

Supreme Court Appeals
Pending Cases
02-02-15

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| 1. | Style | Action Chiropractic Clinic, LLC v. Prentice Delon Hyler & Erie Ins. Exchange |
| 2. | Docket Number | M2013-01468-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/actionchiroclinicopncorrected.pdf |
| 4. | Lower Court Summary | Chiropractic clinic which provided services to party injured in an automobile accident brought action against the injured party, who had assigned the proceeds of his claim against tortfeasor to the clinic in payment of the services, and the tortfeasor's liability insurer, which did not honor the assignment. The trial court granted summary judgment to the insurer holding that: the victim did not have any rights relative to the insurance provider; the insurance policy required written consent for an assignment and there was no evidence of such consent; there was no privity between the clinic and the insurance provider; the clinic was not a beneficiary of the insurance policy; and the suit was a direct action against an insurance company which is prohibited by Tennessee law. The clinic appeals. Finding no error, we affirm the grant of summary judgment. |
| 5. | Status | Application granted 05/05/14; Appellant's brief filed 5/05/14; Appellant's supplemental brief filed 07/21/14; Appellee's brief filed 08/20/14; Appellant's reply brief filed 09/03/14; TBH 2/05/15 in Nashville. |

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| 1. | Style | State v. Larry Jereller Alston et al. |
| 2. | Docket Number | E2012-00431-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/alstonwebbyoungremandopn.pdf |
| 4. | Lower Court Summary | In this State appeal, the State challenged the Knox County Criminal Court's setting aside the jury verdicts of guilty of especially aggravated kidnapping, aggravated burglary, and possession of a firearm with intent to go armed during the commission of a dangerous felony and ordering dismissal of the charges. This court reversed the judgment of the trial court setting aside the verdicts and dismissing the charges of especially aggravated kidnapping and aggravated burglary, reinstated the verdicts, and remanded the case to the trial court for sentencing. We also determined that although the trial court erred by dismissing the firearms charge on the grounds named in its order, error in the indictment for that offense nevertheless required a dismissal of those charges. Finally, we affirmed the defendants' convictions of aggravated robbery. Upon the defendant's application for permission to appeal, the Tennessee Supreme Court remanded the case to this court for consideration in light of <i>State v. Cecil</i> , 409 S.W.3d 599 (Tenn. 2013). Having reconsidered the case in light of the ruling in <i>Cecil</i> , we confirm our earlier holdings. The jury verdicts of especially aggravated kidnapping and aggravated burglary are reinstated, and those convictions are remanded to the trial court for sentencing. The trial court's |

dismissal of the firearms charge is affirmed on grounds other than those relied on by the trial court, and the convictions of aggravated robbery are affirmed.

5. Status Heard 01/07/15 in Greeneville.

1. Style Clayton Arden v. Kenya I. Kozawa, M.D., et al.

2. Docket Number E2013-01598-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/ardenopnfinal.pdf>

4. Lower Court Summary

The plaintiff, as surviving spouse, appeals the trial court's dismissal of his health care liability action against the defendant doctor who treated the plaintiff's wife prior to her death and the hospital wherein the treatment occurred. The trial court granted the defendants' motions for summary judgment based upon the plaintiff's failure to strictly comply with the pre-suit notice requirements of Tennessee Code Annotated § 29-26-121 (Supp. 2013). We reverse the trial court's ruling that the plaintiff had to strictly comply with the provisions of the notice requirement and conclude that the plaintiff substantially complied with said requirement. We affirm, however, the trial court's ruling that the plaintiff could not rely upon the statutory 120-day extension of the statute of limitations due to his failure to properly serve the notice. We therefore affirm the trial court's dismissal of the plaintiff's claims as barred by the statute of limitations.

5. Status Application granted 10/21/14; Appellant brief filed 11/21/14; Appellee brief filed 12/19/14; Appellant reply brief filed 01/06/15.

1. Style State v. Ricky Alvis Bell, Jr.

2. Docket Number W2012-02017-SC-DDT-DD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/bell_ricky_1.pdf

4. Lower Court Summary

A Lauderdale County jury convicted the defendant, Rickey Alvis Bell, Jr., of felony murder in the perpetration of a kidnapping, felony murder in the perpetration of a rape, aggravated kidnapping, and aggravated sexual battery. Following the penalty phase, the jury sentenced the defendant to death on the two counts of felony murder. The trial court merged the two felony murder convictions and sentenced the defendant to twenty years each for the aggravated kidnapping and aggravated sexual battery convictions. The trial court ordered the defendant to serve the two twenty-year sentences concurrent to each other but consecutive to the death sentence, for an effective sentence of death plus twenty years. On appeal, the defendant asserts that: (1) the trial court erred in denying his motion to strike the State's notice of its intent to seek the death penalty because he is intellectually disabled; (2) the evidence is insufficient to support the convictions; (3) the trial court erred in denying his two motions for a mistrial; (4) the trial court erred in refusing to allow the defense to question the victim's husband regarding an extramarital affair; (5) the aggravating

circumstance codified in Tennessee Code Annotated section 39-13-204(i)(7) is unconstitutional; (6) the absence of an intent to kill renders the death penalty disproportionate; (7) proportionality review should be modified and the pool of cases considered in proportionality review should be broadened; and (8) the sentence of death is arbitrary and disproportionate. We affirm the judgments of the trial court.

5. Status Transferred to Supreme Court 06/18/14; Appellant's brief filed 10/17/14; Appellee's brief filed 01/09/15; TBH 03/04/15 in Jackson.

1. Style Richard A. Berent v. CMH Homes, Inc. et al.

2. Docket Number E2013-01214-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/berentraopn.pdf>

4. Lower Court Summary The issue on this appeal is the enforceability of an arbitration agreement. The trial court, applying the principles promulgated in *Taylor v. Butler*, 142 S.W.3d 277 (Tenn. 1996), held that the arbitration agreement was unconscionable because it requires the plaintiff to submit to arbitration virtually all of his claims, while allowing the defendants access to a judicial forum for some of their potential claims. We agree with the trial court that the Supreme Court's decision in *Taylor* is controlling and that *Taylor* mandates a holding that the agreement is unconscionable and unenforceable. The judgment of the trial court is affirmed.

5. Status Heard 11/03/14 in Knoxville.

1. Style Donriel A. Borne v. Celadon Trucking Services, Inc.

2. Docket Number W2013-01949-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/bornedonrielaopn.pdf>
<http://www.tncourts.gov/sites/default/files/bornedis.pdf>

4. Lower Court Summary Plaintiff was injured in an accident involving three tractor-trailer trucks. Plaintiff, who was driving a tractor-trailer, sued the other truck drivers and the trucking company owners of the vehicles. However, prior to trial, Plaintiff entered into an agreement with one of the trucking companies whereby Plaintiff and the agreeing defendant agreed to cooperate regarding the litigation and to work together to expose the defenses asserted by the non-agreeing defendant. The jury returned an itemized verdict of \$3,705,000 for the Plaintiff against the non-agreeing defendant. The trial court denied the non-agreeing defendant's motion for a new trial, but it suggested a remittitur of \$1,605,000, for a total award of \$2,100,000. Plaintiff accepted the remittitur under protest and the non-agreeing defendant appealed to this Court. For the following reasons, we affirm in part and we reverse in part. Specifically, we affirm the physical pain and mental anguish and permanent injury awards as reduced by the trial court; we reverse the trial court's suggested remittitur of the loss of earning capacity award and we instead reinstate the jury verdict of \$1,455,000; and we further

reduce the loss of enjoyment of life award to \$50,000. Thus, we approve a total award to Plaintiff of \$2,105,000.

