Supreme Court Appeals
Pending Cases
(06-28-11)

1.	Style	Allstate Ins. Co. v. Diana Lynn Tarrant, et al.
2.	Docket Number	E2009-02431-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Allstate%20Insurance%20Co%20vs%20Diana%20Lynn%20Tarran.pdf
4.	Lower Court Summary	Plaintiff insurer brought this declaratory judgment action to determine which of the two policies issued to defendants insured and their corporation, covered a van which had been involved in an accident. Plaintiff named the insureds as defendants, as well as the third party who had filed a tort action against the insureds for personal injuries. The Trial Court conducted an evidentiary hearing and ruled that the insureds had told the agency plaintiff to keep the van in dispute on the commercial policy, but it had transferred the van to the insureds' personal policy. The Court further ruled that a notice of the transfer was sent to the insureds by plaintiff, and plaintiff sent at least five bills to the insureds that reflected the van was then insured under the personal policy and not the commercial policy. The Court concluded that the insureds ratified the change and ruled that the van was insured under the insureds personal policy. On appeal, we reverse and dismiss the action.
5.	Status	Appellant's reply brief filed 06/06/11; Set for hearing 8/31/11 in Knoxville

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1.	Style	Board of Professional Responsibility v. Mark Talley
2.	Docket Number	W2010-02072-SC-R3-BP
3.	Lower Court Decision Link	None available/Direct Appeal
4.	Lower Court Summary	None Available/Direct Appeal
5.	Status	Heard in Jackson on 04/06/11

1.	Style	Sheila Brown v. Rico Roland
2.	Docket Number	No. M2009-01885-SC-R11-CV
3.	Lower Court Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/103/Sheila%20Brown%20v%20Rico%20Roland%20OPN.pdf
4.	Lower Court	

	Summary	The matters at issue pertain to the rights and responsibilities of the parties under the underinsured motorist provisions of Plaintiff's automobile insurance. Plaintiff, who was involved in a vehicular accident with another motorist, commenced this personal injury action to recover an amount "under $25,000." The only named defendant is the tortfeasor, however, State Farm is an unnamed party. This is due to the fact that Plaintiff served timely and proper notice on State Farm of the commencement of this action and that she was asserting an underinsured coverage claim pursuant to Tenn. Code Ann. § 56-7-1206. Plaintiff subsequently entered into a settlement agreement with the tortfeasor for the tortfeasor's policy limits of $25,000, at which time she properly served notice on State Farm of the proposed settlement and her willingness to enter into binding arbitration with State Farm to settle her claim for underinsured motorist benefits. Thereafter, State Farm filed a motion to dismiss the underinsured claim against it claiming Plaintiff was made whole when she agreed to a settlement with the tortfeasor in an amount in excess of her ad damnum and therefore there was no claim to arbitrate. The court granted the motion to dismiss and Plaintiff appealed. We have determined the trial court did not err in granting State Farm's motion to dismiss the claim against it because Plaintiff sought to recover a judgment in an amount under $25,000 from the tortfeasor and/or State Farm, and Plaintiff settled her claim against the tortfeasor for an amount in excess of the ad damnum. Accordingly, we affirm the dismissal of State Farm.
5.	Status	Heard 06/02/11 in Nashville

1.	Style	Dave Brundage et al., v. Cumberland County et al.,
2.	Docket Number	E2010-00089-SC-R11-CV
3.	Lower Court Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/103/Dave%20Brundage%20vs%20Cumberland%20Co%20Opn.pdf
4.	Lower Court Summary	Petitioners filed a Statutory Writ of Certiorari, seeking the review of respondents' action in granting the right to develop a landfill to Smith Mountain Solutions pursuant to Tenn. Code Ann. §68-211-704. Petitioners did not timely verify their petitions and the Trial Judge dismissed the action on the ground he did not have jurisdiction to entertain the petition. On appeal, we affirm.
5.	Status	Heard 06/01/11 in Nashville

1.	Style	City of Harriman, Tennessee v. Roane County Election Commission, et al
2.	Docket Number	E2008-02316-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/094/City%20of%20Harriman%20v%20Roane%20Co%20Election%20Commission%20OPN.pdf
4.	Lower Court Summary	This is a contest between two neighboring towns in Roane County over common

territory that both have purported to annex. The defendant, Kingston, sought to add the territory through a successful referendum election conducted on February 5, 2008. The plaintiff, Harriman, sought to add the territory through its annexation ordinance No. 200801-1 adopted on first reading January 28, 2008. The disputed territory is outside the "[u]rban growth boundary" of both municipalities; it is within the "[r]ural area" of Roane County as those terms are respectively defined in Tenn. Code Ann. § 6-58-101 (7) and (6) (2005). Harriman's complaint to void the Kingston referendum asserts that Harriman's ordinance takes priority because Harriman, as a larger municipality, is granted statutory priority. Kingston argues that the Harriman ordinance was of no effect because Harriman did not first secure an amendment to its urban growth boundary before passing the ordinance. Harriman responded that it did in fact "propose" an amendment and that a proposal was all that was required under Tenn. Code Ann. § 6-58-111(d)(1) (Supp. 2009). The parties tried the case on stipulated facts. The trial court agreed with Kingston and dismissed Harriman's complaint without reaching the issue of priority. Harriman appeals, asking us to reverse and remand for a determination of the pretermitted issues. We vacate the judgment of the trial court and remand for further proceedings.

5.	Status	Judgment of the Court of appeals reversed on 06/09/11

1.	Style	Scott Craig v. David Mills, Warden
2.	Docket Number	E2010-00487-SC-R11-HC
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/Scott%20M.%20Craig%20vs%20Warden%20David%20Mills.pdf
4.	Lower Court Summary	The Petitioner, Scott M. Craig, appeals the Morgan County Criminal Court's summary dismissal of his petition for a writ of habeas corpus. The State has filed a motion requesting that this court affirm the trial court's denial of relief pursuant to Rule 20 of the Rules of the Court of Criminal Appeals. Following our review, we conclude that the State's motion is well-taken, and the judgment of the trial court is affirmed.
5.	Status	Appellee's brief filed 06/10/11; Set to be heard 8/31/11 in Knoxville

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1.	Style	James Crowley, et al. v. Wendy Thomas
2.	Docket Number	M2009-01336-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/james_crowley_et_al_v_wendy_thomas_opn.pdf
4.	Lower Court Summary	The issue on appeal is whether a defendant, who appealed from an adverse judgment rendered against her in the general sessions court, may dismiss the

appeal at any time in the circuit court and thereby dismiss the plaintiff's additional claims asserted in an amended complaint in the circuit court. Following the defendant's appeal to the circuit court, the plaintiff/appellee filed an amended complaint adding his wife as an additional plaintiff, asserting additional claims and seeking additional damages. On the eve of trial, the defendant filed a Notice of Dismissal of Appeal and Motion to Affirm General Sessions Judgment. The plaintiffs objected to the dismissal of their amended complaint, insisting that they had the right to proceed with their new and additional claims. The circuit court held that the party appealing from a general sessions judgment is entitled to dismiss the appeal at any time, without the consent of the adverse party, and the affirmance of the general sessions judgment. We affirm the decision of the circuit court.

