



Tennessee Supreme Court
DISCRETIONARY APPEALS
Grants & Denials List
December 15, 2014 - December 19, 2014

GRANTS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Appellate Judge/Judgment	Nature Of Appeal	Action
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Knoxville

ARTHUR B. ROBERTS ET AL. v. ROBERT BAILEY, ET AL. E2013-01950-SC-R11-CV	Loudon County Chancery Court Frank V. Williams, III 11419	Frierson II, Thomas R.: Affirmed	TRAP 11	Granted: Application of Robert Bailey and Lisa Bailey Dishner Order filed 12-18-14 (See Attached Order)
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Jackson

STATE OF TENNESSEE v. MICHAEL SMITH W2013-01190-SC-R11-CD	Shelby County Criminal Court James M. Lammey 1006590	Wedemeyer, Robert W.: Affirmed	TRAP 11	Granted: Application of Michael Smith Order filed 12-18-14 (See Attached Order)
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DONRIEL A. BORNE v. CELADON TRUCKING SERVICES, INC.
W2013-01949-SC-R11-CV

Shelby County Circuit Court
Robert Samuel Weiss
CT00327310

Highers, Alan E.: Affirmed in Part,
Reversed in Part
Stafford, J. Steven: Dissent in Part

TRAP 11

Granted:
Application of
Celandon Trucking
Services, Inc. and
Donriel A. Borne

Order filed 12-18-14
(See Attached
Order)

DENIALS

Style/Appeal Number

County/Trial Judge/ Trial Court No.

Appellate Judge/Judgment

Nature Of Appeal

Action

Nashville

LEONARD ALLEN v. STATE OF TENNESSEE
M2013-00840-SC-R11-PC

Davidson County Criminal Court
Seth W. Norman
2003A42

Smith, Jerry L.: Affirmed

TRAP 11

Denied: Application
of Leonard Allen

Order filed 12-17-14

STEVEN JAMES MCCAIN v. STATE OF TENNESSEE
M2013-00992-SC-R11-PC

Davidson County Criminal Court
J. Randall Wyatt, Jr.
1998D2520

Witt Jr., James Curwood: Affirmed

TRAP 11

Denied: Application
of Steven James
McCain

Order filed 12-19-14

STATE OF TENNESSEE v. TOMMY DALE ADAMS
M2013-01080-SC-R11-CD

Wilson County Criminal Court
David Earl Durham
2009CR681

Woodall, Thomas T.: Affirmed in Part, TRAP 11
Vacated in Part

Denied: Application
of Tommy Dale
Adams

Order filed 12-17-14

STATE OF TENNESSEE v. PEDRO IGNACIO
HERNANDEZ
M2013-01321-SC-R11-CD

Davidson County Criminal Court
Monte Watkins
2011A525

Witt Jr., James Curwood: Affirmed as TRAP 11
Modified

Denied: Application
of Pedro Ignacio
Hernandez, Court
of Criminal Appeals
designated "Not for
Citation" with
Supreme Court
Rule 4(E), Order
filed 12-19-14(See
Attached Order)

BILLY D. SIZEMORE v. STATE OF TENNESSEE
M2013-01378-SC-R11-PC

Perry County Circuit Court
Robbie T. Beal
2011CR42

Page, Roger A.: Affirmed TRAP 11

Denied: Application
of Billy D. Sizemore

Order filed 12-18-14

STATE OF TENNESSEE v. KWAKU ARYEL OKRAKU M2013-01379-SC-R11-CD	Davidson County Criminal Court Steve R. Dozier 2009A769	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Kwaku Aryel Okraku, Opinion of Court of Criminal Appeals designated "Not For Citation" with Supreme Court Rule 4(E)(1), Order filed 12-19-14(See Attached Order)
STATE OF TENNESSEE v. MICHAEL LYNN HORN M2013-01469-SC-R11-CD	Putnam County Circuit Court Leon C. Burns, Jr. 100542	Wedemeyer, Robert W.: Affirmed	TRAP 11	Denied: Application of Michael Lynn Horn Order filed 12-17-14
STATE OF TENNESSEE v. DAVID ORLANDO AVINGER M2013-01643-SC-R11-CD	Davidson County Criminal Court Mark J. Fishburn 2013A71	Smith, Jerry L.: Affirmed	TRAP 11	Denied: Application of David Orlando Avinger Order filed 12-17-14

