## IN THE COURT OF APPEALS OF TENNESSEE AT NASHVILLE

ROBERT C. DANIELS,	
Plaintiff/Appellant,	) Appeal No. ) 01-A-01-9707-CH-00297
VS.	) Davidson Chancery ) No. 96-1814-III
CHARLES TRAUGHBER, Chairman, TENNESSEE BOARD OF PAROLES, ET AL.,	FILED
Defendants/Appellees.	May 6, 1998
	Cecil W. Crowson

## CONCURRING OPINION APP

I concur with the decision to affirm the trial court's order. In my view, it is simply a case of statutory application. In the "Open Parole Hearings Act" of 1993 the legislature provided that the Parole Board shall receive and consider victim impact statements, Tenn. Code Ann. § 40-28-504(a); that notice be given to the victim or the victim's representative and to the trial judge and district attorney involved in the original criminal prosecution, Tenn. Code Ann. § 40-28-505(b)(1), (2) and (4); and that on a failure to provide the required notices, the Board may schedule a new hearing if the Board receives a written victim impact statement within fifteen days of the time the parole decision is finalized, Tenn. Code Ann. § 40-28-505(d)(2).

The facts of this case fit the statute almost perfectly. I believe the Board was justified in scheduling the second hearing and in considering the feelings of the victim's family. I believe that is what the legislature intended for the Board to do.

BEN H. CANTRELL, JUDGE