5. Status — Judgment of the Court of Appeals affirmed on 06/17/11

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1. Style — Discover Bank v. Joy A. Mogan

2. Docket Number — E2009-01337-SC-R11-CV

3. Lower Court Decision Link — http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Discover%20Bank%20v%20Joy%20A%20Morgan%20OPN.pdf

4. Lower Court Summary — This lawsuit began as a collection claim filed by Discover Bank ("Discover") against Joy A. Morgan ("Morgan") for $16,341.52. Discover claimed Morgan owed this amount on a credit card originally issued to Morgan's husband, now deceased. Morgan filed an answer and counterclaim, asserting a claim for libel as well as claims pursuant to the federal Fair Credit Reporting Act, 15 U.S.C. § 1681, and the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, *et seq*. Morgan's attorney gave Discover's original attorney an extension of time in which to file an answer to the counterclaim. After this extension of time had run, Morgan's attorney warned Discover's attorney that a motion for default judgment would be filed if an answer was not filed within fourteen days. When Discover failed to file an answer within the fourteen days, Morgan filed a motion for default judgment. Discover's attorney failed to show up for the hearing and a default judgment was awarded to Morgan. Discover filed a Motion to Set Aside Default Judgment "pursuant to Rule 60.02. . . ." This motion was denied. Following a later hearing on damages, Morgan was awarded compensatory damages totaling $125,200, which the Trial Court then trebled under the Tennessee Consumer Protection Act. After obtaining new counsel, Discover filed a motion to alter or amend the judgment, which was denied. Discover now appeals. We affirm the Trial Court's Order denying Discover's motion to alter or amend the judgment and set aside the default judgment. We, however, vacate the award of damages and remand for a new hearing on the amount of damages and also to determine reasonable attorney fees incurred by Morgan on appeal.

5. Status — Set to be heard 08/31/11 in Knoxville

1.	Style	Federal Insurance Co., a/s/o Robert and Joanie Emerson v. Martin Winters, d/b/a Winters Roofing Co.,
2.	Docket Number	E2009-02065-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Federal%20Insurance%20Company%20ASO%20Robert%20&%20Joanie%20Emerson%20vs%20Martin%20Edward%20Winters%20DBA%20Winters%20Roofing%20Co%20opn.pdf
4.	Lower Court Summary	Plaintiff insurer of insured brought this action as a subrogee of the insureds, who had been paid under plaintiff's policy for a fire loss to their home. The insureds had employed a roofer to replace their roof, whose subcontractor caused the fire which destroyed the home. Plaintiff brought this action to recover from defendant roofer who filed a Motion for Summary Judgment and the Trial Court ruled defendant could not be held liable in tort for the negligent acts of his subcontractor under the facts of this case, and plaintiff could not recover under the theory of contract, because plaintiff could not show that the loss was caused by the contractual services or foreseeable. On appeal, we hold that summary judgment was inappropriate, because under contract law the defendant had a non-delegable duty to see that the work he was contractually obligated to perform was done in a careful, skillful and workmanlike manner. The case is remanded with instructions to proceed in accordance with this Opinion.
5.	Status	Appellee's brief filed 06/01/11; Set to be heard 09/01/11 in Knoxville

1.	Style	Cheryl Brown Giggers, et al. v. Memphis Housing Authority et al.,
2.	Docket Number	W2010-00806-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/cheryl_brown_giggers_v_memphis_housing_authority_opn.pdf
4.	Lower Court Summary	This is the second appeal of this wrongful death action, arising from a fatal shooting of a tenant at a Memphis public housing property. This Court granted Appellant, Memphis Housing Authority's, Tenn. R. App. P. 9 interlocutory appeal to address the trial court's denial of summary judgment in favor of the Appellant. Finding that Appellees' "failure to evict" claim is preempted by 47 U.S.C. §1437, and that Appellant retains its sovereign community under the discretionary function exception to the Tennessee Governmental Tort Liability Act, we reverse and remand for entry of summary judgment in favor of Appellant. Reversed and remanded.
5.	Status	Application for Permission to Appeal granted 05/26/11

1.	Style	Johanna L. Gonsewski v. Craig W. Gonsewski
2.	Docket Number	M2009-00894-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/courts/court-appeals/opinions/2010/02/17/johanna-l-gonsewski-v-craig-w-gonsewski-m2009-00894-coa-r3
4.	Lower Court Summary	The wife in this divorce action contends the trial court erred in the division of the marital property, in denying her request for alimony, and in denying her request to recover her attorney's fees. We have determined the wife is in need of and the husband has the ability to pay alimony in futuro, in the amount of $1,250 per month, and that she is entitled to recover attorney's fees. We, therefore, reverse the judgment of the trial court regarding alimony in futuro and remand the issue of attorney's fees, leaving it to the discretion of the trial court to determine an amount that is reasonable and necessary under the circumstances of this case. We affirm the trial court in all other respects.
5.	Status	Heard at Girls' State S.C.A.L.E.S. on 06/02/11 at Lipscomb University

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1.	Style	Dr. William P. Harman v. University of Tennessee at Chattanooga
2.	Docket Number	E2009-02139-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Dr%20William%20P%20Harman%20vs%20%20Univ%20of%20TN%20opn.pdf
4.	Lower Court Summary	This appeal involves the Tennessee Public Protection Act. The plaintiff professor was a department head at the defendant university. As the department head, the plaintiff evaluated a subordinate professor. The dean of the university instructed the plaintiff to remove negative information from the evaluation; the plaintiff refused. The plaintiff was then removed from his position as department head. He continued at the university as a tenured professor. The plaintiff sued the university asserting a claim under the Public Protection Act, alleging that he was discharged or terminated for refusing to participate in or remain silent about illegal activities. The trial court granted the university's motion for judgment on the pleadings on the basis, *inter alia*, that the plaintiff was neither terminated nor discharged. The plaintiff now appeals. We affirm, concluding that the removal of the plaintiff from his position as department head, when he remained employed as a professor, is not a termination or discharge under the Public Protection Act.
5.	Status	Heard 05/11/11 in Knoxville

1.	Style	Tina Marie Hodge v. Chad Craig
2.	Docket Number	M2009-00930-SC-R11-CV

3. Lower Court Decision Link

http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Tina%20Marie%20Hodge%20v%20Chadwick%20Craig.pdf

4. Lower Court Summary

This is a fraud claim between ex-spouses. While the petitioner mother and the respondent were dating, the mother became pregnant, and she told the respondent that the child was his. Consequently, she and the respondent married, and the child was born during the marriage. Years later, the parties divorced, and the respondent paid child support to the mother. After several years, the respondent obtained a DNA test, which revealed that he is not the child's biological father. After he told the mother of the test results, she filed a petition requesting a court-ordered paternity test and modification of the parenting plan. The respondent filed a counter-petition, alleging negligent and/or intentional misrepresentation by the mother for falsely representing that he was the child's biological father. After a bench trial, the trial court awarded the respondent compensatory damages for past child support, medical expenses, and insurance premiums paid for the child, compensatory damages for emotional distress, and attorney fees. The mother now appeals. We conclude that under Tennessee statutes, the respondent cannot recover the past child support, medical expenses, and insurance premiums, as this would be a retroactive modification of a valid child support order. We find that the remaining damages for emotional distress cannot be awarded for the tort of fraud and misrepresentation, because such damages are non-pecuniary. Therefore, we reverse the decision of the trial court.