5. Status Application granted 12/18/14; Appellant's brief due 1/17/15.

1. Style Calvin Eugene Bryant v. State

2. Docket Number M2012-01560-SC-R11-PC

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/bryantcalvinopn.pdf>

4. Lower Court Summary
The Petitioner, Calvin Eugene Bryant, appeals the Davidson County Criminal Court's denial of post-conviction relief. The Petitioner argues on appeal that trial counsel provided ineffective assistance of counsel by failing to request a jury instruction on the lesser included offense of facilitation. Upon review, we affirm the judgment of the post-conviction court.

5. Status Heard 05/29/14 at the Girls State S.C.A.L.E.S. project in Nashville.

1. Style State of Tennessee v. Latickia Tashay Burgins

2. Docket Number E2014-02110-CCA-R8-CO

3. Lower Court Decision Link <http://www.tsc.state.tn.us/sites/default/files/burginslatickiatashayopn.pdf>

4. Lower Court Summary
The defendant, Latickia Tashay Burgins, through counsel, sought automatic review of the trial court's revocation of bail pursuant to Tennessee Rule of Appellate Procedure 8. The defendant argues that the trial court's reliance upon Tennessee Code Annotated section 40-11-141(b) to revoke and deny pretrial bail following her garnering additional charges violates Article I, section 15 of the Tennessee Constitution. Upon full consideration of the defendant's motion for review and the State's response, we conclude that Code section 40-11-141(b) violates the constitutional guarantee to pretrial bail by permitting a trial court to hold a defendant without bail pending trial. Accordingly, we reverse the judgment of the trial court denying the appellant pretrial bail and remand the case for further proceedings consistent with this opinion.

5. Status Application granted 01/08/15; Appellant supplemental brief filed 01/20/15; Appellee reply brief filed 01/30/15; TBH 02/04/15 in Nashville.

1. Style In re Carrington H., et al.

2. Docket Number M2014-00453-SC-R11-PT

3. Lower Court Decision Link http://tncourts.gov/sites/default/files/inrecarringtonh.opn_.pdf

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| 4. | Lower Court Summary | <p>This appeal arises from the termination of Mother’s parental rights. After a five-year cycle of removal and failed reunification attempts, the juvenile court awarded temporary custody of the child to the State in 2009, and shortly thereafter, ordered that Mother have no visitation or contact with her child. The court later ratified a permanency plan, but nearly two years later, the Tennessee Department of Children’s Services petitioned to terminate Mother’s parental rights. Following a trial, the juvenile court entered an order terminating Mother’s parental rights on the grounds of: (1) substantial noncompliance with the permanency plan; (2) persistence of the conditions that led to the child’s removal; and (3) incompetency to adequately provide for the further care and supervision of the child. Mother appeals two of the three grounds for termination and the court’s determination that termination was in the best interest of the child. We affirm.</p> |
| 5. | Status | Application granted 01/28/15; Appellant brief due 2/28/15. |
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| 1. | Style | Chartis Casualty Company, et al. v. State of Tennessee |
| 2. | Docket Number | M2013-00885-SC-R11-CV |
| 3. | Lower Court Decision Link | http://tncourts.gov/sites/default/files/chartiscasualtycompanyopn.pdf http://tncourts.gov/sites/default/files/chartiscasualtyco.opn_0.pdf |
| 4. | Lower Court Summary | <p>Five separate groups of Pennsylvania-domiciled insurance companies filed five separate tax refund claims in which each challenges the imposition of retaliatory insurance premium taxes by the Tennessee Department of Commerce and Insurance pursuant to Tenn. Code Ann. § 56-4-218. The central issue presented is whether Pennsylvania’s surcharges or assessments for three Workmen’s Compensation funds are imposed upon Tennessee-domiciled insurance companies doing business in Pennsylvania and, therefore, fall within Tennessee’s retaliatory insurance premium tax statute. The Tennessee Claims Commission ruled in favor of the state and all of the Pennsylvania insurance companies appealed. Finding no error, we affirm.</p> |
| 5. | Status | Application granted 01/16/15; Amicus brief filed 01/16/15; Appellant brief due 03/16/15, after extension. |
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| 1. | Style | The Chattanooga-Hamilton Co. Hospital Authority d/b/a Erlanger Health Systems v. United Healthcare Plan of the River Valley, Inc. d/b/a Americhoice and TN Attorney General |
| 2. | Docket Number | M2013-00942-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/erlangerhealthsystem.opn_.pdf |
| 4. | Lower Court Summary | |

Hospital filed an action against TennCare managed care organization (“MCO”) for breach of contract and unjust enrichment when MCO refused to pay Hospital’s standard charges for emergency services and follow-up care. Hospital was not part of MCO’s “provider network” under the TennCare regulations and therefore was “non-contract” provider. MCO alleged Hospital was required to accept as payment the rate TennCare specified in its regulations. MCO filed motion for summary judgment, and the trial court dismissed the portion of the complaint to which the TennCare regulations may apply due to lack of subject matter jurisdiction. The trial court determined the Uniform Administrative Procedures Act (“UAPA”) divested it of jurisdiction because Hospital did not first seek a declaratory order from the Bureau of TennCare regarding the applicability of its regulations to Hospital’s dispute with MCO. Hospital appealed the dismissal of its claims, and we reverse. Because Hospital is not challenging applicability or validity of TennCare regulations, UAPA does not divest trial court of jurisdiction.

5. Status Application granted 10/23/14; Appellant brief filed 11/24/14; Appellee brief filed 12/26/14; Appellant reply brief filed 01/09/15; TBH 02/04/15 in Nashville.

1. Style Circle C Construction, LLC v. D. Sean Nilsen, et al.

2. Docket Number M2013-02330-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/circlec.const_.opn_.pdf

4. Lower Court Summary The issue in this case is whether a tolling agreement between the parties precludes the application of the savings statute set forth in Tenn. Code Ann. § 28-1-105(a). The Court of Appeals agreed with the trial court that the tolling agreement does preclude application of the savings statute and that the plaintiff’s legal malpractice action is barred by the termination date established in the agreement.

