IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE **AT NASHVILLE DECEMBER 1997 SESSION** June 17, 1998 Cecil W. Crowson **Appellate Court Clerk** STATE OF TENNESSEE, NO. 01C01-9701-CR-00031 Appellee, **DAVIDSON COUNTY** VS. HON. ANN LACY JOHNS, JUDGE ROBERT ANTHONY PAYNE, a.k.a. ANTHONY JORDAN, (Vehicular Homicide, Reckless Endangerment, Reckless Appellant. Aggravated Assault, Intentional or

CONCURRING OPINION

I acknowledge that I upheld the constitutionality of the statute on parole eligibility in <u>State v. Cooper</u>, No. 01C01-9604-CC-00150 (Tenn. Crim. App. at Nashville, November 17, 1997). However, I did not address the issue of whether telling the jury that they could consider sentencing in reaching their verdict was appropriate. Therefore, I concur with Judge Riley's analysis in this case.

PAUL G. SUMMERS, Judge

Knowing Aggravated Assault)