5. Status

Appellant's brief filed 06/24/11

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1. Style

Holder et al. v. Westgate Resorts, Ltd.

2. Docket Number

E2009-01312-SC-R11-CV

3. Lower Court Decision Link

http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/103/James%20Q%20Holder%20vs%20Westgate%20Resorts%20Ltd%20dba%20Westgate%20Smoky%20Mountain%20Resort%20at%20Gatlinburg.pdf

http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/103/James%20Q%20Holder%20vs%20Westgate%20Resorts%20Ltd%20dba%20Westgate%20Smoky%20Mountain%20Resort%20at%20Gatlinburg%20CON%20opn.pdf

4. Lower Court Summary

Plaintiff sustained personal injuries resulting from a fall on defendant's premises and brought this action for damages, which resulted in a jury verdict in favor of plaintiff for damages against defendant. Defendant appealed, and asserted that the Trial Judge erred when he refused to allow defendant's expert to testify to his conversation with a third party. On appeal, we hold that the Trial Court erred in refusing to allow the proffered testimony, but the error was harmless. We affirm the Judgment of the Trial Court.

5.	Status	Heard 05/11/11 in Knoxville

1.	Style	Alicia D. Howell v. Nissan North America, Inc.
2.	Docket Number	No. M2009-02567-SC-WCM-WC
3.	Lower Court Decision Link	Not Available
4.	Lower Court Summary	Not Available
5.	Status	To be heard 06/01/11 in Nashville

1.	Style	In Re: John A. Bell, Judge
2.	Docket Number	W2010-01447-SC-R3-CJ
3.	Lower Court Decision Link	None Available
4.	Lower Court Summary	None Available
5.	Status	Judgment of the Court of the Judiciary affirmed in part on 06/10/11

1.	Style	Dorothy King, R.N., et al. v. Virgina Betts, Commissioner of the TN Dept. of Mental Health and Development Disabilities, in her individual capacity, et al.
2.	Docket Number	M2009-00117-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/courts/court-appeals/opinions/2009/12/18/dorothy-king-rn-and-patricia-battle-rn-et-al-v-virginia
4.	Lower Court Summary	This is a 42 U.S.C. § 1983 claim based on alleged retaliation in violation of the First Amendment. Appellant claims that Appellees retaliated against her in her employment for speaking out against a hospital policy. Appellees assert the defense of qualified immunity. Appellant appeals from the trial court's decision to grant summary judgment and judgment on the pleadings to the Appellees. Finding that there are material issues of fact in dispute, we reverse the trial court's grant of summary judgment. Further, we find that Appellant has stated a claim upon which relief may be granted and, therefore, reverse the trial court's decision to grant Appellees' motion for judgment on the pleadings. Affirmed in part, reversed in part and remanded.
5.	Status	Heard 02/02/11 in Nashville

1.	Style	Kiser v. Wolfe, et al.
2.	Docket Number	E2009-01529-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Randall%20D%20Kiser%20v%20Ian%20J%20Wolfe%20and%20Consumers%20Ins%20opn.pdf
4.	Lower Court Summary	This interlocutory appeal considers an issue of uninsured motorist coverage following an automobile accident in which Plaintiff Randall D. Kiser was permanently injured. The plaintiff was working within the scope of his employment, driving for a towing company, when his truck was struck by Defendant Ian J. Wolfe's vehicle. The defendant driver tendered his liability policy limits to the plaintiff and is not a party to this appeal. The employer towing company was insured by Defendant Consumers Insurance Company. In anticipation of arbitration for determination of damages and liability, the insurance company moved for partial summary judgment. The trial court denied summary judgment but granted the insurance company permission for an interlocutory appeal to determine two issues, on which we hold: (1) On a policy of vehicle insurance, the statutory requirement of Tenn. Code Ann. § 56-7-1201(a)(2) for a written rejection of uninsured/underinsured motorist benefits or written selection of uninsured/underinsured motorist benefits lower than liability limits is met when the insured signs an application containing a lower selection but neglects to initial a block provided for that purpose; and (2) the insurer bears the burden of proof to show that the insured signed an insurance contract application containing a stated limit of uninsured/underinsured motorist coverage, but once that burden has been met, the insured must raise any issue that the insurer obtained the insured's signature unlawfully under Tenn. Code Ann. § 56-7-1201(a)(2). We vacate the trial court's denial of the insurance company's Motion for Partial Summary Judgment and remand for reconsideration in light of this holding.
5.	Status	Heard at Girls' State S.C.A.L.E.S. on 06/02/11 at Lipscomb University in Nashville

1.	Style	Knox County, Tennessee ex rel. Environmental Termite & Pest Control, et al. v. Arrow Exterminators, et al.
2.	Docket Number	E2007-02827-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/093/Knox%20County,%20TN,%20on%20the%20relationship%20of%20Environmental%20Termite%20&%20Pest%20Control%20OPN.pdf
4.	Lower Court Summary	Plaintiff filed this action as a "*qui tam* claim" pursuant to the Tennessee False Claims Act. Tenn. Code Ann. § 4-18-101 *et seq*. The Trial Court awarded plaintiff proceeds from the settlement under the Act and both parties have

		appealed. On appeal we hold that plaintiff did qualify under the statute as an original source, and the Trial Court had jurisdiction to award a recovery. However, we hold there is not sufficient evidence to affirm the award. We vacate the award and remand pursuant to Tenn. Code Ann. § 27-3-128.
5.	Status	Heard 01/05/11 in Knoxville

1.	Style	Michael Lind v. Beaman Dodge, Inc.
2.	Docket Number	M2010-01680-SC-R09-CV
3.	Lower Court Decision Link	No lower court decision
4.	Lower Court Summary	No lower court decision
5.	Status	Set to be heard 09/01/11 in Knoxville

1.	Style	William H. Mansell, Jr. v. Bridgestone Firestone North Am. Tire, LLC
2.	Docket Number	M2010-02093-WC-R3-WC
3.	Lower Court Decision Link	Unavailable
4.	Lower Court Summary	Unavailable
5.	Status	Heard 06/03/11 in Nashville

