

Supreme Court Appeals
Pending Cases
2-2-16

1. Style American Heritage Apartments, Inc. v. The Hamilton County Water and Wastewater Treatment Authority, Hamilton County, Tennessee
2. Docket Number E2014-00302-SC-R11-CV
3. Lower Court Decision Link https://www.tncourts.gov/sites/default/files/american_heritage_opinion_final.pdf
4. Lower Court Summary

The plaintiff, American Heritage Apartments, Inc. (“American Heritage”), commenced this lawsuit to protest a monthly flat charge in the amount of \$8.00 per unit imposed by the defendant, The Hamilton County Water and Wastewater Authority (“the County WWTA”), on all of its sewer customers. The charge was instituted to fund a program designed to repair and refurbish private service laterals, defined as pieces of pipe that connect private property to the sewer lines. American Heritage sought declaratory judgment that the County WWTA, inter alia, had exceeded its authority by imposing an unjust and discriminatory charge. The County WWTA filed a motion to dismiss the complaint, which the trial court initially denied. Upon the County WWTA’s amended motion to dismiss and motion for summary judgment, American Heritage’s motion for partial summary judgment, and supplemental briefs submitted by both parties, the trial court granted summary judgment in favor of the County WWTA. The court found that because the Utility District Law of 1937, Tennessee Code Annotated §§ 7-82-101 to -804, provided an administrative procedure for contesting utility charges, no private right of action was available. The court further ruled that in the alternative, if a private right of action were allowed by this Court on appeal, American Heritage’s complaint could be certified as a class action lawsuit. American Heritage has appealed. Having determined that the trial court erred by applying the Utility District Law of 1937 to a non-utility district water and wastewater treatment authority, we reverse the grant of summary judgment. We affirm the trial court’s ruling regarding the class action certification
5. Status Heard 9/09/15 in Knoxville.

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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	Heard 11/05/15 in Memphis.
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1.	Style	Darryl F. Bryant, Sr. v. Darryl F. Bryant, Jr.
2.	Docket Number	M2014-02379-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/bryantd.opn_.pdf
4.	Lower Court Summary	Owner of real property conveyed, by quitclaim deed, an interest to herself and her son as joint tenants, with the right of survivorship. Owner then conveyed her interest to her grandson by quitclaim deed a year later. In the deed to her grandson, Owner expressly referenced the earlier deed to her son, the grandson's father. After Owner died, the son filed a declaratory judgment in which he asked the court to rule that he owns the property in fee simple. The son filed a motion for summary judgment, which the trial court granted. The grandson appealed the trial court's judgment. We affirm. Owner transferred her right of survivorship to her grandson; but this right would come into play only if her son predeceased her. Because Owner died first, the son exercised his right of survivorship and became the sole owner in fee of the property.
5.	Status	Application granted 1/13/16; Appellant brief due 2/12/16.
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1.	Style	Ms. Bowen, et al. v. William E. Arnold, Jr., et al.
2.	Docket Number	M2015-00762-SC-R11-CV
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	Denial of Rule 9 Appeal
5.	Status	Application granted 09/22/15; Appellate record filed 10/26/15; Appellant brief filed 12/23/15; Appellee brief filed 1/21/16.
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1. Style State v. James Robert Christensen, Jr.
2. Docket Number W2014-00931-SC-R11-CD
3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/christensenjamesrobertjroprn.pdf>
http://tncourts.gov/sites/default/files/christensen_dissent_0.pdf
4. Lower Court Summary Appellant, James Robert Christensen, Jr., stands convicted of resisting arrest, a Class B misdemeanor; promotion of methamphetamine manufacture, a Class D felony; initiation of methamphetamine manufacture, a Class B felony; and two counts of possession of a firearm during the commission of a dangerous felony, Class D felonies. He received an effective sentence of three years' incarceration followed by eight years suspended to supervised probation. On appeal, appellant contends that the trial court erred by denying his motion to suppress evidence and that the evidence was insufficient to sustain his convictions for two counts of possession of a firearm during the commission of a dangerous felony. Following our careful review, we affirm the judgments of the trial court.
5. Status Application granted 9/22/15; Appellant brief filed 11/24/15; Appellee brief filed 12/29/15; Reply brief filed 1/13/16.

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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 Heard 9/09/15 in Knoxville.

