

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE, DIVISION I

FILED
2018 FEB -1 PM 2:11
CRIMINAL COURT CLERK

CALVIN EUGENE BRYANT,

Petitioner,

v.

STATE OF TENNESSEE,

Respondent.

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M2018-00152-CCA-R3-CO

Criminal Court Case: 2008-B-1478

**PETITIONER-APPELLANT'S TENN. R. APP. P. 24(a) DESCRIPTION OF
ITEMS TO BE INCLUDED IN THE RECORD AND ISSUES TO BE
PRESENTED ON APPEAL**

Comes now Petitioner-Appellant, by and through undersigned counsel, and pursuant to Tenn. R. App. P. 24(a), provides notice of the items to be included in the appellate record. *See id.* (“If less than the full record on appeal as defined in this subdivision is deemed sufficient to convey a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal or if a party wishes to include any papers specifically excluded in this subdivision, the party shall, within 15 days after filing the notice of appeal, file with the clerk of the trial court and serve on the appellee a description of the parts of the record the appellant intends to include on appeal, accompanied by a short and plain declaration of the issues the appellant intends to present on appeal.”). For his notice, the Appellant respectfully states as follows:

I. Items to Be Included in Appellate Record

The following items should be included in the appellate record:

1. Petitioner's November 20, 2017 *Verified Petition for Sentencing Relief* and all accompanying exhibits and appendices;
2. Petitioner's December 5, 2017 *Notice of Filing*;
3. Petitioner's December 14, 2017 *Supplemental Memorandum in Support of Jurisdiction to Adjudicate His Claims for Relief*;
4. The Transcript of the Parties' December 15, 2017 hearing on Petitioner's *Verified Petition for Sentencing Relief*¹ and the exhibit "Metro Council Letter In Support of Petitioner" introduced during Petitioner's December 15, 2017 hearing;
5. Respondent's December 15, 2017 *Clarification of State's Position*;
6. Petitioner's January 2, 2018 *Supplemental Authority In Support of Prosecutorial Discretion*; and
7. The Trial Court's January 19, 2018 Order denying Petitioner relief.

II. Issues to Be Presented on Appeal

As Petitioner's short and plain declaration of the issues that he intends to present on appeal, the Petitioner states that he intends to present the following ten (10) issues for appellate review:

1. Whether the Trial Court erred by holding that the relief contemplated by Tenn. Code Ann. § 40-22-101 and/or Tenn. Code Ann. § 40-22-102 requires a guilty plea;
2. Whether the Trial Court misconstrued and/or misapplied the *Holloway* doctrine;

¹ Pursuant to Tenn. R. App. P. 24(a), Petitioner-Appellant submits that he is indigent, and that funding for the transcript should come from the State of Tennessee. *See id.* ("Within 15 days after filing the notice of appeal the appellant in a criminal action shall order from the reporter a transcript of such parts of the evidence or proceedings not already on file as the appellant deems necessary. The order shall be in writing and within the same period a copy shall be filed with the clerk of the trial court. If funding is to come from the state of Tennessee, the order shall so state.").

3. Whether the Trial Court erred in its Eighth Amendment analysis by disregarding the uncontested fact that the Petitioner is the only defendant in the history of the jurisdiction to receive Tenn. Code Ann. § 39-17-432's sentencing enhancement for a first-time offense;

4. Whether the Trial Court erred in its Eighth Amendment analysis by disregarding the uncontested fact that school zone violations were previously applied "arbitrarily and capriciously" within the jurisdiction;

5. Whether the Trial Court erred in its Eighth Amendment analysis by disregarding the uncontested fact that Davidson County's previous application of Tenn. Code Ann. § 39-17-432 was race-based;

6. Whether the Trial Court erred by concluding that the Petitioner's sentence did not violate the Eighth Amendment as applied to the circumstances of his case;

