

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY
AT NASHVILLE, TENNESSEE

FILED
JUN 23 2011
CO

TIMOTHY GUILFOY,)
Petitioner,)
v.) CASE NO. 2011-A-779
)
STATE OF TENNESSEE)
Respondent.)

ORDER

The petitioner in this cause filed a Writ of Error Coram Nobis. The State of Tennessee challenged the petition stating that the petition is time barred by the statute of limitations. After considering the Writ, the Court is of the opinion that the Petition of Writ of Error Coram Nobis is without merit and time barred. Therefore, the Court dismisses the petition.

The purpose of a petition for writ of error coram nobis is to bring to the attention of the trial court some fact unknown to the court which, if known, would have resulted in a different judgment. Tenn. Code Ann. §40-26-105. A petition for a writ of error coram nobis must be filed within one year of the judgment becoming final in the trial court. Tenn.Code Ann. § 27-7-103. “A judgment becomes final in the trial court thirty days after its entry if no post-trial motions are filed. If a post-trial motion is timely filed, the judgment becomes final upon entry of an order disposing of the post-trial motion.” State v. Mixon, 983 S.W.2d 661, 670 (Tenn.1999).

The petitioner in this case was convicted by a jury trial on October 28, 2011. The Petitioner’s motion for new trial was denied on March 13, 2012. Further, the Petitioner filed a petition for post-conviction relief which was denied. Subsequently, the Petitioner appealed to the Court of Criminal Appeals of Tennessee which affirmed the judgment of the post-conviction court. Therefore, the judgment became final on April 13, 2012. The instant Petition for Writ of

Error Coram Nobis was filed on January 17, 2017, almost five (5) years following the expiration date of the statute of limitations.

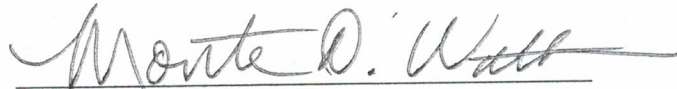
Furthermore, the petitioner has not presented any evidence for extraordinary relief upon due process grounds. All of petitioner's issues have previously been raised and decided. Therefore, due process does not require a tolling of the statute of limitations.

In State v. Workman, 41 S.W.3d 100, 103 (Tenn.2001), The Tennessee Supreme Court determined that due process may require tolling an applicable statute of limitations. In part, the Workman court relied on the due process considerations discussed in Burford v. State, 845 S.W.2d 204 (Tenn.1992). In Burford, the Tennessee Supreme Court recognized that "before a state may terminate a claim for failure to comply with procedural requirements such as statutes of limitations, due process requires that potential litigants be provided an opportunity for the presentation of claims at a meaningful time and in a meaningful manner" and that "under the circumstances of a particular case, application of the statute may not afford a reasonable opportunity to have the claimed issue heard and decided." 845 S.W.2d at 208.

This Court finds no due process concerns which would entitle petitioner to relief. Having found that the defendant has failed to file within the applicable statute of limitations and having further found that the Petitioner has failed to demonstrate that his interest in presenting his claims is outweighed by the government's interest in preventing litigation of stale claims, it is not necessary for this court to further examine the merits of the petitioner's allegations. Freshwater v. State, 160 S.W.3d 548, 554 (Tenn. Court App. 2009). Therefore, the request to toll the statute of limitations is DENIED. The State's motion to dismiss is GRANTED. The defendant may exercise his right to appeal to the Tennessee Criminal Court of Appeals. Thus, the Court appoints Nathan Caldwell to represent the defendant on appeal.

IT IS SO ORDERED.

Entered this 23^d day of June, 2017.

A handwritten signature in cursive script, reading "Monte D. Watkins", written over a horizontal line.

MONTE D. WATKINS, Judge
Criminal Court, Division V

cc: Roger Moore
Samuel J. Muldavin