

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

JANUARY 1998 SESSION

<p><b>FILED</b></p> <p><b>March 25, 1998</b></p> <p><b>Cecil Crowson, Jr.</b> Appellate Court Clerk</p>
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NELSON B. GRAVES, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 HOWARD CARLTON, WARDEN, )  
 and STATE OF TENNESSEE, )  
 )  
 Appellees. )

No. 01C01-9705-CR-00171  
 Johnson County  
 Honorable Lynn W. Brown, Judge  
 (Habeas Corpus)

**CONCURRING OPINION**

I concur in the results and most of the reasoning in the majority opinion. I would hold, though, that the indictments sufficiently contain any necessary mens rea by allegations that the offenses were “feloniously” committed. Historically, the word “feloniously” has meant “[p]roceeding from an evil heart or purpose; done with a deliberate intention of committing a crime.” Black’s Law Dictionary 617 (6th ed. 1990). As our supreme court has previously noted, “one meaning attached to the word is: ‘In a legal sense, done with the intent to commit a crime.’” State v. Smith, 119 Tenn. 521, 526, 105 S.W. 68, 70 (1907). Thus, I believe that the indictments include any required mens rea.

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Joseph M. Tipton, Judge