1.	Style	Calvin Gray Mills, Jr., and Wife, Linda Mills v. Fulmarque, Inc.
2.	Docket Number	W2010-00933-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/calvin_gray_mills_jr__linda_mills_v_fulmarque_inc_opn.pdf
4.	Lower Court Summary	Plaintiffs initially filed suit against Royal Group, among others. In its answer, Royal Group alleged the comparative fault of Aaron Rents, Inc. Because the one-year statute of limitations had run, Plaintiffs utilized Tennessee Code Annotated section 20-1-119's ninety-day window to amend their complaint to add Aaron Rents as a defendant. However, in its answer, Aaron Rents then identified Fulmarque, Inc. as a comparative tortfeasor. Plaintiffs again amended their complaint to add Fulmarque as a defendant, but summary judgment was granted to Fulmarque based upon the running of the statute of limitations. On

appeal, the parties disagree as to whether Tennessee Code Annotated section 20-1-119 authorizes successive ninety-day windows in which additional defendants may be named. We are asked to interpret whether the term "applicable statute of limitations" as used in the statute, and appearing in the phrase "or named in an amended complaint filed within the applicable statute of limitations," refers only to the one-year limitation period for personal injury or to the limitation period as extended by the ninety-day window. We find that the term does not simply refer to the one year limitation period for personal injury, but also to the limitation period as extended by the ninety-day window. Therefore, because Aaron Rents was "named in an a amended complaint filed within the applicable statute of limitations[,]" and because Plaintiffs amended their complaint to name Fulmarque within ninety days from Aaron Rents' identification of Fulmarque in its answer, we find that the trial court erred in granting summary judgment to Fulmarque.

5.	Status	Appellant's notice of election filed 06/24/11

1.	Style	Evelyn Nye v. Bayer Cropscience, Inc. et al.
2.	Docket Number	E2008-01596-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/courts/court-appeals/opinions/2009/10/14/evelyn-nye-individually-and-surviving-spouse-and-next-kin
4.	Lower Court Summary	Defendants sold materials containing asbestos to the deceased's employer, where he was exposed to asbestos and contracted mesothelioma from which he died. Plaintiff's widow brought this action against the supplier, a jury trial resulted and the jury returned a verdict for the defendant, which the Trial Court approved. On appeal, we hold that certain jury instructions were error and we reverse and remand for a new trial.
5.	Status	Heard 09/02/10 in Knoxville

1.	Style	Ray Bell Construction Co. Inc. v Tennessee Dep't of Transportation
2.	Docket Number	E2009-01803-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Ray%20Bell%20Construction%20Co%20vs%20TDOT%20opn.pdf http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/Ray%20Bell%20Construction%20Co%20vs%20TDOT%20DIS%20opn.pdf
4.	Lower Court Summary	This case concerns an alleged breach of contract involving the incentive clause of a Tennessee Department of Transportation ("TDOT") road construction

		contract. Before the Claims Commission, TDOT argued that the contract language was clear in prohibiting an extension, alteration, or amendment of the incentive clause. The Claims Commission agreed with the position of Ray Bell Construction Company ("RBCC") that it was entitled to a modification of the incentive provision. To so find, the Commission held that "a definite latent ambiguity exists for which parol evidence not only is admissible, but frankly, absolutely necessary in both understanding and deciding the issues in this case." TDOT has appealed. We affirm the decision of the Claims Commission.
5.	Status	Appellee's brief due after extension 07/12/11; Set to be heard 09/01/11 in Knoxville

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1.	Style	Norman Redwing v. The Roman Catholic Diocese Of Memphis
2.	Docket Number	No. W2009-00986-SC-R10-CV
3.	Lower Court Decision Links	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Norman%20Redwing%20v%20Catholic%20Diocese%20Memphis%20OPN.pdf http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Norman%20Redwing%20v%20Catholic%20Diocese%20Memphis%20DIS.pdf
4.	Lower Court Summary	Plaintiff filed an action against the Catholic Bishop for The Diocese of Memphis, asserting the Diocese was liable for damages arising from the negligent hiring, retention and supervision of a priest, who Plaintiff alleged abused him when he was a child. The Diocese moved to dismiss for lack of subject matter jurisdiction and on the grounds that the statute of limitations prescribed by Tennessee Code Annotated § 28-3-104 had expired. The trial court denied the motions. It also denied the Diocese's motion for permission to seek an interlocutory appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure. We granted the Diocese's motion for extraordinary appeal under Rule 10. We affirm the trial court's judgment with respect to subject matter jurisdiction over Plaintiff's claim of negligent supervision, but hold that Plaintiff's claims of negligent hiring and negligent retention are barred by the ecclesiastical abstention doctrine. We reverse the trial court's judgment with respect to the expiration of the statute of limitations.
5.	Status	Heard 04/07/11 in Jackson

1.	Style	Joseph E. Rich, M.D. v. TN Bd. of Med. Examiners
2.	Docket Number	M2009-00813-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/103/RichJosephOPN.pdf
4.	Lower Court Summary	This is an administrative appeal arising from the suspension of a doctor's

medical license by the Tennessee Board of Medical Examiners. The appellant's medical license was suspended by the Board following its finding that he violated four provisions of the Tennessee Medical Practice Act, three state regulations, and one provision of the United States Code. The violations related to his use of chelation therapy and intravenous hydrogen peroxide therapy, and his use of methadone to treat patients. Following the Board's decision, the appellant filed a petition for judicial review before the chancery court. The chancery court affirmed the decision of the Board. The appellant raises numerous issues on appeal, inter alia, that the Board's decision was arbitrary and capricious and that the Board's decision was not supported by substantial and material evidence. We reverse the finding that Dr. Rich was in violation of subsections (1), (4) and (12) of Tenn. Code Ann. § 63-6-214(b) because the Board did not articulate the applicable standard of care, as required by Tenn. Code Ann. § 63-6-214(g), to demonstrate his violations of that standard. We affirm the chancery court on all other issues including the findings that Dr. Rich violated of subsection (14) of Tenn. Code Ann. § 63-6-214(b), Tenn. Comp. R. & Regs. 0880-2-.14(6)(c), Tenn. Comp. R. & Regs. § 0880-2-.14(6)(e)(3)(ii) and 21 U.S.C.A § 823(g)(1). Due to our reversal of the Board's finding on three of the seven charges against Dr. Rich, we remand this action for the reconsideration of the sanctions against him.

