

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
September 25, 2001 Session

STATE OF TENNESSEE v. ANDERSON TOLIVER

Appeal from the Criminal Court for Hamilton County
Nos. 223083, 223085 Stephen M. Bevil, Judge

No. E2001-00584-CCA-R3-CD
December 18, 2001

JOSEPH M. TIPTON, J., concurring.

I concur in the result reached and most of the reasoning used in the majority opinion. However, I would hold that the defendant was entitled to an instruction on attempted aggravated child abuse under the evidence presented. As the majority opinion holds though, under State v. Williams, 977 S.W.2d 101, 106 (Tenn. 1988), the failure to give the instruction was harmless beyond a reasonable doubt.

JOSEPH M. TIPTON, JUDGE