

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs October 6, 2026

FILED

10/21/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DEVONTA CURRY

**Appeal from the Circuit Court for Madison County
No. C-26-19 Joseph T. Howell, Judge**

No. W2026-00282-CCA-R3-CD

Devonta Curry, Movant, filed a pro se motion titled “Motion for Rule 36.1 Correction of Illegal Sentence.” The trial court summarily denied the motion for failure to state a colorable claim. We affirm the trial court’s judgment but remand for entry of corrected judgments of conviction for Counts 1-7 in Case No. 18-551, reflecting that Movant was convicted by a jury.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed;
Remanded for Entry of Corrected Judgments**

ROBERT L. HOLLOWAY, JR., J., delivered the opinion of the court, in which MATTHEW J. WILSON and STEVEN W. SWORD, JJ., joined.

Devonta Curry, Wartburg, Tennessee, pro se.

Jonathan Skrmetti, Attorney General and Reporter; William C. Lundy, Assistant Attorney General; Jody S. Pickens, District Attorney General; and Shaun A. Brown, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

In 2018, a Madison County jury convicted Movant of one count of aggravated burglary, two counts of especially aggravated kidnapping, three counts of aggravated robbery, and one count of possession of a firearm during the commission of a dangerous felony. The trial court imposed the following sentences:

Count 1 - Aggravated Burglary (Class C felony), five years;
Count 2 - Aggravated Robbery (Class B felony), ten years;
Count 3 - Especially Aggravated Kidnapping (Class A felony), twenty years;
Count 4 - Especially Aggravated Kidnapping (Class A felony), twenty years;

Count 5 - Aggravated Robbery (Class B felony), ten years;
Count 6 - Aggravated Robbery (Class B felony), ten years; and
Count 7 - Possession of Firearm During the Commission of a Dangerous Felony
(Class D felony), three years.

The court ordered the five-year sentence in Count 1 and the three-year sentence in Count 7 to be served consecutively to each other. The resulting eight-year term was to be served concurrently with the concurrent ten-year sentences in Counts 2, 5, and 6. The twenty-year sentences in Counts 3 and 4 were concurrent with each other, but consecutive to the effective ten-year sentence in the other five counts, resulting in an effective sentence of thirty years' imprisonment. This court affirmed the convictions and sentences on direct appeal. *State v. Curry*, No. W2019-00679-CCA-R3-CD, 2020 WL 5587412, at *1 (Tenn. Crim. App. Sept. 17, 2020), *perm. app. denied* (Tenn. June 17, 2021).

In January 2026, Movant filed a pro se "Motion for Rule 36.1 Correction of Illegal Sentence," asserting that he received ineffective assistance of counsel and that his convictions violated the Double Jeopardy Clause and his rights under the Fifth, Sixth, and Eighth Amendments. The motion asked the trial court to dismiss his convictions in Counts 2-7 and to "modify" his sentence for the conviction in Count 1 to five years. The motion did not claim that any of his sentences were illegal.

The trial court summarily denied the motion for failure to state a colorable claim for relief. Movant timely appealed.

ANALYSIS

On appeal, Movant argues that his convictions violate double jeopardy and due process protections. The State asserts that Movant abandoned his Rule 36.1 claim and waived appellate review of the trial court's order by failing to cite or make any argument related to Rule 36.1. The State also argues that Movant's double jeopardy and ineffective assistance of counsel claims are not colorable under Rule 36.1. We conclude that Movant is not entitled to relief under Rule 36.1.