5.	Status	Heard 06/03/11 in Nashville

1.	Style	Donna Faye Shipley et al. v. Robin Williams, M.D.
2.	Docket Number	M2007-01217-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/courts/court-appeals/opinions/2009/08/14/donna-faye-shipley-et-al-v-robin-williams-md-m2007-01217
4.	Lower Court Summary	In reliance on plaintiff's experts, the trial court granted defendant doctor's motion for partial summary judgment on the medical malpractice claim pertaining to defendant's failure to admit plaintiff into the hospital. The trial court later granted the defendant doctor summary judgment on the remaining malpractice claims finding that the plaintiff's medical expert proof previously relied upon by defendant failed to comply with Tenn. Code Ann. § 29-26-115. We reverse the grant of partial summary judgment on the failure to admit claim since the defendant doctor relied solely on plaintiff's experts, whose testimony was later found inadmissable. We also reverse the summary judgment of the remaining malpractice claims since the defendant doctor never presented proof to negate an element of those claims. Consequently, the plaintiff had no duty to create issues of fact at the summary judgment phase.
5.	Status	Heard 10/06/10 in Nashville

1.	Style	SNPCO, Inc. d/b/a Salvage Unlimited v. City of Jefferson, et al.
2.	Docket Number	E2009-02355-SC-R11-CV

3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/SNPCO%20Inc%20dba%20Salvage%20Unlimited%20vs%20Jefferson%20City%20opn.pdf
4.	Lower Court Summary	The question before this Court is whether the grandfather clause of Tennessee Code Annotated section 13-7-208(b)(1) protects the owner of newly annexed city property from the enforcement of a citywide ordinance prohibiting the sale and storage of fireworks. Interpreting section 13-7-208(b)(1) strictly against the landowner, we hold that the grandfather clause does not apply because the ordinance is not a "zoning" restriction or regulation, i.e., the ordinance does not regulate the use of property within distinct districts or zones pursuant to a comprehensive zoning plan. Accepting the facts alleged in the landowner's amended complaint as true, the landowner is not entitled to an injunction prohibiting enforcement of the ordinance against its preexisting fireworks business. We accordingly affirm the dismissal of the landowner's amended complaint for failure to state a claim upon which relief may be granted.
5.	Status	Set to be heard 08/31/11 in Knoxville

1.	Style	Arlene R. Starr v. Paul B. Hill, Sr. et al.
2.	Docket Number	W2009-00524-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/101/Arlene%20R%20Starr%20v%20Paul%20B%20Hill%20Sr%20and%20Paul%20B%20Hill%20Jr%20OPN.pdf
4.	Lower Court Summary	After Plaintiff was injured in a car accident, she filed suit against the minor who was driving the other vehicle and against the minor's father, alleging that he was vicariously liable for the acts of his son pursuant to the family purpose doctrine. Father moved for summary judgment, claiming that the undisputed facts showed that the family purpose doctrine was inapplicable as a matter of law. Plaintiff moved for partial summary judgment, claiming that the family purpose doctrine was applicable as a matter of law. The trial court denied Plaintiff's motion for partial summary judgment and granted summary judgment to Father. Plaintiff appeals. We reverse and remand for entry of an order granting Plaintiff's motion, as we find the family purpose doctrine applicable to this case.
5.	Status	Heard in Jackson on 04/06/11

1.	Style	Cantrell v. State (Easterling)
2.	Docket Number	W2009-00985-SC-R11-HC
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/tcca/PDF/101/David%20Cantrell%20v%20State%20and%20Easterling.pdf

4.	Lower Court Summary	In 1995, a Hickman County jury convicted the Petitioner of four counts of aggravated rape and one count of false imprisonment, and the trial court sentenced him as a Range II multiple offender to a total effective sentence of eighty years in the Tennessee Department of Correction. The Petitioner filed a petition for habeas corpus relief, claiming the trial court did not have statutory authority to sentence him as a Range II multiple offender. The habeas court dismissed the petition without a hearing, finding that "[h]abeas corpus relief is not appropriate." After a thorough review of the record and applicable law, we affirm the judgment of the habeas court.
5.	Status	Heard in Jackson on 04/06/11

1.	Style	State v. Lonnie L. Cross
2.	Docket Number	E2008-02792-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/102/State%20vs%20Lonnie%20L%20Cross.pdf
4.	Lower Court Summary	After the appellant, Lonnie L. Cross, led police on a high-speed chase, a Bradley County Criminal Court jury convicted him on two counts of reckless endangerment with a deadly weapon, felony evading arrest with risk to others, driving on a revoked license, and speeding. The trial court sentenced the appellant to an effective sentence of eight years in custody. On appeal, the appellant contends that the evidence was insufficient to support two of his convictions: the evading arrest conviction and one of the reckless endangerment convictions. The appellant also challenges the trial court's reliance on two sentencing enhancement factors. Upon review, we conclude that there was sufficient evidence for the appellant's convictions. We also conclude that, although the trial court erred in its application of one of the enhancement factors, the error was harmless. However, our review of the record reveals that the trial court committed plain error. The appellant's conviction on the reckless endangerment in count three violates constitutional double jeopardy protections. We therefore affirm the judgements of the trial court as to count one, reckless endangerment, and count two, evading arrest. The judgment of conviction in count three is vacated, and the case is remanded to the trial court for merger of the conviction in count three with the evading arrest conviction in count two.
5.	Status	Heard at Boys' State S.C.A.L.E.S. project on 05/25/11 in Cookeville

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1.	Style	State v. Christopher L. Davis
2.	Docket Number	M2008-01216-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/tcca/PDF/102/State%20v%20Christopher%20Lee%20Davis.pdf

4.	Lower Court Summary	Following a jury trial, Defendant, Christopher Lee Davis, was found guilty of aggravated robbery, car jacking, attempt to commit especially aggravated kidnaping, all Class B felonies, and attempt to commit premeditated first degree murder, a Class A felony. The trial court sentenced Defendant as a Range I, standard offender, to twelve years for each Class B felony conviction and twenty-five years for his attempted premeditated first degree murder conviction. The trial court imposed a combination of consecutive and concurrent sentencing for an effective sentence of forty-nine years. On appeal, Defendant argues that (1) the trial court erred in denying his motion to suppress; (2) the evidence is insufficient to support his conviction of attempted premeditated first degree murder; (3) the trial court erred in determining the length of his sentences; and (4) the trial court erred in imposing consecutive sentencing. After a thorough review, we affirm Defendant's convictions and the length of his sentences. We remand this matter for a new sentencing hearing solely for the purpose of determining whether consecutive sentencing is appropriate under the Sentencing Act and State v. Allen, 259 S.W.3d 671 (Tenn. 2008).
5.	Status	Heard 06/03/11 in Nashville

1.	Style	Henry Zillon Felts v. State
2.	Docket Number	M2009-00639-SC-R11-PC
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/tcca/PDF/102/Henry%20Zillon%20Felts%20v%20State.pdf
4.	Lower Court Summary	Following a jury trial, the Petitioner, Henry Zillon Felts, was convicted of attempted first degree murder and aggravated burglary. He was sentenced to twenty-one years in the Department of Correction. This Court affirmed his convictions and sentences. See State v. Henry Zillon Felts, No. M2005-01215-CCA-R3-CD, 2006 WL 2563374 (Tenn. Crim. App., Nashville, Aug. 25, 2006). He subsequently petitioned for post-conviction relief. The Criminal Court of Sumner County found that the Petitioner received the ineffective assistance of counsel at trial because: (1) trial counsel failed to fulfill his promise to the jury that the Petitioner would testify; and (2) trial counsel failed to argue attempted voluntary manslaughter as a defense. The post-conviction court thus set aside the Petitioner's convictions and granted him a new trial. In this appeal, the State contends that the post-conviction court erred in granting the Petitioner relief. After our review, we affirm the judgment of the post-conviction court.
5.	Status	Heard 06/02/11 in Nashville