5. Status Application granted 11/20/14; Appellant brief filed 12/17/14; Appellee brief due 01/30/15.

1. Style Homer L. Cody v. BPR

2. Docket Number W2014-02003-SC-R3-BP

3. Lower Court Decision Link n/a

4. Lower Court Summary n/a

5. Status Appeal filed 10/15/14.

1. Style State v. Jacqueline Crank

2. Docket Number E2012-01189-SC-R11-CD
 3. Lower Court Decision Link <http://www.tsc.state.tn.us/sites/default/files/crankjopn.pdf>
 4. Lower Court Summary

Jacqueline Crank (“the Defendant”) was convicted after a bench trial of one count of misdemeanor child abuse or neglect. The trial court sentenced the Defendant to eleven months, twenty-nine days, suspended to probation. In this direct appeal, the Defendant challenges the constitutionality of the “spiritual treatment exemption” provision set forth in Tennessee Code Annotated section 39-15-402(c). The Defendant also contends that, if this Court affirms her conviction, this matter must be remanded for a hearing under Tennessee’s “Preservation of Religious Freedom” statute, codified at Tennessee Code Annotated section 4-1-407. Upon our thorough review of the record and relevant authority, for the reasons stated herein, we conclude that it is not necessary to address the constitutional issue or to remand this matter. We affirm the judgment of the trial court.
 5. Status Heard 09/04/14 in Knoxville.
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1. Style State v. Marlo Davis
 2. Docket Number W2011-01548-SC-R11-CD
 3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/davismarloopn.pdf>
 4. Lower Court Summary

The Defendant, Marlo Davis, was convicted by a Shelby County jury of second degree murder and reckless homicide. Subsequently, the trial court merged the reckless homicide into the second degree murder conviction and imposed a sentence of forty years. In this direct appeal, the Defendant challenges (1) the sufficiency of the evidence supporting his convictions; (2) the mutually exclusive nature of the verdicts and whether the offenses were properly merged; (3) the admission of prior inconsistent statements by a witness, who had no memory of making those statements at the time of trial, as substantive evidence; (4) the imposition of the maximum forty-year sentence in violation of *Blakely v. Washington*, 542 U.S. 296 (2004); and (5) the cumulative effect of these errors. After a thorough review of the record and the applicable authorities, we affirm the judgment of the trial court.
 5. Status Heard 11/05/14 in Jackson.
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1. Style Timothy Davis v. Michael Ibach, M.D. and Martinson Ansah, M.D.
2. Docket Number W2013-02514-SC-R11-CV
3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/davistopn_0.pdf
4. Lower Court

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| Summary | This is a medical malpractice wrongful death action. After the plaintiff filed this lawsuit, hetimely filed a certificate of good faith, as required by the medical malpractice statute. Thecertificate did not include a statement that the executing party had “zero” violations of thestatute. The defendants filed a motion to dismiss based on this omission. The plaintiff in turnfiled a notice of voluntary nonsuit without prejudice. The defendants objected to a dismissalwithout prejudice. The defendants argued that, if the certificate of good faith does not strictlycomply with the statutes, the trial court must dismiss the case with prejudice. The trial courtgranted the voluntary nonsuit without prejudice, and the defendants now appeal that decision. Discerning no error, the Court of Appeals affirmed. |
| 5. Status | Application granted 11/19/14; Appellant brief filed 12/19/14; Appellee brief due 01/21/15; TBH 03/04/15 in Jackson. |
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| 1. Style | State v. Terence Justin Feaster |
| 2. Docket Number | E2012-02636-SC-R11-CD |
| 3. Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/feasterterrencejustinopn.pdf |
| 4. Lower Court Summary | This case involves the attempted voluntary manslaughter, aggravated assault, and false imprisonment of the victim, Molly Kate McWhirter, at her home in Knox County on May 27, 2010. For his involvement in these offenses, a Knox County grand jury indicted appellant for one count of attempted first degree murder, two counts of especially aggravated kidnapping, one count of aggravated robbery by causing serious bodily injury, and one count of aggravated assault by causing serious bodily injury. See Tenn. Code Ann. §§ 39-12-101, -13-202, -13-305, -13-402, -13-102. Following a trial, the jury found appellant guilty of attempted voluntary manslaughter, a lesser included offense of attempted first degree murder, a Class D felony; false imprisonment by confining the victim, a lesser included offense of especially aggravated kidnapping, a Class A misdemeanor; and aggravated assault, a Class C felony. The jury returned verdicts of not guilty for aggravated robbery and the remaining count of especially aggravated kidnapping based on removal of the victim. The trial court sentenced appellant to consecutive terms of twelve years for attempted voluntary manslaughter, fourteen years for aggravated assault, and eleven months, twenty-nine days for false imprisonment. |
| 5. Status | Application granted 10/24/14; Appellant brief filed 01/12/15; Appellee brief due 02/12/15. |
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| 1. Style | First Community Bank, N.A. v. First Tennessee Bank, N.A., et al. |
| 2. Docket Number | E2012-01422-SC-R11-CV |
| 3. Lower Court Decision Link | http://tncourts.gov/sites/default/files/firstcommbankopn.pdf http://tncourts.gov/sites/default/files/communitybankopn.pdf |
| 4. Lower Court | |

Summary

Plaintiff brought this action against Defendants for fraud, constructive fraud, negligent misrepresentation, civil conspiracy, unjust enrichment, and violation of the Tennessee Securities Act, codified at Tennessee Code Annotated section 48-1-101, et seq. The claims arose out of the purchase of asset-backed securities that were later deemed unmarketable, causing a significant financial loss to Plaintiff. Defendants filed motions to dismiss pursuant to Rule 12.02(6), arguing that the claims were untimely, that Plaintiff failed to plead its claims with particularity, and that the losses were caused by general market conditions. Nonresident Defendants also objected to the court's personal jurisdiction. The trial court dismissed the complaint. Plaintiff appealed the dismissal to this court, and we affirmed the dismissal against Nonresident Defendants for lack of personal jurisdiction but reversed the dismissal for failure to state a claim as to the remaining defendants. In so holding, this court found that consideration of matters outside the pleadings pertaining to the running of the statute of limitations converted the motions to dismiss into one for summary judgment, thereby requiring remand of the entire case for further discovery. The remaining defendants filed an application for permission to appeal. The Tennessee Supreme Court granted the application and remanded the case for "consideration of the trial court's alternative basis of dismissal of [the] complaint, i.e., the failure to state a cause of action or state a claim for which relief can be granted (other than on the basis of the running of the applicable statutes of limitations or repose)." Upon remand, we reverse the decision of the trial court.

5. Status Application granted 01/15/15; Appellant brief due 02/15/15.

1. Style State v. Dominic Eric Frausto

2. Docket Number E2011-02574-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/fraustodominericopn.pdf>

4. Lower Court Summary
The Defendant, Dominic Eric Frausto, was convicted by a Union County Criminal Court jury of two counts of aggravated sexual battery, Class B felonies. See T.C.A. § 39-13-504 (2010). The trial court merged the convictions and sentenced him as a Range I, standard offender to twelve years' confinement. On appeal, the Defendant contends that (1) the evidence is insufficient to support his convictions because the State did not prove the corpus delicti, (2) the trial court erred in failing to comply with Tennessee Criminal Procedure Rule 24 during jury selection, and (3) the trial court erred in sentencing him to the maximum in the range. We affirm the judgment of the trial court.

5. Status Heard 01/08/15 in Knoxville.

1. Style State v. William Eugene Hall

2. Docket Number M2012-00336-SC-DDT-DD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/hallwilliameugenedp_opn.pdf

4. Lower Court Summary
The Appellant, William Eugene Hall, was convicted of two counts of felony murder, three counts of first degree burglary, three counts of grand larceny, and one count of petit larceny. The Appellant received the death penalty for one of the murder convictions, a life sentence for the other, and an effective eighty-year sentence for the remaining convictions. The Appellant was unsuccessful in his original direct appeal. *State v. Hall*, 976 S.W.2d 121 (Tenn. 1998). The Appellant subsequently pursued post-conviction relief. This Court affirmed the trial court's denial of that relief. *William Eugene Hall v. State*, No. M2005-02959-CCA-R3-PD, 2008 WL 2649637 (Tenn. Crim. App. July 7, 2008). The supreme court, however, has granted the Appellant a delayed appeal. This appeal stems from the original and amended motions for new trial, which the trial court denied. Following our review, we affirm.