7. Whether a Trial Court can invoke a statute of limitations on a Party's behalf;

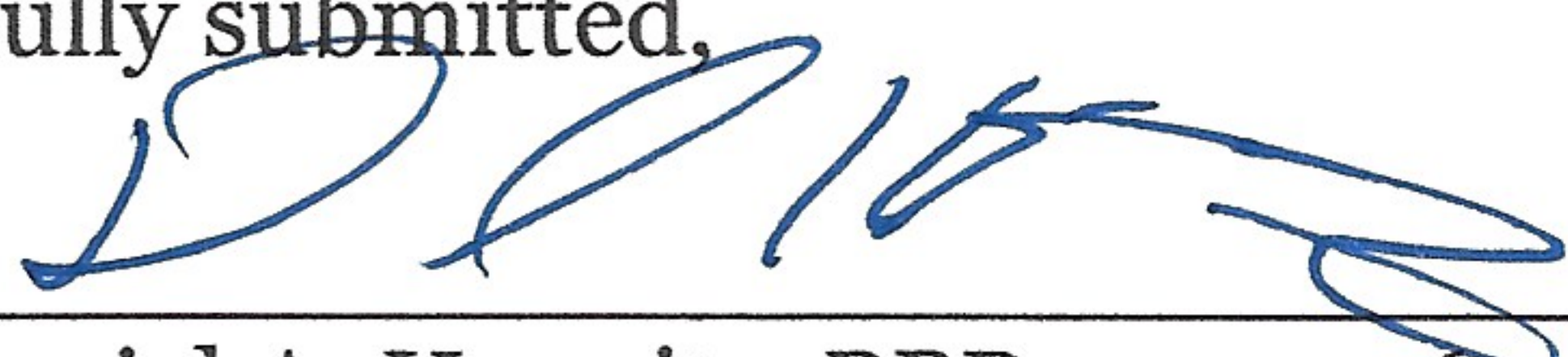
8. Whether the Trial Court erred by holding that a statute of limitations can create a jurisdictional barrier when a party affirmatively declines to raise it;

9. Whether, based on the uncontested facts presented, the Trial Court erred by holding that it was without jurisdiction to adjudicate Petitioner's claims pursuant to Tenn. Code Ann. § 40-30-101, *et seq.*; Tenn. Code Ann. § 29-21-101; Tenn. Code Ann. § 40-22-101; and Tenn. Code Ann. § 40-26-105

10. Whether, based on the uncontested facts presented, the Petitioner is entitled to sentencing relief pursuant to Tenn. Code Ann. § 40-30-101, *et seq.*; Tenn. Code Ann. § 29-21-101; Tenn. Code Ann. § 40-22-101; and/or Tenn. Code Ann. § 40-26-105.

Respectfully submitted,

By:


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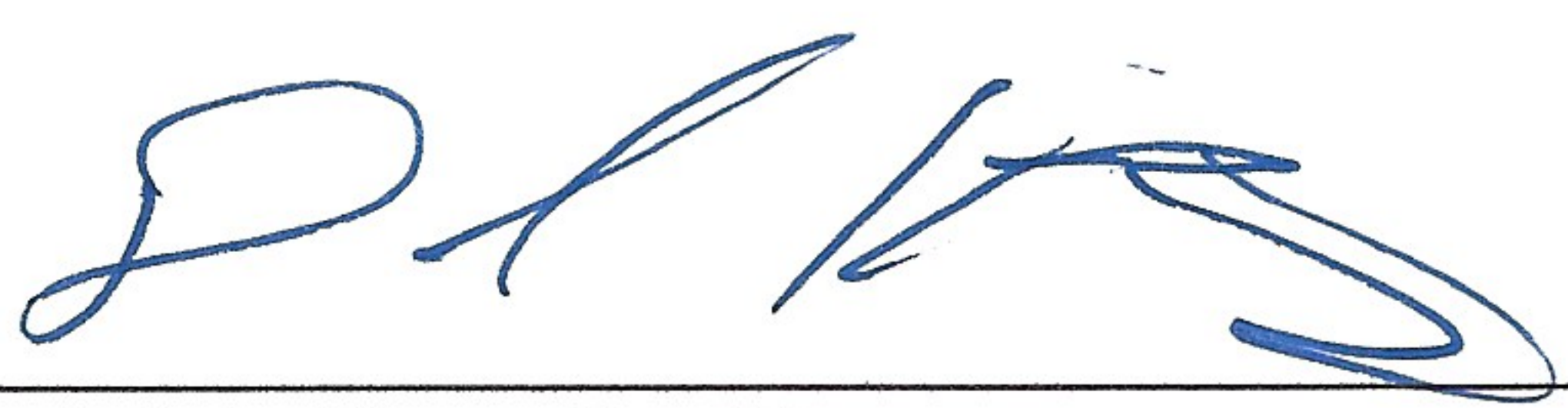
Pro Bono Counsel for Petitioner-
Appellant

CERTIFICATE OF SERVICE

I hereby certify that on this 1st of February, 2018, a true and exact copy of the foregoing was hand-delivered via the Criminal Court Clerk's drop box to:

District Attorney Glenn R. Funk, Esq.
Office of the District Attorney General
Washington Square Building, 5th Floor
222 2nd Avenue North, Suite 500
Nashville, TN 37201-1649

By:


Daniel A. Horwitz, Esq.