1.	Style	Kathy Michelle Fowler v. State
2.	Docket Number	M2009-00700-SC-R11-CO

3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/104/Kathy%20Michelle%20Fowler%20v%20State.pdf
4.	Lower Court Summary	Petitioner, Kathy Michelle Fowler, was indicted by the Davidson County Grand Jury in one indictment for domestic assault, harassment, and aggravated criminal trespass. Petitioner subsequently pled guilty to domestic assault. The remaining two charges were dismissed. Petitioner was sentenced to eleven months and twenty-nine days, to be served on probation. Petitioner filed a petition to expunge the dismissed charges pursuant to Tennessee Code Annotated section 40-32-101. After a hearing, the trial court denied the petition, concluding that the plain language of the statute excluded expungement of "cases in which the defendant has been convicted of a charge within the case." Petitioner filed a petition for a writ of certiorari in this Court. We granted the petition in order to determine if the trial court has exceeded its jurisdiction or has acted illegally. After a review of the record, we determine that based on this Court's decision in State v. Gerald Gifford, No. E2006-02500-CCA-R3-CD, 2008 WL 1813105 (Tenn. Crim. App., at Knoxville, Apr. 23, 2008), perm. app. denied, (Tenn. Oct. 27, 2008), the trial court herein improperly denied the petition to expunge the dismissed charges where Petitioner was indicted in a multi-count indictment, pled guilty to one count of the indictment, and the remaining charges were dismissed. The judgment of the trial court is, therefore, reversed and the matter is remanded to the trial court for further proceedings, including granting Petitioner's petition to expunge the dismissed charges of harassment and aggravated criminal trespass.
5.	Status	To be heard 06/01/11 in Nashville

1.	Style	Roy E. Keough v. State
2.	Docket Number	W2008-01916-SC-R11-PD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/102/Roy%20E%20Keough%20v%20State.pdf
4.	Lower Court Summary	Petitioner Roy E. Keough appeals as of right the judgment of the Shelby County Criminal Court denying his petition for post-conviction relief. On May 9, 1997, a jury found the Petitioner guilty of the premeditated murder of his wife, Betty Keough, and the attempted first degree murder of Kevin Berry. For the murder conviction, the jury found that the Petitioner had previously been convicted of one or more felonies for which the statutory elements involve the use of violence to the person. See T.C.A. § 39-13-204(i)(2). The jury further found that this aggravating circumstance outweighed mitigating circumstances beyond a reasonable doubt. The jury then sentenced the Petitioner to death. The trial court imposed a forty-year sentence for the attempted murder conviction to be served consecutive to his sentence of death. The Petitioner's convictions and sentences were affirmed on direct appeal by the Tennessee Supreme Court. See State v. Keough, 18 S.W.3d 175 (Tenn. 2000). On December 12, 2000, the Petitioner filed a pro se petition for post-conviction relief. An amendment was

filed on February 14, 2003, and an addendum to the amended petition was filed on November 6, 2007. The post-conviction court held hearings on various dates in September, October, and November 2007. On July 23, 2008, the post-conviction court entered an order denying relief. On appeal to this Court, the Petitioner presents a number of claims that can be characterized in the following categories: (1) the Petitioner's trial counsel were ineffective, (2) the Petitioner's appellate counsel were ineffective; (3) the Petitioner was denied a fair trial and (4) Tennessee's death penalty statutory scheme is unconstitutional. Following a thorough and exhaustive review of the record and the applicable law, we affirm the judgment of the post-conviction court.

5. Status — Motion to Transfer to Nashville for oral argument for October 2011 session granted on 06/02/11

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1. Style — State v. Florinda Lopez

2. Docket Number — No. M2008-02737-SC-R11-CD

3. Lower Court — http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/State%20vs%20Nelson%20Aguilar%20Gomez%20and%20Florinda%20Lopez.pdf

4. Lower Court Summary — The Defendants, Nelson Aguilar Gomez and Florinda Lopez, were charged with: Count One, first degree felony murder during the perpetration of aggravated child abuse; Count Two, first degree felony murder during the perpetration of aggravated child neglect; Counts Three and Four, aggravated child abuse occurring on or about March 3, 2007; and Count Five, aggravated child abuse occurring in February 2007. Aggravated child abuse is a Class A felony. See Tenn. Code Ann. § 39-15-402(b). The Defendants were tried jointly before a jury. Defendant Gomez was convicted of both counts of felony murder, Count One merging into Count Two, and sentenced to life with the possibility of parole. He was also convicted of all three counts of aggravated child abuse and sentenced as a violent offender to twenty-five years for each conviction. The trial court ordered him to serve his Count Three and Count Four aggravated child abuse sentences concurrently with each other and his life sentence, and ordered him to serve his Count Five aggravated child abuse sentence consecutively to his other sentences, for a total effective sentence of life plus twenty-five years in the Department of Correction. On her felony murder charges, Defendant Lopez was convicted of two counts of the lesser-included offense of facilitation of first degree murder, a Class A felony. See Tenn. Code Ann. § 39-11-403, -13-204(a). Count One was merged into Count Two. Defendant Lopez was also convicted of aggravated child abuse under Counts Three and Four. She was acquitted of aggravated child abuse as charged in Count Five. She was sentenced as a Range I, standard offender to twenty-five years for her facilitation of first degree murder conviction and sentenced as a violent offender to twenty-five years for each of her two aggravated child abuse convictions. The trial court ordered her to serve these sentences concurrently, for a total effective sentence of twenty-five years in the Department of Correction. In this direct appeal, Defendant Gomez contends that: (1) the trial court erred in admitting evidence of certain prior bad acts, in violation of Tennessee Rule of Evidence 404(b); (2) the State presented evidence insufficient to convict him and that the trial court therefore erred in failing to grant his motion for a judgment of

		acquittal; and (3) the trial court erred in ordering consecutive sentencing. Defendant Lopez contends that: (1) the trial court erred in denying her pre-trial motion to include non-citizens on the jury; (2) the trial court erred in preventing her from introducing an entire statement she made to police after the State impeached her using part of that statement; (3) the trial court erred in admitting evidence of Defendant Gomez's prior bad acts; (4) the State presented evidence insufficient to convict her; and (5) the trial court erred in imposing the maximum sentence for each of her convictions. After our review, we reverse and dismiss Defendant Gomez's Count Five conviction of aggravated child abuse. In all other respects, we affirm the judgments of the trial court.
5.	Status	Heard 06/03/11 in Nashville

1.	Style	State v. Mark Anthony McNack
2.	Docket Number	No. W2010-00471-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/state_vs_mark_anthony_mcnack.pdf
4.	Lower Court Summary	The Defendant, Mark Anthony McNack, appeals as of right from the Madison County Circuit Court's revocation of his community correction sentence and order of incarceration. The Defendant contends that the trial court erred in calculating his credit for time served. Following our review, we affirm the trial court's revocation of the Defendant's community corrections sentence but conclude that the Defendant is entitled to credit for time served until the violation warrant was issued. Accordingly, the judgment of the trial court is reversed in part and affirmed in part, and the case is remanded for the correction of the judgment.
5.	Status	Appellant's brief filed 06/10/11

1.	Style	State v. David Nagele
2.	Docket Number	E2009-01313-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/tcca/PDF/102/State%20v%20David%20Nagele.pdf
4.	Lower Court Summary	The Defendant, David Nagele, appeals from the Knox County Criminal Court's denial of his motion to withdraw his plea to attempted aggravated sexual battery, a Class C felony, following correction of the judgment to reflect that the Defendant was subject to community supervision for life. We hold (1) that the trial court did not err in denying the motion and (2) that the Defendant is not entitled to plain error relief in his challenge to the constitutionality of the community supervision for life statute. The judgment of the trial court is affirmed.