<p>CYRUS DEVILLE WILSON v. STATE OF TENNESSEE M2013-01807-SC-R11-CO</p>	<p>Davidson County Criminal Court Seth W. Norman 1993A176</p>	<p>Williams, John Everett: Affirmed</p>	<p>TRAP 11</p>	<p>Denied: Application of Cyrus Deville Wilson Order filed 12-17-14</p>
<p>STATE OF TENNESSEE v. DEMONTRE CHAVEZ BROWN M2013-02091-SC-R11-CD</p>	<p>Bedford County Circuit Court Franklin L. Russell 17504</p>	<p>Thomas Jr., D. Kelly: Affirmed</p>	<p>TRAP 11</p>	<p>Denied: Application of Demontre Chavez Brown Order filed 12-17-14</p>
<p>AUSTIN DAVIS, ET AL. v. COVENANT PRESBYTERIAN CHURCH, ET AL. M2013-02273-SC-R11-CV</p>	<p>Davidson County Circuit Court Carol Soloman 13C2510</p>	<p>Bennett, Andy D.: Affirmed in Part, Reversed in Part</p>	<p>TRAP 11</p>	<p>Denied: Application of Austin Davis, Catherine Davis, and D. D. a minor, Covenant Presbyterian Church of Nashville, Joe Eades, Worrick Robinson, John Avery, Order filed 12-17-14</p>

IN RE: LOCAL BONDING COMPANIES M2013-02337-SC-R11-CV	Davidson County Criminal Court Steve R. Dozier 4665	Per Curiam: Case Dispositional Decision	TRAP 11	Denied: Application of bonding companies Order filed 12-19-14
STATE OF TENNESSEE v. CHRISTOPHER I. THRASHER M2013-02495-SC-R11-CD	Overton County Circuit Court Leon C. Burns, Jr. 2012CR48	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Christopher L. Thrasher Order filed 12-17-14
TOWN OF CROSSVILLE HOUSING AUTHORITY v. JOHN A. MURPHY, ET AL. M2013-02576-SC-R11-CV	Fentress County Chancery Court Andrew R. Tillman 1058	Farmer, David R.: Affirmed in Part, Reversed in Part	TRAP 11	Denied: Application of Town of Crossville Housing Authority Order filed 12-18-14
STATE OF TENNESSEE v. MARK EDWARD GREENE M2013-02710-SC-R11-CD	Williamson County Circuit Court James G. Martin, III IICR061910	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of Mark Edward Greene Order filed 12-18-14

STATE OF TENNESSEE v. ANDREA KELLY JONES M2013-02720-SC-R11-CD	Dekalb County Circuit Court David A. Patterson 12CR156	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Andrea Kelly Jones Order filed 12-17-14
MELISSA L. GRAYSON v. STATE OF TENNESSEE M2013-02842-SC-R11-PC	Davidson County Criminal Court Steve R. Dozier 2008A10	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Melissa L. Grayson Order filed 12-19-14
JACK T. JONES v. STATE OF TENNESSEE M2014-00863-SC-R11-PC	Sumner County Criminal Court Dee David Gay 2322014	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Jack T. Jones Order filed 12-18-14
HARVEY E. TAYLOR v. STATE OF TENNESSEE M2014-01315-SC-R11-PC	Davidson County Criminal Court Monte Watkins 2008B1760	Smith, Jerry L., Wedemeyer, Robert W., Woodall, Thomas T.: Case Dispositional Decision	TRAP 11	Denied: Application of Harvey E. Taylor Order filed 12-17-14

KITTY L. ATKINS, ET AL v. AARON JAMES FOSTER, ET AL	U.S. District Court, Eastern District		SCt Rule 23	Denied: See Attached Order
M2014-01805-SC-R23-CV	312CV00077PLRHBG			Order filed 12-18-14

Knoxville

STATE OF TENNESSEE v. JESSICA KENNEDY	Monroe County Circuit Court	Tipton, Joseph M.: Affirmed	TRAP 11	Denied: Application of Jessica Kennedy
E2013-00260-SC-R11-CD	Walter C. Kurtz 11058			Order filed 12-16-14

STATE OF TENNESSEE v. ANGELA M. GREENE	McMinn County Circuit Court	Tipton, Joseph M.: Affirmed	TRAP 11	Denied: Application of Angela Greene
E2013-00475-SC-R11-CD	Amy F. Reedy 12CR4			Order filed 12-17-14

DAVID HEARING v. STATE OF TENNESSEE	Greene County Circuit Court	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of David Hearing
E2013-00640-SC-R11-ECN	Thomas J. Wright 11CR191			Order filed 12-19-14