5. Status
Heard 10/09/14 in Nashville.

1. Style
Charles Haynes v. Formac Stables, Inc.

2. Docket Number
W2013-00535-SC-R11-CV

3. Lower Court Decision Link
<http://www.tncourts.gov/sites/default/files/haynescharlesopn.pdf>

4. Lower Court Summary
Plaintiff filed retaliatory discharge suit against his former employer, Defendant. According to his complaint, Defendant's owner engaged in illegal activity. Plaintiff complained to Defendant's owner of the illegal activity and was subsequently terminated. The trial court dismissed Plaintiff's complaint because Plaintiff did not report the illegal activity to any person or entity other than the Defendant's owner, who was a participant in the illegal activity. Plaintiff contends that where a company's owner is a participant in illegal activity, reporting the illegal activity solely to the owner should not preclude a retaliatory discharge claim premised on refusal to remain silent. We do not agree and therefore affirm the trial court's dismissal of Plaintiff's complaint.

5. Status
Heard 11/05/14 in Jackson.

1. Style
State v. Frederick Herron

2. Docket Number
W2012-01195-SC-R11-CD

3. Lower Court Decision Link
<http://www.tncourts.gov/sites/default/files/herronfrederickopn.pdf>
<http://www.tncourts.gov/sites/default/files/herronfrederickdis.pdf>

4. Lower Court Summary
Defendant, Frederick Herron, was indicted by the Shelby County Grand Jury for one count of rape of a child. Following a jury trial, Defendant was convicted as charged and sentenced by the trial court to serve 25 years at 100%. Defendant appeals his conviction and asserts that: 1) the trial court abused its discretion by allowing the State to admit into evidence a video recording of the victim's forensic interview; 2) the trial court abused its discretion by ruling that the State could ask Defendant about prior arrests and an unnamed prior felony conviction if Defendant chose to testify; 3) the State failed to ensure a unanimous verdict

by electing an offense that occurred on an unspecified date, and the evidence was insufficient to support a conviction for the offense; 4) the trial court should have granted a mistrial after a State's witness testified about Defendant's alleged prior DUI conviction; 5) the trial court abused its discretion by excluding a letter written by the victim to her sister; and 6) the cumulative effect of the trial court's errors deprived Defendant of a fair trial. Having carefully reviewed the parties' briefs and the record before us, we affirm the judgment of the trial court.

5. Status Heard 11/05/14 in Jackson.

1. Style State v. Thomas Lee Hutchison

2. Docket Number E2012-02671-SC-R11-CD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/hutchisonthomasleeopn_0.pdf
<http://www.tncourts.gov/sites/default/files/hutchinsonthomasleecon.pdf>

4. Lower Court Summary This case concerns the February 19, 2002 murder and robbery of the victim, Gary Lindsey. The victim was killed in appellant's home, and the police arrested appellant for the crime. On December 11, 2007, a Knox County grand jury indicted appellant for premeditated murder, murder in the perpetration of robbery, murder in the perpetration of theft, and especially aggravated robbery. Prior to trial, appellant moved the court, in separate pleadings, to suppress blood evidence taken from appellant without a warrant and to suppress all evidence seized from appellant's house during a warrantless search. The trial court denied both motions. On or around November 19, 2010, the State notified appellant that physical evidence in his case had been inadvertently destroyed by the Knoxville Police Department ("KPD"). Consequently, appellant moved the court to dismiss the indictment based on the destruction of evidence. The trial court heard appellant's motion to dismiss the indictment on February 25, 2011, and subsequently denied the motion. On May 27, 2011, appellant filed a motion requesting that the trial court reconsider the previously filed motions to suppress evidence. The trial court granted the motion to reconsider but ultimately denied the motions to suppress by written order filed July 13, 2011. The matter proceeded to trial on August 8, 2011, and the jury found appellant guilty of three counts of the lesser included offense of facilitation of first degree murder and one count of the lesser included offense of facilitation of especially aggravated robbery.

5. Status Application granted 10/20/14; Appellant's brief filed 01/12/15; Appellee brief due 02/12/15.

1. Style State v. Courtney Knowles

2. Docket Number W2013-00505-SC-R11-DC

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/knowlescourtneyopn.pdf>

4. Lower Court Summary The defendant, Courtney Knowles, appeals his Shelby County Criminal

Court jury conviction of rape of a child, challenging the sufficiency of the convicting evidence. Discerning no reversible error, we affirm.

5. Status Application granted 09/19/14; Appellant's brief filed 11/05/14; Appellee's brief filed 12/19/14; TBH 03/04/15 in Jackson.

1. Style State v. Mechelle L. Montgomery (Bivins, J. n.p.)

2. Docket Number M2013-01149-SC-R11-CD

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/montgomerymechelleopn.pdf>
http://tncourts.gov/sites/default/files/montgomery_mechelle_-_dissent.pdf

4. Lower Court Summary The Defendant-Appellee, Mechelle L. Montgomery, was indicted for driving under the influence of an intoxicant and for violation of the open container law. See T.C.A. §§ 55-10-401, -416. She filed a motion to suppress, alleging, inter alia, that she was unreasonably seized and that her arrest lacked probable cause. After a bifurcated hearing on the motion, the trial court took the matter under advisement and requested further briefing from the parties. The trial court subsequently entered a written order granting Montgomery's motion to suppress. The State appeals, arguing that the trial court erred in concluding that the investigatory detention of Montgomery was unlawful. Upon review, we affirm the judgment of the trial court.

5. Status Application granted 09/19/14; Appellant brief filed 12/09/14; Appellee brief filed 01/07/15.

1. Style The Metropolitan Government of Nashville-Davidson County, TN v. The Board of Zoning Appeals of Nashville and Davidson County, TN, et al.

2. Docket Number M2013-01283-SC-R11-CV

3. Lower Court Decision Link http://tncourts.gov/sites/default/files/metrov_cbs.opn_.pdf

4. Lower Court Summary Company which builds and manages billboards applied to the Metropolitan Department of Codes and Building Safety for permits to convert two static billboards to digital billboards. When the applications were denied by the Zoning Administrator, the company appealed to the Metropolitan Board of Zoning Appeals, which reversed the administrator's decision and granted the permits. The Metropolitan Government of Nashville and Davidson County then filed a petition for a writ of certiorari seeking review of the Board's decision; the trial court dismissed the petition on the ground that the Metropolitan Government did not have standing to bring the proceeding. We reverse the decision and remand for further proceedings.