5.	Status	Heard at Boys' State S.C.A.L.E.S. project on 5/25/11 in Cookeville

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1.	Style	State v. Joshua Lynn Parker
2.	Docket Number	No. E2008-02541-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/State%20vs%20Joshua%20Lynn%20Parker.pdf http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/State%20vs%20Joshua%20Lynn%20Parker%20DIS.pdf
4.	Lower Court Summary	The Defendant, Joshua Lynn Parker, was convicted by a Cocke County Circuit Court jury of second degree murder, a Class A felony, and attempted rape, a Class C felony. See T.C.A. §§ 39-13-210 (1997) (amended 2006) (second degree murder); 39-12-101 (2006) (criminal attempt); 39-13-503 (2006) (rape). The Defendant was sentenced to serve thirty-five years at 100 percent for second degree murder conviction and eight years at thirty-five percent for attempted rape conviction. The sentences were imposed to run consecutively. On appeal, the Defendant argues that (1) the evidence was legally insufficient to support his convictions; (2) the admission of hearsay statements by the victim violated his Confrontation Clause rights; and (3) testimony regarding his service on the "can crew," a work group of jail inmates, prejudiced him at his trial. We affirm the judgments of the trial court.
5.	Status	Heard 5/11/11 in Knoxville

1.	Style	Rudolph Powers v. State
2.	Docket Number	W2008-01346-SC-R11-PC
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/tcca/PDF/101/Rudolph%20Powers%20v%20State.pdf
4.	Lower Court Summary	A Shelby County Criminal Court jury convicted the Petitioner, Rudolph Powers, of aggravated rape and robbery accomplished with a deadly weapon against the victims Vivian Brodie and Carol Boone, and the Petitioner was sentenced to life imprisonment and twenty-five years respectively, which were to be served concurrently. A few months later, another Shelby County Criminal Court jury convicted the Petitioner of aggravated rape against victim Kris Brewer, and the trial court sentenced him to fifty years of imprisonment. The Petitioner was ordered to serve his fifty-year sentence consecutively to his concurrent sentences of life imprisonment and twenty-five years. Following a direct appeal and several collateral appeals, which were unsuccessful, the Petitioner filed a petition for post-conviction DNA analysis, which the post-conviction court denied. On appeal, the Petitioner contends that the post-conviction court erred in denying his

		petition for post-conviction DNA analysis. Upon review, we affirm the judgment of the post-conviction court.
5.	Status	Judgment of the Court of Criminal Appeals reversed on 06/16/11

1.	Style	State v. David L. Sisk
2.	Docket Number	E2009-00320-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/SiskDavidLynnopn.pdf http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/SiskDavidLynnDISS.pdf
4.	Lower Court Summary	A Cocke County Circuit Court jury convicted the defendant, David Lynn Sisk, of aggravated burglary, theft of property valued at more than $1,000 but less than $10,000, and theft of property valued at more than $10,000 but less than $60,000. The trial court determined that the defendant was a career offender and imposed a total effective sentence of 27 years' incarceration. In this appeal, the defendant challenges the sufficiency of the convicting evidence, claims that the indictments charging theft are multiplicitous, argues that the trial court erred in its jury charge, and contends that the trial court erroneously declared him a career offender. Because the evidence was insufficient to support the defendant's convictions, we reverse the judgments of the trial court and dismiss the charges in this case. To facilitate any further appellate review, we also conclude that the theft indictments were impermissibly multiplicitous, necessitating the dismissal of the defendant's conviction of theft of property valued at more than $1,000 but less than $10,000, and that the trial court erroneously classified the defendant as a career offender.
5.	Status	Judgment of the Court of Criminal Appeals affirmed in part and reversed in part on 06/15/11

1.	Style	Leonard Edward Smith v. State
2.	Docket Number	E2007-00719-SC-R11-PD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/103/SmithLeonardRevised8-27-10.pdf
4.	Lower Court Summary	The Petitioner, Leonard Edward Smith, appeals as of right from the May 21, 2004 and March 2, 2007 orders of the Hamblen County Circuit Court denying his initial and amended petitions for post-conviction relief challenging his 1985 conviction and life sentence for the first degree felony murder of John Pierce, his 1989 conviction for the first degree felony murder of Novella Webb, and his 1995 sentence of death for the murder of Novella Webb. On appeal, the Petitioner claims that the post-conviction court erred in denying relief because

defense counsel provided ineffective assistance in both the trial and appellate proceedings related to these convictions and sentences and because multiple other constitutional violations call into question the validity of these convictions and sentences. After a careful and laborious review of the record, we affirm the denial of post-conviction relief relative to the Petitioner's conviction and life sentence for the murder of John Pierce and the Petitioner's conviction for the murder of Novella Webb, but we reverse the denial of post-conviction relief relative to the Petitioner's death sentence for the Webb murder and remand for a new sentencing hearing in that case. We do so based upon the conclusion that the post-conviction court erred in denying the Petitioner's claim that his trial attorneys provided constitutionally ineffective assistance in their investigation and presentation of available evidence in support of their motion to recuse the 1995 resentencing judge.

5. Status — Set to be heard 08/31/11 in Knoxville

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1. Style — State of Tennessee v. Alfred Turner

2. Docket Number — No. W2007-00891-SC-R11-CD

3. Lower Court Decision Links

http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/102/State%20vs%20Alfred%20Turner.pdf

http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/102/State%20vs%20Alfred%20Turner%20DIS.pdf

4. Lower Court Summary

The defendant, Alfred Turner, was found guilty by a jury of the lesser included offenses of facilitation of felony murder, a Class A felony, and facilitation of second degree murder. After merging the convictions, the trial court sentenced the defendant to twenty-five years of incarceration as a Range I, standard offender. On appeal, he argues that: insufficient evidence exists to support his conviction; a proper chain of custody for the introduction of DNA evidence was not established; the trial court erred in allowing into evidence that two other individuals had been acquitted of this murder; and the trial court erred in both jury instructions and sentencing. After careful review, we conclude that even though sufficient evidence existed to support the defendant's convictions, the defendant's sentence ran afoul of Blakely and the prior acquittals of two other individuals deprived the defendant of a fair trial. Therefore, the error requires a remand for a new trial.