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1. Style State v. Lemaricus Devall Davidson
 2. Docket Number E2013-00394-SC-DDT-DD
 3. Lower Court Decision Link <http://www.tsc.state.tn.us/sites/default/files/davidsonlemaricusdevalloprn.pdf>
 4. Lower Court Summary The defendant, Lemaricus Devall Davidson, appealed the Knox County Criminal Court jury convictions of two counts of first degree murder, two counts of especially aggravated robbery, two counts of especially aggravated kidnapping, three counts of aggravated rape, and one count of facilitation of aggravated rape that he received for his role in the January 2007 deaths of C.N.

and C.C. The defendant claimed that: the trial court erred by refusing 2 to suppress evidence obtained during the searches of his residence, his statements to the police following his arrest, and evidence obtained during searches of his person; the trial court erred by admitting into evidence postmortem photographs of the victims; the trial court should have excluded testimony and evidence regarding fingerprint examination and ballistics testing; the trial court erred by permitting courtroom spectators to wear buttons emblazoned with photographs of the victims during the guilt phase; the State violated his constitutional rights by intercepting and examining privileged communications to and from his attorneys; structural constitutional error occasioned by the out-of-court behavior of the trial judge entitles him to a new trial; the second successor trial judge erred by concluding that he could fulfill the statutory duty of thirteenth-juror review; the evidence was insufficient to support his convictions; errors related to the presentment require dismissal of the charges; the trial court erred by permitting jurors to submit questions for the witnesses; the trial court erred by allowing spectators to remain in the courtroom while jurors reviewed the defendant's videotaped statement as part of their deliberations; the trial court should have dismissed the presentment due to constitutional deficiencies in the jury venire; the trial court erred by refusing to allow him to present evidence of the economic costs associated with the implementation of the death penalty; and the trial court erred by excusing those jurors who were not "death qualified." The defendant also raised a number of challenges to the death penalty in general and its application in this case specifically. Because the Criminal Court of Appeals concluded that no reversible error attended the convictions or sentences in this case and because, after a mandatory review, it believed that the sentences of death imposed in this case were not disproportionate, the court affirmed the judgments of the trial court. The court did detect, however, clerical errors that required the case be remanded for entry of corrected judgment forms.

5. Status Heard 1/27/16 in Knoxville.

1. Style State v. William Whitlow Davis, Jr.

2. Docket Number E2013-02073-SC-R11-CD

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

4. Lower Court Summary The defendant, William Whitlow Davis, Jr., pleaded guilty to first offense driving under the influence of an intoxicant with a blood alcohol level of .08 percent or more and reserved as a certified question the propriety of the vehicle stop leading to his arrest. Determining that the evidence does not preponderate against the trial court's findings in its order denying the motion to suppress, we affirm the judgment of the trial court.

5. Status Heard 9/09/15 in Knoxville.

1. Style State v. Willie Duncan

2. Docket Number W2013-02554-SC-R11-CD

3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/duncanwillieopn.pdf
4.	Lower Court Summary	<p>Appellant, Willie Duncan, was convicted by a Shelby County jury of especially aggravated kidnapping, especially aggravated robbery, aggravated robbery, aggravated burglary, and employing a firearm during the commission of a dangerous felony. On appeal, Appellant raises several issues: 1) the indictment for the charge of employing a firearm during the commission of a dangerous felony is defective for failing to name the underlying felony; 2) the jury instructions on the charge of employing a firearm during the commission of a dangerous felony were improper; 3) the evidence presented at trial was insufficient to support the convictions; 4) a statement about Appellant's juvenile record requires a new trial under plain error review; 5) the trial court abused its discretion by imposing excessive sentences; and 6) the trial court abused its discretion by imposing partially consecutive sentences. Upon review of the record, we find that the evidence is sufficient to support Appellant's convictions, that the statement about Appellant's juvenile record does not constitute plain error, and that the trial court did not abuse its discretion in sentencing Appellant. However, we find that the indictment for employing a firearm during the commission of a dangerous felony is fatally flawed for failing to name the predicate felony. We also note a clerical error on the judgment form for the charge of aggravated robbery which requires remand for the entry of a corrected judgment. Therefore, we affirm the trial court's judgments in part, reverse and dismiss in part, and affirm and remand in part.</p>
5.	Status	Heard 11/04/15 in Jackson.

