

XI. APPENDIX

1. **RonAllen Hardy v. State of Tennessee**, Rutherford County Circuit Court Case No. 82769 filed December 19, 2023 (*Denial of Motion to Reopen Petition for Post-Conviction Relief*);
2. **RonAllen Hardy v. State of Tennessee**, Tenn. Ct. of Crim. App. Case No. M2024-00109-CCA-R28-PC filed February 21, 2024 (*Order affirming the judgment of the trial court*);
3. **RonAllen Hardy v. State of Tennessee**, Tenn. Sup. Ct. Case No. M2024-00109-SC-R11-PC filed June 20, 2024 (*Order denying Application for Permission to Appeal per curiam*)

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
06/20/2024
Clerk of the
Appellate Courts

RONALLEN HARDY v. STATE OF TENNESSEE

Circuit Court for Rutherford County
No. F-58763-C, 82769

No. M2024-00109-SC-R11-PC

ORDER

Upon consideration of the application for permission to appeal of RonAllen Hardy and the record before us, the application is denied.

PER CURIAM

FILED
02/21/2024
Clerk of the
Appellate Courts

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

RONALLEN HARDY v. STATE OF TENNESSEE

Circuit Court for Rutherford County
Nos. F-58763-C, 82769

No. M2024-00109-CCA-R28-PC

ORDER

The Petitioner, RonAllen Hardy, has filed an application for permission to appeal the trial court's denial of his motion to reopen his petition for post-conviction relief. Tenn. Code Ann. § 40-30-117(c). The State now moves the Court for an extension of time to file its response. Although the Clerk initially filed the Petitioner's application inadvertently as a notice of appeal, this Court does not have the authority to extend the filing deadline for the State to respond. *Id.*; *see also* Tenn. Sup. Ct. R. 28, Sec. 10(B). Nevertheless, for the reasons states below, the Petitioner's application is hereby denied.

Tennessee Code Annotated Section 40-30-117 provides a motion to reopen a prior post-conviction petition may be filed in the trial court if certain limited circumstances warrant relief. "If the motion is denied, the petitioner shall have thirty (30) days to file an application in the court of criminal appeals seeking permission to appeal." Tenn. Code. Ann. § 40-30-117(c). The application must contain copies of all documents filed by both parties in the trial court, as well as the order denying the motion. *Id.* And although the Post-Conviction Procedure Act provides a means for reopening previously filed petitions, relief will only be granted in a motion to reopen if the claim presented is based upon a final ruling of an appellate court establishing a constitutional right not previously recognized at the time of trial and retrospective application is required, if the claim is based upon new scientific evidence establishing the appellant is actually innocent of the crime, or if the claim presented seeks relief from a sentence that was enhanced because of a previous conviction which has subsequently been invalidated. § 40-30-117(a). Furthermore, the facts underlying the claim, if true, must establish by clear and convincing evidence that a petitioner is entitled to have his or her conviction set aside or his or her sentence reduced. *Id.* This Court will grant an application for permission to appeal only if we conclude the trial court abused its discretion in denying the motion to reopen. § 40-30-117(c).

In 2007, the Petitioner was convicted of first degree murder, among other crimes, for which he received an effective sentence of life without the possibility of parole. This Court affirmed that conviction and sentence on appeal. *State v. Hardy*, No. M2008-00381-CCA-R3-CD, 2009 WL 2733821 (Tenn. Crim. App. Aug. 31, 2009), *no perm. app. filed*. The Petitioner was unsuccessful in his subsequent pursuit of post-conviction relief. *Hardy v. State*, No. M2011-00497-CCA-R3-PC, 2012 WL 76896 (Tenn. Crim. App. Jan. 9, 2012), *perm. app. denied* (Tenn. May 10, 2012). Thereafter, this Court affirmed the trial court's denial of the Petitioner's error coram nobis petition and his second post-conviction petition. *Hardy v. State*, No. M2019-02100-CCA-R3-ECN, 2020 WL 5080060 (Tenn. Crim. App. Aug. 28, 2020), *perm. app. denied* (Tenn. Dec. 2, 2020).