ERIC JOHNSON, ET AL v. PARKWEST MEDICAL CENTER E2013-01228-SC-R11-CV	Knox County Circuit Court Deborah C. Stevens 320710	Frierson II, Thomas R.: Affirmed in Part, Vacated in Part	TRAP 11	Denied: Application of Eric Johnson Order filed 12-17-14
DANNY LEE GREENE v. STATE OF TENNESSEE E2013-01583-SC-R11-PC	Washington County Criminal Court R. Jerry Beck 37107	Tipton, Joseph M.: Affirmed	TRAP 11	Denied: Application of Danny Lee Greene Order filed 12-18-14
MARK L. PECK v. STATE OF TENNESSEE, ET AL E2013-01760-SC-R11-ECN	Sullivan County Circuit Court Robert E. Cupp 23069	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Mark L. Peek Order filed 12-18-14
BLAKE DELANEY TALLANT v. STATE OF TENNESSEE E2013-01827-SC-R11-PC	Knox County Criminal Court Mary B. Leibowitz 89946	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Blake Delaney Order filed 12-17-14

STATE OF TENNESSEE v. JAMES JOSEPH RYAN E2013-02135-SC-R11-CD	Knox County Criminal Court Steven Wayne Sword 100131	Woodall, Thomas T.: Affirmed	TRAP 11	Denied: Application of James Joseph Ryan Order filed 12-16-14
CHARLES MIDDLEBROOK v. STATE OF TENNESSEE E2013-02411-SC-R11-PC	Knox County Criminal Court Steven Wayne Sword 100668	Tipton, Joseph M.: Affirmed	TRAP 11	Denied: Application of Charles Middlebrook Order filed 12-18-14
JAMAR MCFIELD v. STATE OF TENNESSEE E2013-02434-SC-R11-PC	Hamilton County Criminal Court Don W. Poole 283406	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Jamar McField Order filed 12-16-14
STATE OF TENNESSEE v. TROY JAMES KEITH REYNOLDS E2013-02777-SC-R11-CD	Blount County Circuit Court Tammy M. Harrington C21263, C21264	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Troy James Keith Reynolds Order filed 12-19-14

WILLIE DOUGLAS JOHNSON v. STATE OF
TENNESSEE
E2013-02826-SC-R11-PC

Knox County Criminal Court
Mary B. Leibowitz
94873

McMullen, Camille R.: Affirmed

TRAP 11

Denied: Application
of Willie Douglas

Order filed 12-17-14

Jackson

FRANK TAYLOR v. STATE OF TENNESSEE
W2012-01993-SC-R11-PC

Shelby County Criminal Court
James M. Lammey
0505703

Williams, John Everett: Affirmed

TRAP 11

Denied: Application
of Frank Taylor

Order filed 12-18-14

STATE OF TENNESSEE v. MILTON KIRK
W2013-00544-SC-R11-PC

Dyer County Circuit Court
Don R. Ash
09CR291, 10CR35, 11CR186

Bivins, Jeffrey S.: Affirmed

TRAP 11

Denied: Application
of Milton L. Kirk

Order filed 12-16-14

STATE OF TENNESSEE v. LAVELLE MANGRUM
W2013-00853-SC-R11-CD

Shelby County Criminal Court
J. Robert Carter, Jr.
1202097

Bivins, Jeffrey S.: Affirmed

TRAP 11

Denied: Application
of Lavelle Mangrum

Order filed 12-17-14

STATE OF TENNESSEE v. NORMAN BRANCH W2013-00964-SC-R11-CD	Shelby County Criminal Court Paula L. Skahan 1200463	Bivins, Jeffrey S.: Affirmed	TRAP 11	Denied: Application of Norman Branch Order filed 12-19-14
STATE OF TENNESSEE v. PHILLIP HARRIS W2013-01028-SC-R11-CD	Shelby County Criminal Court Chris Craft 0803680	McMullen, Camille R.: Affirmed in Part	TRAP 11	Denied: Application of Phillip Harris Order filed 12-18-14
STATE OF TENNESSEE v. KEITH COLLINS W2013-01119-SC-R11-CD	Shelby County Criminal Court James C. Beasley, Jr. 1105218	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of Keith Collins Order filed 12-17-14
MYRTLE ROBINSON ET AL. v. BAPTIST MEMORIAL HOSPITAL ET AL. W2013-01198-SC-R11-CV	Shelby County Circuit Court Gina C. Higgins CT00384207	Stafford, J. Steven: Affirmed	TRAP 11	Denied: Application of Myrtle Robinson Order filed 12-18-14

