

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

**JESSIE D. McDONALD v. STATE OF TENNESSEE**

**Appeal from the Criminal Court for Davidson County  
No. GSA630 J. Randall Wyatt, Judge**

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**No. M2005-02875-CCA-R3-CO - Filed July 17, 2006**

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The Petitioner, Jessie D. McDonald, appeals from the trial court's dismissal of his petition for writ of error coram nobis. The State has filed a motion requesting that this Court affirm the trial court's denial of relief pursuant to Rule 20, Rules of the Court of Criminal Appeals. We grant the State's motion and affirm the judgment of the trial court.

**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**

DAVID H. WELLES, J., delivered the opinion of the court, in which JERRY L. SMITH and ROBERT W. WEDEMEYER, JJ., joined.

Jessie D. McDonald, Pro Se.

Paul G. Summers, Attorney General and Reporter; Brent C. Cherry, Assistant Attorney General; Victor S. Johnson, District Attorney General; and Lisa Naylor, Assistant District Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

The record on appeal reflects that in 1979 the Petitioner was convicted, following a bench trial, of misdemeanor assault. He received a sentence of eleven months and twenty-nine days and was fined fifty dollars. The petition filed herein states that this Court and our supreme court denied an application for review and affirmed his conviction and sentence. The petition also alleges that the Petitioner paid his fine of fifty dollars and completed serving his sentence in 1981.

On October 4, 2005, the Petitioner filed a petition for writ of error coram nobis. The petition alleges that at the time the trial court sentenced the Petitioner in 1979, the judge "did not conduct a fact finding procedure to justify the enhanced punishment of eleven months and twenty-nine days." He alleges that his sentence was imposed in violation of his right to a jury trial as set forth in Blakely v. Washington, 542 U.S. 296, 124 S.Ct. 2531 (2004). The Petitioner therefore alleges that his 1979 conviction should be set aside.

In its order dismissing the petition, the trial court stated as follows:  
The Court finds that the Petition for Writ of Error Coram Nobis was filed on October 4, 2005, approximately twenty-five (25) years after the judgment of conviction had become final. The Court finds that the petition was filed outside of the one year statute of limitations, and there are no due process grounds which require the statute of limitations to be tolled. The Court also finds that the Petition fails to present any newly discovered evidence, not presented at the trial, which may have resulted in a different judgment. The Court is therefore of the opinion that a hearing on the merits of the Petition is not warranted, and the Petition for Writ of Error Coram Nobis should be dismissed.

We conclude that the trial court was correct in dismissing the petition for writ of error coram nobis. A petition for writ of error coram nobis must be filed within one year of the time judgment becomes final in the trial court. See Tenn. Code Ann. § 27-7-103. It is obvious that the Petitioner's petition was filed many years after the statute of limitations had run. Nothing in the record suggests that the Petitioner's claim for relief implicates any due process concerns that would require a remand to the trial court for a hearing on the merits. See *Workman v. State*, 41 S.W. 3d 100 (Tenn. 2001). We conclude that the trial court did not err by summarily dismissing the petition.

We therefore grant the State's motion and affirm the judgment of the trial court pursuant to the Tennessee Court of Criminal Appeals Rule 20.

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DAVID H. WELLES, JUDGE