugh Poland, for entry of judgment.

On the 24th day of August, 1990 the defendant, having:

entered a guilty plea,
 been found guilty by jury verdict,
 been found guilty by bench trial,

is convicted of the offense of Robbery by Use of a Deadly Weapon, committed on
January 22, 1989, which is a () Class B Felony,
() Class Misdemeanor.

After considering the evidence, the entire record, and all factors in TCA Title 40, Chapter 36, all of which are incorporated by reference herein, the Court's findings and rulings are:

1. The defendant is:

an especially mitigated offender with a ___% release eligibility date,
 a standard offender,
 a multiple offender,
 a persistent offender,
 a career offender.

The sentence shall be in Range 1.

2. The defendant shall pay a fine of \$ 0.

3. The sentence imposed is 11 years, ___ months, ___ days.

4. This sentence shall be served:

concurrently with sentences in the following cases and/or Counts:

consecutively to sentences in the following cases and/or Counts:
Count #1

5. Restitution is ordered as follows:

community service without compensation ___ days ___ hours.

6. The place of confinement is:

the local jail,
 the local workhouse,
 the Department of Correction, or,
 the sentence is a community based alternative to incarceration under TCA Title 40, Chapter 36, as provided in the attached supplemental order incorporated herein.

7. The defendant shall be:

continuously confined, (For a period of 11 years)
 continuously confined for a period of ___ followed by probation for a period of ___
 periodically confined as follows (specify total time and days or parts of days the defendant is to be confined):
followed by probation for a period of ___
 granted immediate probation for a period of ___

The conditions of probation are enumerated in the attached supplemental order incorporated herein.

8. The defendant, having been sentenced to confinement in the local jail or workhouse, shall be eligible for work release or other rehabilitative programs, but not parole after serving:

(Felony) ___0%, ___10%, ___20%, 30%, ___40%, ___50%(Misdemeanor) ___0%, ___10%, ___20%, ___30%, 40%, ___50%, ___60%, ___70%, ___75%

9. The release date of the defendant confined in the local jail or workhouse shall be after serving 30%.

10. The defendant is allowed jail credit of ___ days on this sentence for in-custody dates of 1-27-89 to present

11. The defendant:

is or (is not rendered infamous.

12. The costs of this cause shall be paid by the defendant.

13. The defendant's driver's license is revoked for a period of () months, or, for a period of (N/A) years.

12-6-90

DATE OF JUDGMENT AND SENTENCE
DISTRICT ATTORNEY APPROVAL: *SS*

Steve Garrett

Robert W. Wedemeyer
Robert W. Wedemeyer, Judge
Circuit Court, Part II
Montgomery County, Tennessee

PL

Filed

STATE OF TENNESSEE

9-10-90

CASE # 26444 COUNT # II
INDICTED CHARGE First Degree Murder (Felony)

VS.

CARRIE H. HEATH
CIRCUIT COURT CLERK

AMENDED CHARGE (if any)

Roosevelt Bigbee (DEFENDANT)

CONVICTED CHARGE First Degree Murder (Felony)

DATE OF BIRTH: March 15, 1970

RACE B

SEX M

SS# 415-25-1348

CLASS A FELONY/CLASS MISDEMEANOR

JUDGMENT

(Fill in all applicable blanks and check all applicable provisions.)

Comes the District Attorney General for the State and defendant with counsel of record,
Hugh Poland, for entry of Judgment.

On the 24th day of August, 1990, the defendant, having:

 entered a guilty plea. been found guilty by jury verdict. been found guilty by bench trial.Is convicted of the offense of First Degree Murder (Felony), committed on
January 9, 1989, which is a (A) Class X Felony.
() Class Misdemeanor.

After considering the evidence, the entire record, and all factors in TCA Title 40, Chapter 36, all of which are incorporated by reference herein, the Court's findings and rulings are:

1. The defendant is:

an especially mitigated offender with a * release eligibility date,
 a standard offender,
 a multiple offender,
 a persistent offender,
 a career offender.

The sentence shall be in Range I.

2. The defendant shall pay a fine of \$None.

3. The sentence imposed is ten years months, days Life Imprisonment.

4. This sentence shall be served:

 concurrently with sentences in the following cases and/or Counts: consecutively to sentences in the following cases and/or Counts:

5. Restitution is ordered as follows:

community service without compensation days hours.