5. Status — Heard 04/07/11 in Jackson

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1. Style — State v. Latoya T. Waller

2. Docket Number — M2009-02132-SC-R11-CD

3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCCA/PDF/104/State%20vs%20Latoya%20T%20Waller.pdf
4.	Lower Court Summary	The Appellant, Latoya T. Waller, was charged in a two-count indictment with possession with intent to sell or deliver .5 grams or more of a substance containing cocaine, a Class B felony, and simple possession of marijuana, a Class A misdemeanor. See Tenn. Code Ann. §§ 39-17-417(c)(1), -418(c). Pursuant to a plea agreement, she pleaded guilty to simple possession of marijuana, and the State dismissed the felony cocaine charge. She subsequently filed a Motion for Expungement and requested that the trial court expunge the felony cocaine charge from her record. The trial court denied her motion. In this appeal by writ of certiorari, the Appellant contends that the trial court erred by denying her Motion for Expungement of count one of the indictment. After reviewing the record, we reverse the denial of the Appellant's motion and remand to the trial court for entry of an order requiring expungement of all records relating to the felony cocaine charge, count one of the indictment.
5.	Status	Heard 06/01/11 in Nashville

1.	Style	State v. Nigel Kavic Watkins
2.	Docket Number	M2009-00348-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/state_v_nigel_kavic_watkins.pdf
4.	Lower Court Summary	The Defendant, Nigel Kavic Watkins, was charged with one count of first degree felony murder and one count of aggravated child abuse. Following a jury trial, he was convicted of one count of reckless homicide, a Class D felony, and one count of aggravated child abuse, a Class A felony. See Tenn. Code Ann. §§ 39-13-215(b), -15-402(b). He was sentenced as a Range I, standard offender to four years for reckless homicide and, as a violent offender, to twenty-five years for aggravated child abuse. The trial court ordered him to serve these sentences consecutively, for a total effective sentence of twenty-nine years in the Department of Correction. In this direct appeal, the Defendant contends that: (1) the trial court erred in denying his motion to suppress his statement; (2) the trial court erred in allowing the introduction of certain autopsy photographs; (3) the State presented evidence insufficient to convict him of aggravated child abuse; and (4) the trial court erred in setting the length of his sentence and in ordering consecutive service. We notice as plain error that the Defendant's rights under the Fifth Amendment to the United States Constitution's double jeopardy clause were violated by his dual convictions. After our review, we affirm the Defendant's conviction for aggravated child abuse. We merge the Defendant's reckless homicide conviction into his aggravated child abuse conviction and remand for resentencing.
5.	Status	Heard 02/03/11

1.	Style	State of Tennessee v. Jason Lee White
2.	Docket Number	M2009-00941-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/jason_lee_white_vs_state.pdf
4.	Lower Court Summary	The Defendant, Jason Lee White, was convicted by a jury of one count of burglary, one count of aggravated robbery, and one count of especially aggravated kidnaping. In this direct appeal, he contends that the trial court erred: (1) in denying his motion to set aside his conviction for especially aggravated kidnaping; and (2) in upholding the State's use of a peremptory challenge under Batson v. Kentucky, 476 U.S. 79 (1986). After our review, we reverse and dismiss the Defendant's especially aggravated kidnaping conviction. In all other respects, the judgments of the trial court are affirmed.
5.	Status	Heard 02/02/11

1.	Style	Stephen Bernard Wlodarz v. State
2.	Docket Number	E2008-02179-SC-R11-CO
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/tcca/PDF/102/Stephen%20Wlodarz%20v%20State.pdf
4.	Lower Court Summary	After entering “best interest” guilty pleas in order to avoid a potential death penalty conviction, Petitioner, Stephen Wlodarz, filed a petition for a writ of error coram nobis. The Hawkins County Criminal Court denied the petition.. On appeal, Petitioner asserts that the trial court erred in finding there was no newly discovered evidence and that Petitioner failed to demonstrate that his pleas were not knowingly and voluntarily entered. We affirm.
5.	Status	Heard 05/11/11 in Knoxville

1.	Style	Timmy Sykes et al. v. Chattanooga Housing Authority et al.
2.	Docket Number	E2008-00525-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/courts/court-appeals/opinions/2009/07/31/timmy-sykes-et-al-v-chattanooga-housing-authority-et-al
4.	Lower Court Summary	This opinion replaces one filed on March 31, 2009, which opinion was withdrawn by us "and held for naught" by order of April 21, 2009. The joint complaint filed by the plaintiffs, Timmy Sykes and Curtis Greene, who are

African-Americans, actually involves the independent claims of the two plaintiffs against their former employer, the Chattanooga Housing Authority ("the CHA" or "CHA"), and the plaintiffs' supervisor in that employment, Jeff Hazelwood, Chief of the CHA's Public Safety Department, for wrongful termination of their employment and other claims. Sykes, who was a CHA criminal investigator, was terminated by the CHA on September 30, 2004, and Greene, also a criminal investigator, was terminated on January 19, 2005. They each seek damages for wrongful termination, asserting two theories of recovery. Sykes also seeks damages from Chief Hazelwood for alleged defamatory statements made by him and both plaintiffs sue Hazelwood for interfering with their CHA employment. The defendants filed a motion for summary judgment which the trial court granted as to all claims. The plaintiffs appeal. They raise three issues in common and Sykes complains of the trial court's judgment with respect to his defamation claim. We affirm in part and vacate in part.

5.	Status	Judgment of the Court of Appeals affirmed on 06/24/11

1.	Style	Pam Webb v. Nashville Area Habitat for Humanity, Inc.
2.	Docket Number	M2009-01552-SC-R11-CV
3.	Lower Court Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/102/Pam%20Webb%20v%20Nashville%20Habitat%20for%20Humanity%20opn.pdf
4.	Lower Court Summary	In this action charging retaliatory discharge, the Trial Court granted defendant a dismissal of action based on its Tenn. R. Civ. P. Rule 12 Motion. On appeal, we vacate the Judgment of the Trial Court and remand.
5.	Status	Heard 02/03/11 in Nashville

1.	Style	84 Lumber Company v. R. Bryan Smith, et al.
2.	Docket Number	E2010-00292-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/84%20Lumber%20Company%20vs%20R%20Bryan%20Smith%20opn.pdf http://www.tncourts.gov/sites/default/files/OPINIONS/TCA/PDF/104/84%20Lumber%20Company%20vs%20R%20Bryan%20Smith%20opn%20CON.pdf
4.	Lower Court Summary	84 Lumber Company ("84 Lumber") sued R. Bryan Smith ("Smith") and Allstates Building Systems, LLC ("Allstates") for a balance owed on an open account. Both sides filed motions for summary judgment. The Circuit Court granted 84 Lumber summary judgment, and entered a judgment against Smith and Allstates in the amount of $27,611.31 plus attorney's fees and costs in the amount of $6,500.00. Smith appeals to this Court. We find that Smith did not sign the credit application in his personal capacity and, therefore, did not

		guarantee Allstates' debt. We reverse the grant of summary judgment against Smith, and grant summary judgment to Smith. We affirm the grant of summary judgment against Allstates.
5.	Status	Set to be heard 09/01/11 in Knoxville