STATE OF TENNESSEE v. JONATHAN L. HENDERSON W2013-01247-SC-R11-CD	Madison County Circuit Court Roy B. Morgan, Jr. 12504	Woodall, Thomas T.: Affirmed	TRAP 11	Denied: Application of Jonathan L. Henderson Order filed 12-18-14
STATE OF TENNESSEE v. WENDELL GUINN W2013-01436-SC-R11-CD	Shelby County Criminal Court J. Robert Carter, Jr. 1205110	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Wendell Guinn Order filed 12-18-14
STATE OF TENNESSEE v. ALLEN DALE SPICER W2013-01446-SC-R11-CD	Fayette County Circuit Court J. Weber McCraw 12CR119	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Allen Dale Spicer Order filed 12-18-14
STATE OF TENNESSEE v. CURTIS TAYLOR W2013-01820-SC-R11-CD	Shelby County Criminal Court Glenn Ivy Wright 1203591	Smith, Jerry L.: Affirmed	TRAP 11	Denied: Application of Curtis Taylor Order filed 12-18-14

STATE OF TENNESSEE v. DOMINIQUE DAVON HOLMES W2013-01878-SC-R11-CD	Madison County Circuit Court Donald H. Allen 13100, 1399	McMullen, Camille R.: Affirmed	TRAP 11	Denied: Application of Dominique Davon Holmes Order filed 12-18-14
STATE OF TENNESSEE v. DARYL BOBO W2013-02008-SC-R11-CD	Shelby County Criminal Court Chris Craft 1103987	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of Daryl Bobo Order filed 12-19-14
STATE OF TENNESSEE v. STEVIE GIBSON W2013-02015-SC-R11-CD	Shelby County Criminal Court James M. Lammey 1202182	Bivins, Jeffrey S.: Affirmed	TRAP 11	Denied: Application of Stevie Gibson Order filed 12-18-14
LINDA LASETER v. J. MARTIN REGAN, JR., AS PERSONAL REPRESENTATIVE OF THE ESTATE OF FERNANDO HERRERA W2013-02105-SC-R11-CV	Shelby County Circuit Court Donna M. Fields CT00242708	Highers, Alan E.: Affirmed	TRAP 11	Denied: Application of Linda Laseter Order filed 12-18-14

JOHNVONTA M. SAIN v. STATE OF TENNESSEE W2013-02145-SC-R11-PC	Hardeman County Circuit Court J. Weber McCraw 12CR54	Wedemeyer, Robert W.: Affirmed	TRAP 11	Denied: Application of Johnvonta M. Sain Order filed 12-17-14
STATE OF TENNESSEE v. BRIAN GAULDIN W2013-02226-SC-R11-CD	Dyer County Circuit Court R. Lee Moore, Jr. 11CR167	Smith, Jerry L.: Affirmed	TRAP 11	Denied: Application of Brian Gauldin, Denied: Motions on discrimination and presecutorial misconduct, Order filed 12-18-14
CHRISTOPHER FIELDER v. STATE OF TENNESSEE W2013-02252-SC-R11-PC	Shelby County Criminal Court John Wheeler Campbell 0803221	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Christopher Fielder Order filed 12-18-14
STATE OF TENNESSEE v. LONA PARKER W2013-02446-SC-R11-CD	Shelby County Criminal Court W. Mark Ward 1202646	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of Lona Parker Order filed 12-19-14

STATE OF TENNESSEE v. MARK ELIHU COOPER W2013-02530-SC-R11-CD	Weakley County Circuit Court William B. Acree 2013CR55	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Mark Elihu Cooper Order filed 12-18-14
BARRY LAMONT PRICE v. STATE OF TENNESSEE W2013-02547-SC-R11-ECN	Madison County Circuit Court Roy B. Morgan, Jr. 89955, 90141, 90494, 90495, 90496	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Barry L. Price, Denied: Motion for Appointment of Counsel, Order filed 12-19-14
STATE OF TENNESSEE v. MICHAEL JARROD BRADY W2013-02784-SC-R11-CD	Madison County Circuit Court Roy B. Morgan, Jr. 13225	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Michael Jarrod Brady Order filed 12-18-14
RICARDO TORRES v. PRECISION INDUSTRIES P.I. INC. D/B/A PRECISION INDUSTRIES, ET AL. W2014-00032-SC-R11-CV	Hardeman County Circuit Court J. Weber McCraw CC12CV27	Summers, Paul G.: Reversed	TRAP 11	Denied: Application of Precision Industries, P. I.Inc., d/b/a Precision Industries, Terry