5. Status Application granted 01/16/15; Appellant brief due 02/16/15.

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| 1. | Style | Mortgage Electronic Registration Systems, Inc. v. Carlton J. Ditto, et al. |
| 2. | Docket Number | E2012-02292-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/dittoopn.pdf |
| 4. | Lower Court Summary | This appeal involves the purchase of property at a tax sale. MERS filed suit against Purchaser to invalidate his purchase of property because it had not received notice of the sale even though it was listed as a beneficiary or nominee on the deed of trust. Purchaser claimed that MERS was not entitled to notice because MERS did not have an interest in the property. Purchaser also alleged that MERS failed to properly commence its lawsuit because it did not remit the proper funds pursuant to Tennessee Code Annotated section 67-5-2504(c). The trial court refused to set aside the tax sale, holding that the applicable notice requirements were met and that Purchaser was the holder of legal title to the property. MERS appeals. We affirm the decision of the trial court. |
| 5. | Status | Application granted 10/20/14; Appellant brief filed 11/25/14; Appellee brief filed 01/12/15; Amicus brief filed 1/30/15. |

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| 1. | Style | Richard Moreno v. City of Clarksville |
| 2. | Docket Number | M2013-01465-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/morenor.opn_.pdf |
| 4. | Lower Court Summary | Plaintiff filed a timely claim with the Division of Claims Administration, which did not resolve the claim within the statutory period. The claim was transferred to the Claims Commission, and Plaintiff filed a complaint pursuant to the Claims Commission Rules. Much later, the State amended its answer to allege fault by the City of Clarksville. Plaintiff filed suit against the City. The suit was dismissed because the trial court found that the “original complaint” under Tenn. Code Ann. § 20-1-119 was not filed within a year of the alleged injury. Plaintiff appealed. We reverse. |
| 5. | Status | Application granted 06/24/14; Appellant’s brief filed 09/08/14; City’s brief filed 10/08/14; Amicus brief filed 10/17/14; TBH 02/05/15 in Nashville. |

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| 1. | Style | Anne Payne v. CSX Transportation, Inc. |
| 2. | Docket Number | E2012-02392-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/payneacorr1-14opn.pdf |
| 4. | Lower Court | |

Summary

Winston Payne brought this action against his former employer, CSX Transportation, Inc., under the Federal Employers' Liability Act ("FELA"), alleging that CSX negligently exposed him to asbestos, diesel fumes, and radioactive materials in the workplace causing his injuries. The jury returned a verdict finding (1) that CSX negligently caused Payne's injuries; (2) that CSX violated the Locomotive Inspection Act or safety regulations regarding exposure to asbestos, diesel fumes, and radioactive materials; and (3) that Payne's contributory negligence caused 62% of the harm he suffered. The jury found that "adequate compensation" for Payne's injuries was \$8.6 million. After the jury returned its verdict, the trial court, sua sponte, instructed the jury, for the first time, that, under FELA, its finding that CSX violated a statute or regulation enacted for the safety of its employees meant that plaintiff would recover 100% of the damages found by the jury. The court sent the jury back for further deliberations. It shortly returned with an amended verdict of "\$3.2 million @ 100%." Six months after the court entered judgment on the \$3.2 million verdict, it granted CSX's motion for a new trial, citing "instructional and evidentiary errors." The case was then assigned to another trial judge, who thereafter granted CSX's motion for summary judgment as to the entirety of the plaintiff's complaint. The second judge ruled that the causation testimony of all of plaintiff's expert witnesses was inadmissible. We hold that the trial court erred in instructing the jury, sua sponte, on a purely legal issue, i.e., that the jury's finding of negligence per se under FELA precluded apportionment of any fault to the plaintiff based upon contributory negligence, an instruction given after the jury had returned a verdict that was complete, consistent, and based on the instructions earlier provided to it by the trial court. We further hold that, contrary to the trial court's statements, the court did not make any prejudicial evidentiary rulings in conducting the trial, and that its jury instructions, read as a whole, were clear, correct, and complete. Consequently, the trial court erred in granting a new trial. We remand to the trial court. We direct the first trial judge to review the evidence as thirteenth juror and determine whether the jury verdict in the amount of \$8.6 million is against the clear weight of the evidence. If it is not, the trial judge is directed to enter judgment on that verdict. If, on the other hand, the trial judge finds that the larger verdict is against the clear weight of the evidence, the court is directed to enter a final judgment on the jury's verdict of \$3.2 million. The trial court's grant of summary judgment is rendered moot by our judgment. However, in the event the Supreme Court determines that our judgment is in error, we hold that the grant of summary judgment was not appropriate.

5. Status Heard 01/07/15 at SCALES Project in Greeneville.

1. Style State of Tennessee v. Jimmy Dale Qualls

2. Docket Number W2013-01440-SC-R11-CD

3. Lower Court Decision Link <http://www.tsc.state.tn.us/sites/default/files/quallsjimmydaleopn.pdf>

4. Lower Court Summary

The Defendant, Jimmy Dale Qualls, was convicted by a Hardeman County Circuit Court jury of thirty-seven counts of sexual battery by an authority figure, Class C felonies. See T.C.A. § 39-13-527 (2010). The trial court sentenced the Defendant as a Range I, standard offender to five years for each conviction and

ordered partial consecutive sentences. The thirty-seven counts were separated into seven groups for sentencing purposes. Group A contained Counts 1 through 6, Group B contained Counts 7 and 8, Group C contained Counts 9 through 14, Group D contained Counts 15 through 20, Group E contained Counts 21 through 26, Group F contained Counts 27 through 32, and Group G contained Counts 33 to 37. The court ordered each group to run consecutively to each other, for an effective thirty-five-year sentence. The court further ordered the effective thirty-five-year sentence. On appeal, he contends that the State failed to make a proper election of the offenses and that the evidence is insufficient to support his convictions. We conclude that the State failed to make an adequate election of the offenses, and we reverse the judgments of the trial court and remand the case for a new trial.

5. Status Application granted 01/15/15; Appellant’s brief due 02/15/15.

1. Style Arthur B. Roberts, et al. v. Robert Bailey, et al.

2. Docket Number E2013-01950-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/roberts_opinion_final.pdf

4. Lower Court Summary

This is the second appeal involving the instant real property dispute. At issue is a 58-acre portion (“Disputed Property”) of what was an approximately 100-acre tract acquired by N.B. Bailey and his wife, Pearl Bailey, by warranty deed in 1918. The original plaintiffs, Arthur B. and Tia Roberts, were neighboring landowners who brought a boundary dispute action in March 2009 against the original defendants, Robert W. Bailey, Richard Neal Bailey, and Lisa Bailey Dishner. During the course of the boundary dispute, N.B. and Pearl Bailey’s descendants and successors in title became aware that their ownership interest in the Disputed Property could be affected by the possibility that N.B. and Pearl Bailey owned the original 100 acres as tenants in common rather than tenants by the entirety. The first appeal arose when the Baileys, proceeding as third-party plaintiffs, filed a motion to quiet title to the Disputed Property against the third-party defendants, Dale Littleton, Alice Littleton, Kimber Littleton, Mark Lee Littleton, and Charlotte Dutton. On March 30, 2010, the trial court granted partial summary judgment in favor of the Littletons and Ms. Dutton, and the court certified its order as a final judgment pursuant to Tennessee Rule of Civil Procedure 54.02. On appeal, this Court questioned the finality of that March 2010 order but allowed the appeal to proceed on an interlocutory basis. *Roberts v. Bailey*, 338 S.W.3d 540, 541 n.1 (Tenn. Ct. App. 2010), perm. denied (Tenn. Mar. 9, 2011) (“*Roberts I*”). This Court affirmed the trial court’s ruling and held that because N.B. and Pearl Bailey acquired title during the “gap years” between the emancipation of women and enactment of the Bejach statutes reestablishing tenancies by the entirety—spanning January 1, 1914, through April 16, 1919—N.B. and Pearl Bailey owned the real property as tenants in common rather than as tenants by the entireties. *Id.* at 541. On remand, the Baileys moved to amend their third-party complaint, averring that despite the affirmed judgment in favor of the Littletons’ and Ms. Dutton’s ownership interest in the Disputed Property, the Baileys nonetheless possessed absolute fee simple title by prescription. The Roberts are not parties to this appeal.

