

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

FILED

10/09/2017

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JOHN BRICHETTO

**Appeal from the Criminal Court for Morgan County
No. 2011-CR-41A Paul G. Summers, Senior Judge**

No. E2017-01033-CCA-R3-CD

The pro se appellant appeals as of right from the Morgan County Criminal Court's order denying post-judgment motions filed pursuant to Tennessee Rule of Criminal Procedure "36 et seq." The trial court summarily denied the pleadings based upon the pro se appellant's earlier execution of a waiver of all direct, post-conviction, and collateral challenges to the conviction, in exchange for his codefendant-wife's receiving a more lenient sentence. Because this court has twice ruled that the waiver was knowingly and voluntarily entered, we sua sponte affirm the judgment of the trial court pursuant to Rule 20 of the Tennessee Rules of the Court of Criminal Appeals.

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

D. KELLY THOMAS, JR. J., delivered the opinion of the court, in which JAMES CURWOOD WITT, JR., and NORMA MCGEE OGLE, JJ., joined.

John Brichetto, Pikeville, Tennessee, pro se.

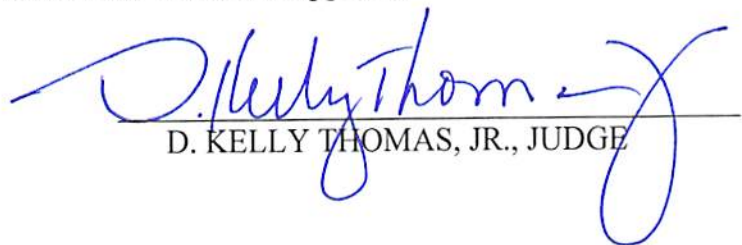
Herbert H. Slatery III, Attorney General and Reporter; Nicholas White Spangler, Assistant Attorney General; L. Russell Johnson, District Attorney General; and Robert C. Edwards, Assistant District Attorney General, for the appellee, State of Tennessee.

MEMORANDUM OPINION

In this matter, the defendant, John Brichetto, appeals as of right from the trial court's summary denial of his "Motion for Amendment of Judgement [sic] Order Pursuant to TN. [sic] R. Crim. P 36 et seq." challenging his conviction of theft of property valued at \$60,000 or more. In *State v. John H. Brichetto, Jr.*, No. E2016-01001-CCA-R3-CD, 2017 WL 3896213 (Tenn. Crim. App., at Knoxville, Sept. 6, 2017) (*Brichetto I*), the pro se appellant unsuccessfully appealed from the trial court's summary

denial of his motion for reduction of sentence challenging the sentence imposed in the same case. Tenn. R. Crim. P. 35. In *John H. Bricchetto, Jr. v. State*, No. E2016-01855-CCA-R3-PC, 2017 WL 3037539 (Tenn. Crim. App., at Knoxville, July 18, 2017), *perm. app. filed* (Tenn. Aug. 8, 2017) (*Bricchetto II*), the pro se appellant unsuccessfully appealed from the trial court's summary denial of his petition for post-conviction relief challenging the conviction in the same case.

In each of these cases, the trial court's summary denials were based upon the pro se appellant's execution of a written waiver of his right to appeal, his right to file for post-conviction relief, and his right to collaterally attack his conviction, which was made in exchange for his codefendant-wife's receiving a reduced sentence following their convictions at a joined trial. In the two previous appeals, this court has affirmed the trial court's summary denials of relief based, at least in part, upon the finding that the pro se appellant knowingly and voluntarily waived his rights to further challenge his conviction or sentence. See *Bricchetto I*, slip op. at 14; *Bricchetto II*, slip op. at 9-10. The validity of the waiver is once again challenged in this appeal. We conclude that the pro se appellant's attempt to relitigate this matter once more is barred by the doctrine of the "law of the case." *Memphis Publ'g Co. v. Tenn. Petroleum*, 975 S.W.2d 303, 306 (Tenn. 1998). Likewise, we further conclude that "an opinion in this case would have no precedential value" and, sua sponte, affirm the judgment of the trial court pursuant to Rule 20 of the Rules of the Tennessee Court of Criminal Appeals.


D. KELLY THOMAS, JR., JUDGE