On November 17, 2023, the Petitioner filed a motion to reopen his post-conviction petition. In it, he alleged the supreme court's recent opinion in *State v. Booker* provided him relief from his sentence of life without the possibility of parole. 656 S.W.3d 49 (Tenn. 2022). Therein, the court held: "an automatic life sentence when imposed on a juvenile homicide offender with no consideration of the juvenile's age or other circumstances violates the prohibition against cruel and unusual punishment under the Eighth Amendment to the United States Constitution." *Id.* at 52. The court further stated: "Our limited ruling, applying only to juvenile homicide offenders, promotes the State's interest in finality and efficient use of resources, protects [the juvenile offender's] Eighth Amendment rights, and is based on sentencing policy enacted by the General Assembly." *Id.* at 53.

Having reviewed the *Booker* decision in light of the Petitioner's allegation, the trial court concluded it did not establish a new constitutional right available to him. The Petitioner had already achieved eighteen years in life when he committed the offense in this case. *See, e.g.*, Tenn. Code Ann. § 37-1-102(b)(3) (defining adult as "any person eighteen (18) years of age or older"). Thus, the holding in *Booker*, by its very terms, does not apply to the Petitioner's case. 656 S.W.3d at 66 ("This ruling applies only to juvenile homicide offenders - not to adult offenders."). The trial court, therefore, did not abuse its discretion in denying the motion to reopen. The Petitioner clearly did not allege a valid claim to reopen his post-conviction petition.

Accordingly, the application for permission to appeal is denied. Because it appears the Petitioner remains indigent, costs are taxed to the State. The Court notes, however, pursuant to statute, the State has the authority to recoup the costs associated with this appeal from the Petitioner's trust fund account at the conclusion of the appeal, if appropriate. Tenn. Code Ann. § 40-25-143.

Holloway, Easter, Ayers, JJ.

**IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE**

RONALLEN HARDY v. STATE OF TENNESSEE

**Rutherford County Circuit Court
F-58763-C, 82769**

No. M2024-00109-CCA-R28-PC

Date Printed: 02/21/2024

Notice / Filed Date: 02/21/2024

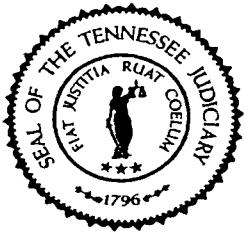
NOTICE - Case Dispositional Decision - Application to Reopen Denied/Dismissed

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

If an application for permission to appeal in the Tennessee Supreme Court is made pursuant to Rule 11 of the Tennessee Rules of Appellate Procedure, you must file an original and five copies of the application with the Appellate Court Clerk. ** You must attach a copy of the Opinion/Order of the Court of Criminal Appeals to each application. The application must be filed within 60 days after the Court's judgment was filed.

No extensions will be granted.

James M. Hivner
Clerk of the Appellate Courts



Court of Criminal Appeals – Middle Division
Appellate Court Clerk's Office - Nashville
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
(615) 741-2681

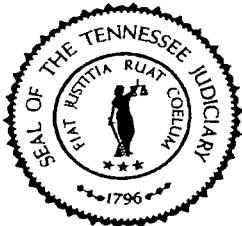
Ronallen Hardy #430328
Riverbend Maximum Security Institution
7475 Cockrill Ben Blvd.
Nashville TN 37209

Re: M2024-00109-CCA-R28-PC - RONALLEN HARDY v. STATE OF TENNESSEE

Notice: Case Dispositional Decision - Application to Reopen Denied/Dismissed

Attached to this cover letter, please find the referenced notice issued in the above case. If you have any questions, please feel free to call our office at the number provided.

cc: Ronallen Hardy
William C. Lundy
Judge James A. Turner



Supreme Court – Middle Division
Appellate Court Clerk's Office - Nashville
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
(615) 741-2681

Ronallen Hardy #430328
Riverbend Maximum Security Institution
7475 Cockrill Bend Blvd.
Nashville TN 37209

Re: M2024-00109-SC-R11-PC - RONALLEN HARDY v. STATE OF TENNESSEE

Notice: Case Dispositional Decision - TRAP 11 Denied

Attached to this cover letter, please find the referenced notice issued in the above case. If you have any questions, please feel free to call our office at the number provided.

cc: Ronallen Hardy
William C. Lundy
Judge James A. Turner

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

RONALLEN HARDY v. STATE OF TENNESSEE

Rutherford County Circuit Court
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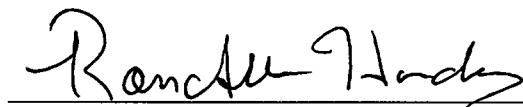
NOTICE - Case Dispositional Decision - TRAP 11 Denied

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

James M. Hivner
Clerk of the Appellate Courts

XIII. CERTIFICATION UNDER RULE 33

I, RonAllen Hardy, do hereby certify that the foregoing document entitled "Petition for Writ of Certiorari" complies with the word limitation in accordance with Rule 33 of the U.S. Supreme Court Rules.