6. The place of confinement is:

the local jail,
 the local workhouse,
 the Department of Correction, or
 the sentence is a community based alternative to incarceration under TCA Title 40,

Chapter 36, as provided in the attached supplemental order incorporated herein.

7. The defendant shall be:

continuously confined,
 continuously confined for a period of _____ followed by probation for a period of _____
 periodically confined as follows (specify total time and days or parts of days the defendant is to be confined):
 followed by probation for a period of _____
 granted immediate probation for a period of _____.

The conditions of probation are enumerated in the attached supplemental order incorporated herein.

8. The defendant, having been sentenced to confinement in the local jail or workhouse, shall be eligible for work release or other rehabilitative programs, but not parole after serving:

(Felony) 0%, 10%, 20%, 30%, 40%, 50%(Misdemeanor) 0%, 10%, 20%, 30%, 40%, 50%, 60%, 70%, 75%9. The release date of the defendant confined in the local jail or workhouse shall be after serving %.10. The defendant is allowed jail credit of 574 days on this sentence for in-custody dates of January 27, 1989 to present.

11. The defendant:

 is or is not rendered infamous.12. The costs of this cause shall be paid by the defendant.13. The defendant's driver's license is revoked for a period of () months, or, for a period of () years.

August 24, 1990

DATE OF JUDGMENT AND SENTENCE
DISTRICT ATTORNEY APPROVAL:

Robert W. Wedemeyer

CRIMINAL COURT, PART II
MONTGOMERY COUNTY, TENNESSEE

STATE OF TENNESSEE

VS: #26444 First Degree
Murder, Armed Robbery

ROOSEVELT BIGBEE

"TRIAL AND VERDICT"

Came again the Attorney General
who prosecutes for the State and
the defendant, Roosevelt Bigbee,

in person and by counsel, Hugh Poland, and again come the jury heretofore
elected, impaneled and sworn in this case, to-wit:

1. Carolyn Duncan	8. Dudley Rives
2. Kernetha L. Reese	9. Joe M. Baldwin
3. Joe Gullett	10. Martha S. Janice
4. Jim D. Crosby	11. Olivia E. Carr
5. Charles H. Swift	12. Truman I. Hester
6. Ronald M. Daniels	13. William S. Rudolph
7. Bobby Morrison	14. Patricia Shemwell

who again take their seats in the jury box, and upon being asked by the Judge
if they discussed the cause with anyone, watched any television accounts of the
cause, listened to any radio accounts of the cause, read any newspaper accounts
of the cause or any way were influenced in the trial of this cause, each juror
answered, No, and the hearing of the cause is resumed.

At the conclusion of all the proof,
the defendant renews his motion for a mistrial in this cause, which motion the
Court again denies and the defendant excepts to the action of the court in
again denying this motion.

At the conclusion of all the proof,
the defendant renews his motion for judgment of acquittal for the defendant,
which motion the court overrules and the defendant excepts to the action of the
court in again overruling this motion.

Whereupon, after introduction of the
proof, argument of counsel and the charge of the court, William S. Rudolph and
Patricia Shemwell, being alternate jurors are excused, the Jury retires to the
jury room to consider of their verdict, and after due consideration thereof,
they return into open court and on being asked if they have agreed, they say
upon their oaths that they find the defendant, Roosevelt Bigbee, Not Guilty
of count one same being First Degree Murder (Statutory), Guilty of count two
same being First Degree Murder (Felony) and Guilty of Count three same being
Armed Robbery.

Thereupon, the court, after acceptance of the verdict and sentence of the Jury, sentenced the defendant, Roosevelt Bigbee, to serve Life Imprisonment in the State Penitentiary for the offense of First Degree Murder (Felony) same being count two of the indictment.

Thereupon, the Court, after acceptance of the verdict of the Jury in count three of the indictment same being Armed Robbery, sets the sentencing hearing on October 2, 1990, at 1:30 p.m. the probation department is ordered to file a pre-sentence report to be furnished to the court, the attorney and the Attorney General at least five (5) days prior to the sentencing hearing.

This 24th day of August, 1990.

