

FRANK NALL *v.* STATE OF ARKANSAS

5590

466 S. W. 2d 252

Opinion delivered May 3, 1971

CRIMINAL LAW—POSTCONVICTION RELIEF—WAIVER OF RIGHT TO JURY TRIAL.—Trial Judge's denial of petitioner's relief under Criminal Procedure Rule 1 and finding petitioner had intelligently waived his right to a jury trial *held* supported by the record.

Appeal from Pulaski Circuit Court, First Division, *William J. Kirby*, Judge; affirmed.

*Louis W Rosteck*, for appellant.

*Ray Thornton*, Attorney General; *Milton R. Lueken*, Asst. Atty. Gen., for appellee.

CONLEY BYRD, Justice. Appellant Frank Nall appeals from a circuit court order denying his petition for relief under our Criminal Procedure Rule 1. Nall was tried by the court on one of several charges for receiving stolen property and was found guilty. The other charges were not pursued. In his petition and his testimony, Nall alleged that he requested, in fact demanded, a jury trial, which demand was ignored in violation of his constitutional rights. No record was made at the trial. In addition to his testimony, the court heard the contrary testimony of his then counsel

and the special judge, and found that appellant had intelligently waived his right to a jury trial. We find that the record fully supports the action of the circuit court.

Affirmed.

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