Rule 36.1 provides an avenue for a defendant to seek the correction of an unexpired illegal sentence. *See* Tenn. R. Crim. P. 36.1(a)(1); *State v. Brown*, 479 S.W.3d 200, 211 (Tenn. 2015). It does not provide a means for reversal of convictions. *State v. Wilson*, No. E2013-02354-CCA-R3-CD, 2014 WL 1285622, at *2 (Tenn. Crim. App. Mar. 31, 2014), *perm. app. denied* (Tenn. Nov. 19, 2014). Our supreme court concluded "for purposes of Rule 36.1, that 'colorable claim' means a claim that, if taken as true and viewed in a light most favorable to the moving party, would entitle the moving party to relief under Rule 36.1." *State v. Wooden*, 478 S.W.3d 585, 593 (Tenn. 2015). A motion filed under Rule

36.1 must state with particularity the factual allegations on which the claim for relief from an illegal sentence is based. *Id.* at 594; Tenn. R. Crim. P. 47(c)(1). For purposes of Rule 36.1, an illegal sentence is a sentence that is not authorized by the applicable statutes or that directly contravenes an applicable statute. Tenn. R. Crim. P. 36.1(a)(2). To be entitled to relief under Rule 36.1, a movant must therefore show that his sentence, rather than his conviction, is illegal. “If the court determines that the motion fails to state a colorable claim, it shall enter an order summarily denying the motion.” Tenn. R. Crim. P. 36.1(b)(2). Whether a Rule 36.1 motion states a colorable claim for correction of an illegal sentence is a question of law, which we review de novo. *Wooden*, 478 S.W.3d at 589.

Movant’s Rule 36.1 motion does not allege any facts establishing that his sentences are illegal. Movant’s principal brief does not claim that his sentences are illegal and does not cite or reference Rule 36.1. In *Reed v. State*, No. W2017-02419-CCA-R3-ECN, 2018 WL 4191228, at *8 (Tenn. Crim. App. Aug. 31, 2018), *perm. app. denied* (Tenn. Jan. 18, 2019), this court affirmed the summary denial of a Rule 36.1 motion because the movant challenged his convictions without alleging that his sentences were not authorized by, or directly contravened, an applicable statute.

In his reply brief, Movant argues that “a violation of due process under double jeopardy” is a colorable claim under Rule 36.1 and that he never “waived” or “abandoned” his Rule 36.1 claim. He requests dismissal of the especially aggravated kidnapping convictions in Counts 3 and 4.

Movant has abandoned his Rule 36.1 claim. *See Moore v. State*, No. E2024-00754-CCA-R3-CD, 2025 WL 957764, at *2 (Tenn. Crim. App. Mar. 28, 2025), *perm. app. denied* (Tenn. Aug. 7, 2025) (concluding that the petitioner abandoned his Rule 36.1 claim on appeal by failing to reference or cite to the rule in his brief). Even assuming that the issue is properly before us, Movant does not argue that his sentences are not authorized by, or directly contravene, an applicable statute. His request for relief challenges his convictions, rather than seeking correction of allegedly illegal sentences. The trial court, therefore, properly summarily denied the motion for failure to state a colorable claim.

CLERICAL ERRORS

Movant correctly notes in his reply brief that he was convicted by a jury rather than upon guilty pleas. The judgments of conviction incorrectly have the “Pled Guilty” box checked and the “Jury Verdict” box unchecked. The State’s response to the motion and the trial court’s order denying relief likewise incorrectly stated that Movant pleaded guilty. The direct appeal opinion confirms that Movant was convicted by a jury. *Curry*, 2020 WL 5587412, at *1. These clerical errors do not affect the merits of this appeal. “Clerical errors ‘arise simply’ from a clerical mistake in filling out the uniform judgment document

and may be corrected at any time under Tennessee Rule of Criminal Procedure 36.” *Wooden*, 478 S.W.3d at 595. Accordingly, we remand for entry of corrected judgments in Counts 1-7 in Case No. 18-551 reflecting the jury verdicts.

CONCLUSION

We affirm the trial court’s judgment summarily denying Movant’s Rule 36.1 motion and remand for entry of corrected judgments of conviction reflecting the jury verdicts.

s/Robert L. Holloway, Jr.
ROBERT L. HOLLOWAY, JR., JUDGE