Hedrick, and Vicki
Hedrick

Order filed 12-18-14

STATE OF TENNESSEE v. RODRIQUEZ JONES
W2014-00193-SC-R11-CD

Shelby County Criminal Court
J. Robert Carter, Jr.
1203877

Page, Roger A.: Affirmed

TRAP 11

Denied: Application
of Rodriguez Jones

Order filed 12-16-14

MARCUS DEANGELO LEE v. STATE OF TENNESSEE
W2014-00994-SC-R11-CO

Shelby County Criminal Court
James M. Lammey
9510473, 9511561, 9511562

TRAP 11

Denied: Application
of Marcus Deangelo
Lee, Denied: Motion
to Supplement
Application &
Request for
Consideration of
Post-Judgment
Facts, Order filed
12-19-14

JOHNNY TATE v. STATE OF TENNESSEE
W2014-01296-SC-R11-PC

Shelby County Criminal Court
James M. Lammey
0708398

Glenn, Alan E., Page, Roger A.,
Williams, John Everett: Case
Dispositional Decision

TRAP 11

Denied: Application
of Joihnnny Tate,
Granted Motions to
take judicial notice
of case law, Order

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

ARTHUR B. ROBERTS ET AL. V. ROBERT BAILEY, ET AL.

**Chancery Court for Loudon County
No. 11419**

No. E2013-01950-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of Robert Bailey and Lisa Bailey Dishner and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

STATE OF TENNESSEE v. MICHAEL SMITH

**Criminal Court for Shelby County
No. 1006590**

No. W2013-01190-SC-R11-CD

ORDER

Upon consideration of the motion of the applicant, Michael Smith, to waive the requirement that unpublished decisions cited in his application be appended to the application, the motion is hereby granted.

Upon consideration of the application for permission to appeal of Michael Smith and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

DONRIEL A. BORNE v. CELADON TRUCKING SERVICES, INC.

**Circuit Court for Shelby County
No. CT00327310**

No. W2013-01949-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of Donriel A. Borne and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. PEDRO IGNACIO HERNANDEZ

**Criminal Court for Davidson County
No. 2011A525**

No. M2013-01321-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Pedro Ignacio Hernandez and the record before us, the application is denied.

The opinion of the Court of Criminal Appeals is designated “Not For Citation” in accordance with Supreme Court Rule 4, § E.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. KWAKU ARYEL OKRAKU

**Criminal Court for Davidson County
No. 2009A769**

No. M2013-01379-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Kwaku Aryel Okraku and the record before us, the application is denied. The August 1, 2014 opinion of the Court of Criminal Appeals is designated “Not for Citation” in accordance with Supreme Court Rule 4(E)(1). The reason for the designation is the determination of the Court of Criminal Appeals that the trial court substantially complied with the provisions of Tenn. R. Evid. 404(b) in the admission of certain evidence. We agree that the Court of Criminal Appeals correctly remanded the case for entry of a corrected judgment to reflect the merger of the two convictions for aggravated child neglect.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

KITTY L. ATKINS, ET AL. V. AARON JAMES FOSTER, ET AL.

**Rule 23 Certified Question of Law
from the United States District Court
for the Eastern District of Tennessee
No. 3:12-CV-00077-PLR-HBG**

No. M2014-01805-SC-R23-CQ

ORDER

Pursuant to Tenn. Sup. Ct. R. 23, an amended certification order was filed in this Court on September 15, 2014, by the United States District Court for the Eastern District of Tennessee. Briefs have now been filed pursuant to Section 7, and, upon consideration of the certification order and the briefs filed by the parties, this Court declines to answer the following certified question:

Whether the holdings of *McClenahan*¹ and *Newman*² should be extended to the owner of a vehicle when the keys to the vehicle are stolen from within the owner's home.

Upon thorough review, it appears to this Court that while there are no Tennessee appellate decisions factually on all fours with the instant case, the question presented does not require an answer by this Court with respect to the proper interpretation of Tennessee law pursuant to Tenn. Sup. Ct. R. 23. Rather, the question presented requires an application of well-established Tennessee law and a settled analytical framework to a unique set of facts. Respectfully, this is a function which the District Court may ably perform.

For these reasons, the Court denies the certification.

PER CURIAM

¹*McClenahan v. Cooley*, 806 S.W.2d 767 (Tenn. 1991)

²*Newman v. Jarrell*, 354 S.W.3d 309 (Tenn. Ct. App. 2010), *perm. app. denied* (Tenn. April 14, 2011)