

SUPREME COURT OF TENNESSEE

Torian Benson a.k.a. Marcus Terry a.k.a. Marcus Benson v. State of Tennessee

Benson v. State · No. W2002-02756-SC-R11-CO · Decided December 16, 2004

SUMMARY

The Tennessee Supreme Court affirmed the dismissal of Torian Benson's habeas corpus petitions challenging convictions and sentences from 1986, 1989, and 1993. Applying Hickman v. State, the Court held that the petitioner was not imprisoned or restrained of liberty by the challenged convictions because their sentences had expired before he filed the petitions, even though the convictions may have been used to enhance a later sentence.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	William M. Barker; Frank F. Drowota, III, C.J.; E. Riley Anderson; Adolpho A. Birch, Jr.; Janice M. Holder
JURISDICTION	Tennessee
DECIDED	December 16, 2004
DOCKET	W2002-02756-SC-R11-CO
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal by permission from the Tennessee Court of Criminal Appeals affirming the Lake County Circuit Court's summary dismissal of three habeas corpus petitions.
STANDARD OF REVIEW	Whether habeas corpus relief should be granted is a question of law reviewed de novo, without a presumption of correctness accorded to the lower court's judgment.
PRECEDENTIAL VALUE	published
PARTIES	Torian Benson a.k.a. Marcus Terry a.k.a. Marcus Benson v. State of Tennessee

TOPICS

- habeas corpus
- state post-conviction relief
- criminal procedure
- appellate procedure
- sentencing

PRACTICE AREAS

Criminal law

Post-conviction relief

Habeas corpus

Appellate procedure

QUESTIONS PRESENTED

1. Whether a petitioner is 'imprisoned or restrained of liberty' by prior convictions and sentences that expired before he filed for habeas corpus relief, when those convictions may have been used to enhance a sentence for unrelated offenses.
2. Whether the petitioner's challenges to the validity of the expired convictions and sentences could support habeas corpus relief.

HOLDINGS

1. A petitioner is not 'imprisoned or restrained of liberty' by challenged convictions and sentences that expired before the filing of a habeas corpus petition, even if the prior convictions were used to enhance a sentence imposed for a separate conviction.
2. The petitioner was not entitled to habeas corpus relief because the challenged convictions and sentences had expired before he sought relief; the court therefore did not need to reach the arguments concerning defective charging instruments or allegedly illegal concurrent sentences.

KEY QUOTATIONS

“[A] person is not “restrained of liberty” for purposes of the habeas corpus statute unless the challenged judgment itself imposes a restraint upon the petitioner’s freedom of action or movement.” (-4-)

“The challenged convictions and sentences expired prior to his filing for habeas corpus relief, therefore they do not comprise a restraint on the petitioner’s liberty for purposes of the habeas corpus statute.” (-5-)

FACTUAL BACKGROUND

The petitioner received criminal convictions and sentences in 1986, 1989, and 1993, all of which had expired before he filed the present habeas corpus petitions in 2002. He was serving a separate thirty-four-year sentence for later vehicular-homicide convictions, which had been enhanced based in part on his prior convictions. He challenged the earlier convictions and sentences, asserting defects in charging instruments and illegality in the imposition of concurrent sentences.

PROCEDURAL HISTORY

The petitioner filed three pro se habeas corpus petitions in 2002 challenging convictions from 1986, 1989, and 1993. The Lake County Circuit Court summarily dismissed the petitions without appointing counsel or holding a hearing. The Court of Criminal Appeals affirmed, and the Tennessee Supreme Court granted permission to appeal and affirmed the intermediate appellate court.

DISPOSITION

affirmed

CASES CITED

- Hickman v. State
- McLaney v. Bell, 59 S.W.3d 90, 92 (Tenn. 2001)
- Withrow v. Williams, 507 U.S. 680, 697-98 (1993)
- State v. Newell, 391 S.W.2d 667, 670 (Tenn. 1965)
- State v. Ritchie, 20 S.W.3d 624, 629 (Tenn. 2000)
- Archer v. State, 851 S.W.2d 157, 165 (Tenn. 1993)
- State v. Bomar, 381 S.W.2d 287, 289 (Tenn. 1964)

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