

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

**ROCKY JOE HOUSTON v. STATE OF TENNESSEE**

**Appeal from the Criminal Court for Roane County  
No. 13226 E. Eugene Eblen, Judge**

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**No. E2015-00717-CCA-R3-PC – Filed October 30, 2015**

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The pro se petitioner, Rocky Joe Houston, appeals as of right from the Roane County Criminal Court's order summarily dismissing as untimely his petition for post-conviction relief. The State has filed a motion to affirm the post-conviction court's order pursuant to Rule 20 of the Rules of the Tennessee Court of Criminal Appeals. Following our review, we conclude that the State's motion is well-taken and affirm the order of the trial court.

**Tenn. R. App. P. 3; Judgment of the Criminal Court Affirmed  
Pursuant to Rule 20, Rules of the Court of Criminal Appeals.**

JAMES CURWOOD WITT, JR., J., delivered the opinion of the Court, in which NORMA MCGEE OGLE and ROBERT H. MONTGOMERY, JR., JJ., joined.

Rocky Joe Houston, Ashland, Kentucky, Pro Se.

Herbert H. Slatery III, Attorney General and Reporter; and John H. Bledsoe, Assistant Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

A Roane County Criminal Court jury convicted the petitioner, Rocky Joe Houston, of reckless endangerment and evading arrest. On direct appeal, this court affirmed the convictions. *State v. Rocky Joe Houston*, No. E2011-01855-CCA-R3-CD (Tenn. Crim. App., at Knoxville, Feb. 11, 2013), *perm. app. denied* (Tenn. May 8, 2013).

On December 8, 2014, the petitioner filed a petition for post-conviction relief, alleging constitutional violations concerning a denial of his right to speedy trial and the ineffective assistance of counsel. The State filed a response to the petition seeking dismissal based upon untimely filing. On January 12, 2015, the post-conviction court summarily dismissed the petition, ruling that the petition was filed beyond the one-year statute of limitations. The petitioner filed a timely notice of appeal to this court.

Tennessee Code Annotated section 40-30-102 provides that a petition for post-conviction relief must be filed “within one (1) year of the date of the final action of the highest state appellate court to which an appeal is taken or, if no appeal is taken, within one (1) year of the date on which the judgment became final.” T.C.A. § 40-30-202(a) (2012). The Tennessee Supreme Court denied the petitioner’s application for permission to appeal on May 8, 2013; thus, the petition for post-conviction relief, filed on December 8, 2014, was clearly untimely. Furthermore, the petition in the present case alleges no basis for applying a statutory exception to the one-year statute of limitations. *See* T.C.A. § 40-30-102(b). Likewise, the petition alleges no basis for tolling the running of the statute on due process grounds. *See generally Seals v. State*, 23 S.W.3d 272 (Tenn.2000); *Burford v. State*, 845 S.W.2d 204 (Tenn.1992).

Accordingly, we affirm the judgment of the Roane County Criminal Court pursuant to Rule 20 of the Rules of the Tennessee Court of Criminal Appeals.

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JAMES CURWOOD WITT, JR., JUDGE