

WILLIAM H. STALLINS *v.* STATE OF ARKANSAS

CR 73-3

491 S.W. 2d 788

Opinion delivered March 26, 1973

CRIMINAL LAW—POSTCONVICTION RELIEF, DENIAL OF—REVIEW.—Denial of a petition for postconviction relief from a sentence on a guilty plea to assault with intent to rape *held* proper under Criminal Procedure Rule No. 1 (c) where the trial judge not only satisfied himself that appellant was voluntarily pleading guilty to a crime he had committed, but caused a record to be made of the proceedings had and the record demonstrated there was no merit to appellant's contentions.

Appeal from Garland Circuit Court, *Henry M. Britt*, Judge; affirmed.

*Michael G. Rothman*, for appellant.

*Jim Guy Tucker*, Atty. Gen., by: *Frank B. Newell*, Asst. Atty. Gen., for appellee.

CONLEY BYRD, Justice. The trial court without a formal hearing denied appellant William H. Stallins' petition for post conviction relief from a 20 year sentence on a guilty plea to assault with intent to rape. The trial court's action was proper under Criminal Procedure Rule No. 1 (c). See also *North Carolina v. Alford*, 400 U.S. 25 (1970).

The record shows that after an original plea of not guilty to a charge of first degree rape there was some negotiation between appellant's employed counsel and the prosecuting attorney. On January 26, 1970, the State reduced the charge to assault with intent to rape but the trial court would not accept appellant's plea because he stated that he used no force and that the girl consented. Thereafter the State amended the information to again charge first degree rape. February 1, 1970, appellant again requested that he be permitted to plead guilty to assault with intent to rape. Before accepting the plea and sentencing appellant to twenty years in the Department of Corrections, the trial court not only satisfied himself that appellant was voluntarily pleading guilty to a crime he had committed but caused a record to be made of the proceedings had. This record clearly demonstrates that there is no merit to the many contentions that appellant now makes.

Affirmed.