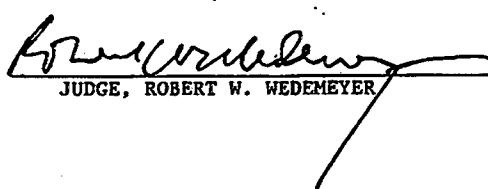

JUDGE, ROBERT W. WEDEMEYER

Exhibit "B"

MINISTER CRIMINAL COURT, SUMNER COUNTY, TUESSES, MINUTES, NOVEMBER 1995
IN THE CRIMINAL/CIRCUIT COURT OF SUMNER COUNTY, TENNESSEE

Appendix A-7

Case Number: 5798-B Court #: 1
Judicial District 18 Judicial Division

Attorney for the State Roy Whitley / Dea Gary
Counsel for Defendant Michael E. Jackson
Retained: Appointed: Public Defender

State of Tennessee

vs.
Defendant Roosevelt Bigbee
Date of Birth 3/13/70 Sex M Mar. B
From Indictment # Warrant #

Alias 715-25-1348
SSN
TDOC #

EDS

MW

JUDGMENT

Copies the District Attorney General for the State and the defendant with counsel of record for entry of judgment.
On the 15 day of November, 1995, the defendant:

plea guilty
 is found: guilty not guilty
 Jury verdict: not guilty by reason of insanity
 bench trial
 do not contend

Indictment: Class (circle one): (1st) A B C D E Felony Misdemeanor
Offense First Degree Murder (Felony)
Amended Charge
Offense date 12/28/88 County Sumner
Conviction offense First Degree Murder (Felony)
TCA #: 39-2-202 Sentence-imposed date 11/14/95
Conviction class (circle one): (1st) A B C D E Felony Misdemeanor

After considering the evidence, the entire record, and all factors in T.C.A. Title 40, Chapter 35, all of which are incorporated by reference hereof, the Court's findings and rulings are:

Sentence Reform Act of 1989
 Mitigated 20%
 Mitigated 30%
 Standard 30% Range 1
 Multiple 33% Range 2
 Persistent 45% Range 3
 Career 60% Multiple Rapist
 1st Degree Murder Child Rapist

Pre 1982 Sentence: _____
 1st Degree Murder
 Sentence Reform Act of 1982
 20% Range 1
 30% Range 1
 35% Range 2
 40% Range 2
 1st Degree Murder

Concurrent with: _____

Consecutive to: Montgomery County Case # 26444

Sentenced to: _____ Sentence Length: _____
 TDOC Years _____ Months _____ Days Life Death
 Regional Workhouse Years _____ Months _____ Days
 County Jail Years _____ Months _____ Days _____ Hours _____ Week-ends _____ Periodic: _____
____ min. ave. prior to program or work release _____ 96 min. ave. prior to release (Misdemeanor only)
 Workhouse Years _____ Months _____ Days _____ Hours _____ Week-ends _____ Periodic: _____
____ min. ave. prior to program or work release _____ 96 min. ave. prior to release (Misdemeanor only)
 Work Release Years _____ Months _____ Days _____ Hours _____ Week-ends _____
 Probation Years _____ Months _____ Days Effective: _____
 Community Based Alternative Years _____ Months _____ Days _____ Hours _____ Week-ends _____
Specify: _____

Prelim Jail Credit Period: from 9/16/89 to Present from 1/1/95 to 1/1/95 or Number of Days: _____

Court Ordered Fees and Fines:
\$ _____ Criminal Injuries
\$ _____ Compensation Fund
\$ _____ Supervision
\$ _____ Child Support
\$ _____ Court Costs
\$ _____ FINE ASSESSED

Restitution:
Victim's Name: _____
Address: _____
Total Amount \$ _____ \$ _____ per month
 Unpaid Community Service: _____ Hours, _____ Days, _____ Weeks, _____ Months

The Defendant having been found guilty is rendered infamis.

Special Conditions:

JANE WHEATCRAFT

Judge's Name

Judge's Signature

Date of Entry of Judgment

White copy - Criminal Court Clerk
Yellow Copy - TN Dept. of Corrections-MIS-SMS
Pink Copy - Sentencing Commission
Goldened - Jail

Attorney for State/Signature (optional)

Defendant's Attorney/Signature (optional)

CR-3419 (Rev. 10/92)

RDA- 1167

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