RonAllen Hardy

RonAllen Hardy, Affiant

IN THE CIRCUIT COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

FILED

RONALLEN HARDY,
Petitioner,

v.

STATE OF TENNESSEE,
Respondent.

) Case No. 82769

DEC 19 2023

O'CLOCK
MELISSA HAMBERGER
DEPUTY CLERK

**ORDER DISMISSING MOTION TO REOPEN PETITION FOR
POST-CONVICTION RELIEF**

This cause came before the Court on the Motion to Reopen Petition for Post-Conviction Relief filed *pro se* by Ronallen Hardy ("Petitioner").

PROCEDURAL HISTORY

On November 8, 2007, Petitioner was found guilty by jury verdict of the following offenses related to the killing of Mr. Randy Betts:

- First Degree Murder – Premeditated
- First Degree Murder – Felony Murder
- Especially Aggravated Robbery
- Aggravated Burglary
- Aggravated Burglary – Conspiracy
- Especially Aggravated Robbery – Conspiracy

On November 9, 2007, a sentencing hearing was held for the murder convictions. Petitioner was sentenced to life without the possibility of parole by the jury.

On December 18, 2007, Petitioner filed a Motion for New Trial, citing issues at trial regarding admissibility of evidence and Petitioner's sentence.

On January 16, 2008, a sentencing hearing was held for the remaining convictions. His total effective sentence was then life without possibility of parole plus twenty-two (22) years. Following the sentencing ruling, Petitioner's Motion for New Trial was heard.

On February 12, 2008, Petitioner filed a Notice of Appeal, challenging all convictions in this case.

On February 27, 2008, the Petitioner's Motion for New Trial was denied.

On August 31, 2009, Petitioner's appeal was reversed in part and modified in part, leaving Petitioner's sentence of life without possibility of parole plus twenty-two (22) years intact.

On February 1, 2010, Petitioner filed his first Petition for Post-Conviction Relief, which was denied by the trial court. The trial court's denial was appealed and affirmed.

September 26, 2019, Petitioner filed a Writ of Error Coram Nobis. The trial court denied such relief on November 14, 2019. This denial was appealed on November 25, 2019. The Defendant appealed the denial.

On January 6, 2020, Petitioner filed a second Petition for Post-Conviction Relief, which was summarily dismissed by the trial court on January 21, 2020.

On February 4, 2020, Petitioner then filed a Notice of Appeal for the denial of his second Petition for Post-Conviction Relief while the appeal for the denial of his Writ of Error Coram Nobis was still pending.

On August 28, 2020, the Court of Criminal Appeals affirmed the trial court's denial of both Petitioner's Petition for Post-Conviction Relief and Writ of Error Coram Nobis.

Relevant to this Petitioner, on November 18, 2022, the Tennessee Supreme Court decided *State v. Booker*, 656 S.W.3d 49 (Tenn. 2022). On November 17, 2023, Petitioner filed a Motion to Reopen Petition for Post-Conviction Relief alleging *Booker* established a constitutional right for this Petitioner that was not recognized at the time of his trial.

FACTUAL FINDINGS

Petitioner's judgment reflects that he was born on June 23, 1987. The offense dates for these convictions are December 19-20, 2005. Therefore, Petitioner was 18 years 5 months and 26 days old when Mr. Randy Betts was murdered.

LEGAL STANDARD

In order to obtain post-conviction relief, a petitioner must show that his conviction or sentence is void or voidable because of the abridgment of a constitutional right. T.C.A. § 40-30-103. In a post-conviction relief evidentiary hearing to sustain the petition, a petitioner has "the burden of proving the allegations of fact by clear and convincing evidence." T.C.A. § 40-30-110(f); *Momon v. State*, 18 S.W.3d 152, 156 (Tenn. 1999). "Evidence is clear and convincing when there is no serious or substantial doubt about the correctness of the conclusions

drawn from the evidence." *Hicks v. State*, 983 S.W.2d 240, 245 (Tenn. Crim. App. 1998).