5. Status Application granted 12/18/14; Appellant’s brief due 02/13/15, after extension.

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| 1. | Style | Michelle Rye, et al. v. Women’s Care Center of Memphis, MPLLC, et al. |
| 2. | Docket Number | W2013-00804-SC-R11-CV |
| 3. | Lower Court Decision Link | http://tncourts.gov/sites/default/files/ryemopn.pdf |
| 4. | Lower Court Summary | This interlocutory appeal concerns the trial court’s grant of partial summary judgment to the Defendant/Appellee medical providers on various issues. The Plaintiff/Appellant couple filed a complaint for damages stemming from the medical providers’ failure to administer a RhoGAM injection during wife’s pregnancy. The couple alleged causes of action for compensatory damages associated with medical malpractice, negligent infliction of emotional distress, and disruption of family planning. The trial court granted summary judgment to the medical providers on the wife’s claim for future medical expenses, husband’s claim for negligent infliction of emotional distress, and the couple’s claim for disruption of family planning. The trial court declined to grant summary judgment on wife’s physical injury claim, her negligent infliction of emotional distress claim, and the claim that wife could present evidence of the disruption of her family planning as evidence in her negligent infliction of emotional distress claim. We reverse the trial court’s grant of summary judgment on wife’s claim for future medical expenses associated with future pregnancy and husband’s claim for negligent infliction of emotional distress, which he may support with evidence concerning the disruption of the couple’s family planning. The trial court’s ruling is affirmed in all other respects. Affirmed in part, reversed in part, and remanded. |
| 5. | Status | Application granted 09/19/14; Appellant’s brief filed 10/20/14; Appellee’s brief filed 12/02/14; Reply brief filed 12/17/14; TBH 03/04/15 in Jackson. |

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| 1. | Style | Yarboro Sallee v. Board of Professional Responsibility |
| 2. | Docket Number | E2014-01062-SC-R3-BP |
| 3. | Lower Court Decision Link | n/a |
| 4. | Lower Court Summary | |

A Hearing Panel entered a Judgment on August 30, 2012, imposing a disciplinary sanction against Yarboro Ann Sallee of a one year suspension for violating Rules of Professional Conduct 1.4 (communication), 1.5 (fees), 1.16 (terminating representation), 4.4 (respect for the rights of third parties), and 8.4 (misconduct). Ms. Sallee filed a Petition for Writ of Certiorari in the Knox County Chancery Court, specifically stating that the Hearing Panel’s judgment was in violation of constitutional or statutory provisions, in excess of the panel’s jurisdiction, made upon lawful procedure, arbitrary or capricious or characterized by an abuse of discretion, or unsupported by evidence which is both substantial and material in light of the record. Ms. Sallee also asserted in her Petition that the Hearing Panel denied her due process rights under the

Fourteenth Amendment of the United States Constitution and erred in determining that a one year suspension was appropriate discipline in her case. The Knox County Chancery Court upheld Ms. Sallee's suspension, holding that the Hearing Panel's findings of fact and conclusions of law were fully supported by the evidence presented and that reversal of the Hearing Panel's decision was not warranted. Ms. Sallee subsequently filed a Notice of Appeal, seeking review of the Chancery Court's decision.

5. Status Heard 01/08/15 in Knoxville.

1. Style State v. Michael Smith

2. Docket Number W2013-01190-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/smithmopn.pdf>

4. Lower Court Summary A Shelby County jury found the Defendant, Michael Smith, guilty of aggravated assault and evading arrest. The trial court sentenced the Defendant to ten years for the aggravated assault conviction and eleven months and twenty-nine days for the evading arrest conviction. The trial court ordered the sentences to run consecutively. The Defendant asserts that: (1) the trial court committed plain error by failing to compel an election in count one; (2) the indictment for aggravated assault fails to state an offense; (3) the trial court improperly allowed the victim to testify about the Defendant's prior bad acts; (4) the trial court improperly denied the Defendant's request for a mistrial after the State explored the Defendant's conviction and defense in an unrelated case; (5) the trial court committed plain error when it failed to compel the State to provide the trial court an audio recording of the victim's statement; (6) the trial court improperly instructed the jury on flight; (7) the trial court improperly ruled that the Defendant's prior convictions could be used for impeachment purposes should he testify at trial; (8) the evidence is insufficient to sustain his conviction for evading arrest; (9) the trial court abused its discretion when it denied the Defendant's request to sit at counsel table; and (10) his sentence is excessive. After a thorough review of the record and the applicable law, we affirm the trial court's judgments.

5. Status Application granted 12/18/14; Appellant brief filed 1/26/15; Appellee brief due 2/26/15.

1. Style State v. Charles D. Sprunger

2. Docket Number E2011-02573-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/sprungercopn.pdf>

4. Lower Court Summary This is a forfeiture case. Appellant was convicted of a Class B felony for sexual exploitation of children pursuant to Tennessee Code Annotated Section 39-17-1003. Appellant tendered his home computer to a repair shop. Upon examination of the hard drive, the technician discovered unlawful images and

notified local law enforcement. A search warrant was subsequently executed for Appellant's home, where parts of the computer in question were discovered. After Appellant's arrest, a forfeiture warrant was executed and, after his mortgage indebtedness was satisfied, proceeds from the sale of Appellant's real property were forfeited to the State pursuant to Tennessee Code Annotated Section 39-17-1008. Appellant appeals the forfeiture of these proceeds. Discerning no error, we affirm and remand.

5. Status Heard 10/09/14 in Nashville.

1. Style Lea Ann Tatham v. Bridgestone Americas Holding, Inc. et al.

2. Docket Number W2013-02604-SC-R11-CV

3. Lower Court Decision Link n/a

4. Lower Court Summary Now pending before the Court is the application for an interlocutory appeal filed in this matter by Applicants Bridgestone Retail Operations, LLC and GITI Tire (USA) Ltd. on November 27, 2013, pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure. Respondent Lea Ann Tatham filed a response in opposition to the application on December 9, 2013. Upon due consideration, the Court hereby denies the application. Costs of this matter are assessed to Applicants Bridgestone Retail Operations, LLC and Gill Tire (USA) Ltd. and their surety for which execution may issue, if necessary.

5. Status Heard 01/08/15 in Knoxville.

1. Style State v. Jerome Maurice Teats

2. Docket Number M2012-01232-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/teatsjopn.pdf>
<http://www.tncourts.gov/sites/default/files/teatsjeromedis.pdf>

4. Lower Court Summary Jerome Maurice Teats ("the Defendant") was convicted by a jury of one count of aggravated robbery and four counts of especially aggravated kidnapping. The trial court subsequently imposed an effective sentence of fifty years' incarceration. In this direct appeal, the Defendant raises the following issues: (1) the trial court erred in denying his motion to suppress; (2) the trial court erred in denying his motion to disqualify the district attorney general's office; (3) his convictions for especially aggravated kidnapping must be reversed on due process and double jeopardy grounds; (4) the trial court improperly instructed the jury on criminal responsibility; (5) the evidence was not sufficient to support his convictions; (6) cumulative error; and (7) his sentence is excessive. Upon our thorough review of the record and applicable law, we affirm the judgments of the trial court.

