



Tennessee Supreme Court
DISCRETIONARY APPEALS
Grants & Denials List
January 19, 2015 - January 23, 2015

GRANTS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Appellate Judge/Judgment	Nature Of Appeal	Action
<u>Nashville</u>				
STATE OF TENNESSEE v. STEPHANO LEE WEILACKER M2013-01532-SC-R11-CD	Montgomery County Circuit Court Michael R. Jones 40700673	Ogle, Norma McGee: Affirmed	TRAP 11	Granted: Application of Stephano L. Weilacker Order filed 1-20-15 (See Attached Order)

DENIALS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Appellate Judge/Judgment	Nature Of Appeal	Action
<u>Nashville</u>				
STATE OF TENNESSEE v. QUINCY MAURICE DEAL M2013-02315-SC-R11-CD	Davidson County Criminal Court Steve R. Dozier 2011D2994, 2013A402, 2013A403	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Quincy Maurice Deal

Knoxville

STATE OF TENNESSEE v. DARRICK EUGENE
MCALLISTER
E2012-00493-SC-R11-CD

Knox County Criminal Court
Steven Wayne Sword
93998

Woodall, Thomas T.: Affirmed

TRAP 11

Denied: Application of Darrick Eugene McAllister, Opinion of the Court of Criminal Appeals designated "Not For Citation" accordance with Supreme Court Rule 4(E), Order filed 1-20-15

EDNA LEE WEAVER v. DIVERSICARE LEASING
CORP., ET. AL.
E2013-01560-SC-R11-CV

Anderson County Circuit Court
Donald Ray Elledge
BILA0350

Susano Jr., Charles D.: Affirmed

TRAP 11

Denied: Application of Edna Lee Weaver, Opinion of the Court of Appeals designated "Not For Citation" accordance with Supreme Court Rule 4(E), Order filed 1-20-15

Order filed 1-20-15

CAROLYN M. HEATON v. JASON BARRETT HEATON E2013-01985-SC-R11-CV	Hamilton County Chancery Court Jeffrey M. Atherton 120412	Frierson II, Thomas R.: Affirmed in Part, Vacated in Part Susano Jr., Charles D.: Dissent	TRAP 11	Denied: Application of Carolyn M. Heaton Order filed 1-20-15
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DAVID FREEMAN CLAY v. STATE OF TENNESSEE E2013-02262-SC-R11-PC	Knox County Criminal Court Bobby R. McGee 99042	Woodall, Thomas T.: Affirmed	TRAP 11	Denied: Application of David Freeman Clay Order filed 1-20-15
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Jackson

DEANGELO SEVIER v. STATE OF TENNESSEE W2013-00363-SC-R11-PC	Shelby County Criminal Court Lee V. Coffee 0609190	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Deangelo Seiver Order filed 1-20-15
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STATE OF TENNESSEE v. COY MCKAUGHAN W2013-00676-SC-R11-CD	Shelby County Criminal Court James M. Lammey 1000690	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Coy McKaughan Order filed 1-20-15
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STATE OF TENNESSEE v. JOHN VALENTINE W2013-01002-SC-R11-CD	Shelby County Criminal Court Carolyn W. Blackett 1102890	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of John Valentine Order filed 1-20-15
ROBERT LEWIS WEBB v. STATE OF TENNESSEE W2013-01250-SC-R11-PC	Shelby County Criminal Court James C. Beasley, Jr. 0307591	Smith, Jerry L.: Reversed	TRAP 11	Denied: Application of Robert Lewis Webb Order filed 1-20-15
JOHN R. WILLIS, JR. v. THE CITY OF MEMPHIS ET AL. W2013-01861-SC-R11-CV	Shelby County Chancery Court Kenny W. Armstrong CH1118143	Stafford, J. Steven: Affirmed in Part, Vacated in Part	TRAP 11	Denied: Application of John R. Willis Order filed 1-20-15
REELFOOT UTILITY DISTRICT OF LAKE COUNTY, TENNESSEE v. SAMBURG UTILITY DISTRICT OF OBION COUNTY, TENNESSEE ET AL. W2013-01952-SC-R11-CV	Obion County Chancery Court W. Michael Maloan 30034	Kirby, Holly M.: Affirmed	TRAP 11	Denied: Application of Reelfoot Utility District of Lake County, Tennessee Order filed 1-20-15

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. STEPHANO L. WEILACKER

**Circuit Court for Montgomery County
No. 40700673**

No. M2013-01532-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Stephano L. Weilacker, and the record before us, the application is granted. For the reasons stated herein, the Court of Criminal Appeals' judgment is vacated, and the case is remanded for further proceedings.

On June 3, 2013, the trial court granted Mr. Weilacker a delayed appeal as provided by Tenn. Code Ann. § 40-30-113, because trial counsel untimely filed a motion for a new trial. Thereafter, Mr. Weilacker's counsel failed to file a motion for a new trial as provided by Tenn. Code Ann. § 40-30-113(a)(3). On appeal, the Court of Criminal Appeals held that Mr. Weilacker had waived all issues other than sufficiency of the evidence and sentencing, because no timely motion for a new trial was filed. *State v. Stephano L. Weilacker*, No. M2013-01532-CCA-R3-CD, 2014 WL 4402123, at *3 (Tenn. Crim. App. Sept. 8, 2014). As a matter of judicial efficiency and to meet the ends of justice, we remand this case to the trial court for Mr. Weilacker's counsel to file a proper motion for a new trial. *See John E. Miller*, C.C.A. No. 2, 1989 WL 3204, at *3 (Tenn. Crim. App. Jan. 18, 1989).

Upon remand, Mr. Weilacker's counsel shall, within thirty days from the date of the entry of this order, file a proper motion for a new trial regarding Mr. Weilacker's convictions for especially aggravated kidnapping and aggravated robbery. The original trial court shall dispose of the motion as if it had been filed under authority of Rule 59 of the Rules of Civil Procedure. *See* Tenn. Code Ann. § 40-30-113(a)(3).

PER CURIAM