A petitioner can file a motion to reopen his original petition for post-conviction relief based on the establishment of a constitutional right that was not recognized at trial, if retrospective application is required. T.C.A. § 40-30-117(b)(1). "The petition must be filed within one (1) year of the highest state appellate court or the United States supreme court establishing a constitutional right that was not recognized as existing at the time of trial." *Id.*

CONCLUSIONS OF LAW

Petitioner's request for relief was filed one day before the expiration of the statute of limitations in relation to the Supreme Court's holding in *Booker*. Therefore, the Motion is found to be timely.

Regarding the grounds for relief, the Court finds the Petitioner is seeking from this Court an expansion of the holding in *Booker*. In *State v. Booker*, the Tennessee Supreme Court held that an automatic life sentence, without consideration of age and attendant circumstances, is unconstitutional as applied to juveniles. *State v. Booker*, 656 S.W.3d 49, 68 (Tenn. 2022).

Petitioner was sentenced by a jury to life imprisonment without the possibility of parole. The Petitioner's sentence was not "automatic" in the way that the life sentence in *Booker* was "automatic." Moreover, *Booker* cites *Miller v. Alabama*, 567 U.S. 460, 489 (2012) stating that juveniles are not precluded from being sentenced to life without parole. *Booker* at 60. The holding in *Miller* "requires a procedural safeguard—individualized sentencing—to minimize the risk of erroneously imposing a disproportionate sentence." *Id.* (citing *Miller* at 489). Mr. Hardy received the individualized sentencing by the jury during a full hearing.

Further, Petitioner was not a juvenile when he committed these crimes. However, Petitioner cites some thirty-eight (38) articles published in scientific and criminological fields and one summary of house bills for the Michigan House of Representatives. These citations are attached in support of his request to expand *Booker* to apply to "young adults." Petitioner requests this Court to define "young adults" as persons between ages eighteen (18) to twenty-five (25) years old.

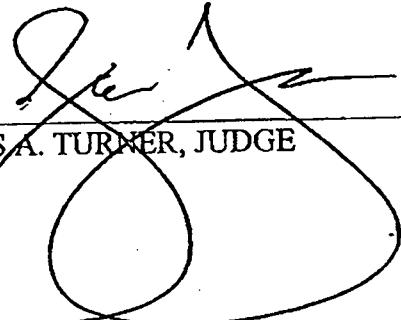
Some of the articles attached to the Motion are duplicative. *See* Exhibits 27 & 32. Others are completely irrelevant. *See* Exhibit 31 (titled "Anxiety in 11-Year-Old Children Who Stutter: Findings From a Prospective Longitudinal Community Sample"). Ultimately, Petitioner is, in essence, asking the Court to raise the age of majority in Tennessee. *See* T.C.A. §§ 1-3-105(a)(1);

37-1-102(b)(3). This Court lacks the authority to do so, even if it felt that amounted to sound policy, which it does not. *See* TN Const. Art. 2.

Because the holding in *Booker* is distinguishable and inapplicable to the Petitioner, no newly-established constitutional right relevant to his case has been recognized by any binding appellate court. As such, the Motion to Reopen fails on its face.

THEREFORE, the Motion to Reopen Petition for Post-Conviction Relief is hereby DENIED and DISMISSED.

IT IS SO ORDERED this 19 day of December, 2023.


JAMES A. TURNER, JUDGE

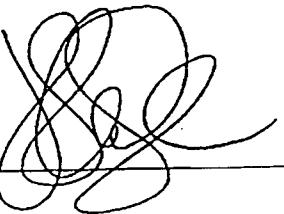
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing order has been forwarded to the following:

District Attorney's Office
Trevor Lynch, Esq.
320 W. Main Street, Suite 100
Murfreesboro, TN 37130

Riverbend Maximum Security Institution
ATTN: Inmate Ronallen Hardy
7475 Cockrill Bend Blvd.
Nashville, TN 37209

On this the 19 day of December, 2023.


Deputy Clerk