5. Status Application granted 05/15/14; Appellant's brief filed 09/15/14; State's brief filed 10/13/14. TBH 02/05/15 in Nashville.

1. Style The Tennessee, et al. v. Metro Gov't of Nashville and Davidson Co., et al.
 2. Docket Number M2014-00524-SC-R11-CV
 3. Lower Court Decision Link http://tncourts.gov/sites/default/files/thetennesseanv.metropolitangov.opn_.pdf
http://tncourts.gov/sites/default/files/thetennesseanv.metropolitangov.dissent.opn_.pdf
 4. Lower Court Summary
Various media outlets made request under the Tennessee Public Records Act for access to records accumulated and maintained by the Metropolitan Nashville Police Department in the course of its investigation and prosecution of an alleged rape in a campus dormitory. When the request was refused, the outlets a filed petition in Chancery Court in accordance with Tennessee Code Annotated § 10-7-505; the State of Tennessee, District Attorney General and alleged victim were permitted to intervene. The court held the required show cause hearing and, following an in camera inspection, granted petitioners access to four categories of records and documents. Petitioners, as well as the Metropolitan Government and Intervenors appeal, raising numerous and various statutory and constitutional issues. We have determined that the records sought are currently exempt from disclosure due to the continuing police investigation and pending prosecution; accordingly, we reverse the judgment of the Chancery Court and dismiss the petition.
 5. Status Application granted 01/16/15; Appellant's brief due 02/16/15.
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1. Style State v. Jeremy Wendell Thorpe
 2. Docket Number M2012-02676-SC-R11-CD
 3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/thorpejeremywendellopn.pdf>
 4. Lower Court Summary
The defendant, Jeremy Wendell Thorpe, appeals his Davidson County Criminal Court jury conviction of attempted sexual battery by an authority figure, claiming that the trial court erred by providing a jury instruction on attempted sexual battery by an authority figure as a lesser included offense of sexual battery by an authority figure and that the evidence was insufficient to support his conviction. Discerning no error, we affirm.
 5. Status Heard 10/09/14 in Nashville.
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1. Style Stephanie D. Turner v. Kevin Turner
2. Docket Number W2013-01833-SC-R11-CV
3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/turnerkopn.pdf>
<http://www.tncourts.gov/sites/default/files/turnerkcur.pdf>
4. Lower Court

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| | Summary | Father appealed the trial court’s order setting aside its prior judgment terminating Mother’s parental rights. After a hearing, the trial court ruled that Father’s failure to comply with the statutory notice requirements rendered the termination judgment void. Discerning no error, Court of Appeals affirmed |
| 5. | Status | Application granted 11/20/14; Appellant brief filed 01/15/15; Appellee brief due 03/16/15, after extension. |
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| 1. | Style | Vodafone Americas Holdings, Inc. v. Richard H. Roberts |
| 2. | Docket Number | M2013-00947-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/vodafoneopn.pdf http://www.tncourts.gov/sites/default/files/vodafoneidissent.opn_.pdf |
| 4. | Lower Court Summary | At issue in this case is the methodology by which multi-state taxpayers are to compute their liability for franchise and excise taxes to Tennessee and, specifically, the authority of the Commissioner of Revenue to require the taxpayers to use an apportionment methodology other than the standard cost of performance methodology codified in Tenn. Code Ann. §§ 67-4-2012 and 67-4-2110. Plaintiffs, taxpayers that provide wireless communication and data services within and without Tennessee, contend they are entitled to apportion their receipts (income) based upon Tennessee’s standard apportionment formulas because the majority of their “earnings producing activities” occurred in a state other than Tennessee. The Commissioner of Revenue disagreed, insisting that Plaintiffs’ approach, even if statistically correct and derived from the language of Tenn. Code Ann. § 67-4-2012(i)(2), fails to meet the higher goal of fairly representing the business Plaintiffs derive from Tennessee. For this reason the Commissioner, acting pursuant to Tenn. Code Ann. § 67-4-2014(a), varied the standard formula requiring Plaintiffs to include “as Tennessee sales” its receipts from service provided to customers with Tennessee billing addresses. The trial court affirmed the decision. In this appeal, Plaintiffs contend the Commissioner does not have authority to impose a variance unless “unusual fact situations,” which are unique to the particular taxpayers, produce “incongruous results” unintended by Tenn. Code Ann. § 67-4-2012; they also insist that no unusual fact situations exist and that no incongruous results occurred when the statutorily-mandated cost of performance methodology was applied. We have determined that the Commissioner acted within the scope of the discretion granted to him by the statutes and rules. Therefore, Court of Appeals affirmed the trial court’s decision. |
| 5. | Status | Application granted 11/20/14; Appellant brief filed 12/23/14; Appellee brief filed 01/21/15. |
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| 1. | Style | Stephen Michael West, et al. v. Derrick D. Schofield |
| 2. | Docket Number | M2014-00320-SC-R11-CV |
| 3. | Lower Court | |

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| | Decision Link | http://www.tncourts.gov/sites/default/files/weststephen.opn_.pdf |
| 4. | Lower Court Summary | <p>This case asks us to interpret an exception to the Tennessee Public Records Act, Tennessee Code Annotated section 10-7-504(h), to determine whether it creates a privilege protecting the identities of persons involved in carrying out a sentence of death from pretrial discovery. This question arises from litigation in which Appellees, who are death row inmates, challenge the constitutionality of the Tennessee Department of Correction's Execution Procedures for Lethal Injection on various grounds. In prosecuting their case, Appellees requested the identities of certain John Doe Defendants involved in the execution process, but the State refused to produce this information. On a motion to compel, the trial court ordered the disclosure of the John Doe Defendants' identities subject to an agreed protective order. We find the information sought by Appellees is relevant and is not privileged under Tennessee Code Annotated section 10-7-504(h). The decision of the trial court is affirmed.</p> |
| 5. | Status | Heard 12/18/14 in Nashville. |
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| 1. | Style | Ike J. White, III v. David A. Beeks, M.D. |
| 2. | Docket Number | E2012-02443-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/whiteopn_0.pdf http://www.tncourts.gov/sites/default/files/whitejcon.pdf http://www.tncourts.gov/sites/default/files/whitejopndissenting.pdf |
| 4. | Lower Court Summary | <p>This appeal involves the question of whether the trial court properly limited a medical expert's testimony at trial regarding the standard of care in an informed consent health care liability action. In the case at bar, the defendant filed a motion in limine seeking to limit the testimony of the plaintiff's expert at trial regarding risks that should have been disclosed to the plaintiff to only those risks that actually resulted in injury. The trial court granted the motion. A jury trial was held, and the jury found in favor of the defendant. Plaintiff appeals, asserting that the trial court committed reversible error when it restricted the ability of the plaintiff's medical expert to testify about other known risks. Discerning no error, we affirm.</p> |
| 5. | Status | Heard 11/03/14 in Knoxville. |
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| 1. | Style | In re Estate of Sarah Margaret Wilkins |
| 2. | Docket Number | M2013-01536-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/wilkins_v._golden_living.opn_.pdf |
| 4. | Lower Court Summary | <p>This appeal stems from a case of alleged nursing home abuse and neglect and involves a dispute as to whether a health care power of attorney executed by decedent was effective to authorize the agent to execute an optional arbitration</p> |

agreement on the decedent's behalf. The trial court denied the nursing home's motion to compel arbitration, holding that the attorney-in-fact did not have authority to sign the optional arbitration agreement on the principal's behalf. The nursing home appeals. Finding no error, we affirm.

5. Status Application granted 06/24/14; Appellant's brief filed 07/23/14; Appellee brief filed 08/22/14; Appellant's reply brief filed 09/04/14; TBH 02/05/15 in Nashville.

1. Style Larry D. Williams v. City of Burns, Tennessee

2. Docket Number M2012-02423-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/williamsl_v.city_of_burns_opn.pdf

4. Lower Court Summary A police officer who was terminated for violating chain of command and insubordination filed suit for retaliatory discharge pursuant to Tenn. Code Ann. § 50-1-304, alleging that he had been terminated for reporting illegal activities of the Police Chief to the Mayor. Following a trial, the court held that the evidence did not establish that the officer had been terminated solely for his refusal to remain silent about the illegal activities. Finding that the reasons given for the officer's termination were pretextual within the meaning of the applicable statute, we reverse the judgment of the trial court and remand for further proceedings.

5. Status Heard 10/09/14 in Nashville.

1. Style State v. Ricco R. Williams

2. Docket Number W2013-01897-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/williamsriccofinal.pdf>
<http://www.tncourts.gov/sites/default/files/williamsriccorcon.pdf>

4. Lower Court Summary A jury convicted Ricco R. Williams ("the Defendant") of five counts of especially aggravated kidnapping, two counts of aggravated robbery, one count of aggravated burglary, two counts of employing a firearm during the commission of a dangerous felony, and one count of unlawful possession of a firearm by a convicted felon. The Defendant appealed and contended, among other issues, that the evidence was not sufficient to support his convictions. Upon our review, this Court reversed the Defendant's two convictions of employing a firearm during the commission of a dangerous felony and remanded those counts for a new trial; modified one of the Defendant's aggravated robbery convictions to a conviction of the lesser-included offense of aggravated assault; reversed and dismissed the Defendant's conviction of unlawful possession of a firearm by a convicted felon; and affirmed the Defendant's convictions of and sentences for especially aggravated kidnapping, aggravated burglary, and the remaining aggravated robbery. *See State v. Ricco R. Williams*, No. W2011-02365-CCA-R3-CD, 2013 WL 167285, at *1 (Tenn. Crim. App. Jan. 14, 2013) ("*Williams I*"). Upon the Defendant's application for

permission to appeal, the Tennessee Supreme Court remanded the case to this Court for consideration in light of *State v. White*, 362 S.W.3d 559 (Tenn. 2012), and *State v. Cecil*, 409 S.W.3d 599 (Tenn. 2013). See *State v. Ricco R. Williams*, No. W2011-02365-SC-R11-CD (Tenn. Aug. 21, 2013). Upon our consideration of the Defendant’s especially aggravated kidnapping convictions in light of *White* and *Cecil*, we affirm the Defendant’s three convictions of especially aggravated kidnapping as to the victims A.R., K.R., and M.R. We reverse the Defendant’s two convictions of especially aggravated kidnapping as to the victims Timothy Currie and Sherita Currie and remand those charges for a new trial. Our previous holdings regarding the Defendant’s remaining convictions are unaffected by the remand and, thus, remain valid.

5. Status Application granted 05/15/14; Appellant’s brief filed 09/15/14; Appellee brief filed 10/10/14; TBH 02/05/15 in Nashville.

1. Style Kighwaunda M. Yardley v. Hospital Housekeeping Systems, LLC

2. Docket Number M2014-01723-SC-R23-CV

3. Lower Court Decision Link n/a

4. Lower Court Summary

Yardley worked for the University Medical Center Hospital (“UMC”) as a housekeeping aide from 1998 to 2012. She suffered work-related injuries for which she received treatment and underwent surgery between 2010 and 2012. She filed a workers compensation claim against UMC for these injuries, pursuant to the Tennessee Workers’ Compensation Law, Tenn. Code Ann. § 50-6-101 et seq. Hospital Housekeeping Systems, LLC (“HHS”) provides housekeeping services for hospitals. On January 1, 2012, UMC and HHS entered into a Management Services Agreement (the “Agreement”) under which HHS contracted to perform housekeeping services at UMC beginning July 1, 2012. As a part of the Agreement, HHS agreed to interview existing UMC housekeeping employees and, at HHS’s discretion, to hire those employees, subject to UMC’s approval. As of July 1, 2012, Yardley was performing light duty work for UMC in its materials management department, with the expectation that she would return to full duty work as a housekeeper once released by her doctor. HHS interviewed and hired the vast majority of UMC’s housekeeping staff pursuant to the Agreement. However, because Yardley was working in the materials management department at the time, she was not transitioned to HHS. On August 7, 2012, Yardley was released by her doctor to return to full duty work. She sought to resume her housekeeping position at UMC but was terminated by UMC for lack of work. UMC referred Yardley to HHS to pursue a position. Yardley spoke to HHS Division Vice President Michael Cox about transitioning to work for HHS. The parties dispute the content of that conversation. Yardley asserts that Cox told her that HHS did not hire anyone receiving workers’ compensation, while Cox denies making that statement. Cox did, however, send an e-mail to HHS stating that Yardley “had been out on Workers Comp with the hospital long before our [HHS’s] arrival,” that Yardley indicated that her shoulder was hurting again, and that “[b]ringing her on board with HHS would seem to be a Workers’ Comp claim waiting to happen and I would advise against it IF we have that option.” HHS did not hire

Yardley. Yardley alleges in her complaint that HHS illegally refused to hire her because of her workers' compensation claim against UMC.

5. Status Rule 23 Certified Question accepted 11/19/14; Amicus brief filed 01/28/15.

1. Style David G. Young v. City of LaFollette, et al.

2. Docket Number E2013-00441-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/young_opinion_final.pdf

4. Lower Court Summary

In this retaliatory discharge action brought by a former city administrator of the City of LaFollette, Tennessee ("LaFollette"), the trial court, following a bench hearing, denied LaFollette's motion to strike the city administrator's demand for a jury trial. The trial court, however, granted LaFollette permission for interlocutory appeal on the question of whether the city administrator's request for a jury trial properly may be granted pursuant to the Tennessee Public Protection Act ("TPPA"), see Tenn. Code Ann. § 50-1-304 (Supp. 2013), despite the non-jury provision of the Tennessee Governmental Tort Liability Act ("GTLA"), see Tenn. Code Ann. §§ 29-20-307 (Supp. 2013). We conclude that the non-jury requirement of the GTLA applies to this TPPA claim. We therefore reverse the trial court's denial of LaFollette's motion to strike the city administrator's jury demand, and we remand to the trial court for further proceedings without a jury

5. Status Application granted 10/22/14; Appellant brief filed 11/10/14; Appellee brief filed 01/16/15; Appellant reply brief filed 01/29/15.