1.	Style	Rogelynn Emory v. Memphis City School Bd. of Educ., n/k/a Shelby Cnty. Bd. of Educ.
2.	Docket Number	W2014-01293-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/emoryrogelynnopn.pdf
4.	Lower Court Summary	<p>This is an appeal by a tenured teacher seeking relief for the school board's failure to comply with the procedures set forth in the Tennessee Teacher Tenure Act for her termination. After receiving notice of charges pending against her, the teacher demanded a hearing before the school board. Pursuant to the Tenure Act, the school board was required to conduct a hearing on the charges within thirty days of the teacher's demand. The school board failed to do so. The trial court held that because the delay did not affect the outcome of the hearing, the school board's failure to comply with the Tenure Act was harmless and the teacher was not entitled to relief. On appeal, we conclude that Ms. Emory is entitled to an award of back pay for the number of days over thirty that she was suspended without pay and without a hearing following her demand for a hearing. We therefore reverse the judgment of the trial court and remand the case for a calculation of the proper amount of damages to which the teacher is entitled.</p>

5. Status Application Granted 9/18/15; Appellant brief filed 10/20/15; Appellee brief filed 11/19/15; Appellant reply brief filed 12/7/15; Appellee reply brief filed 12/16/15; TBH 2/10/15.

1. Style Clark Derrick Frazier v. State

2. Docket Number M2014-02374-SC-R11-ECN

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

4. Lower Court Summary
The Petitioner, Clark Derrick Frazier, challenges the denial of his petition for writ of error coram nobis. On appeal, the Petitioner argues that, had he known about the results from the DNA analysis performed on items found at the scene, he would have elected not to plead guilty. After a review of the record and applicable law, we conclude that the Petitioner failed to prove that the results from the DNA analysis were newly discovered evidence or that he was without fault in failing to present the evidence at the proper time. Additionally, we conclude that, even if the evidence was newly discovered, the Petitioner failed to establish that it may have resulted in a different judgment. Accordingly, we affirm the judgment of the coram nobis court.

5. Status Application granted 10/15/15; Appellant brief filed 11/16/15; Appellee brief filed 12/16/15; TBH 2/10/16 in Nashville.

1. Style State v. Stanley Bernard Gibson

2. Docket Number M2014-00598-SC-R11-CD

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

4. Lower Court Summary
The defendant, Stanley Bernard Gibson, was charged with the possession of but convicted of facilitation of possession of .5 grams or more of cocaine with intent to deliver within 1000 feet of a drug-free school zone and sentenced, as a Range II, multiple offender, to twelve years at 100%. On appeal, he argues that the evidence is insufficient to support the verdict and that the court erred in ordering that he serve his sentence at 100%. Following our review, we affirm the judgment of the trial court.

5. Status Application granted 11/24/15; Appellant brief due 1/23/15; TBH 4/22/16.

1. Style William C. Gosnell v. BPR

2. Docket Number W2015-02162-SC-R3-BP

3. Lower Court Decision Link N/A

4.	Lower Court Summary	N/A
5.	Status	Notice of Appeal filed 11/10/15.
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1.	Style	State v. Gary Hamilton
2.	Docket Number	E2014-01585-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/hamiltongary.opn_1.pdf
4.	Lower Court Summary	Gary Hamilton (“the Defendant”) seeks interlocutory review of the district attorney general’s denial of his application for pretrial diversion and the trial court’s affirmance of that denial. The Defendant, a former teacher’s assistant, was charged with assault after engaging in an altercation with a student at the school where he was employed. The district attorney general denied the Defendant’s application for pretrial diversion. The Defendant filed a petition for writ of certiorari to the trial court, challenging the denial, and the trial court upheld the district attorney general’s decision. On appeal, the Defendant argues that the district attorney general abused his discretion in denying pretrial diversion and that the trial court erred when it found no abuse of discretion. Upon review of the record and applicable law, we hold that the trial court did not properly review the district attorney general’s decision to deny pretrial diversion. Additionally, although the district attorney general considered all the relevant pretrial diversion factors and did not consider any irrelevant factors, the record does not contain substantial evidence supporting the denial of pretrial diversion. Accordingly, we reverse the decision of the trial court and remand with instructions that the Defendant be granted pretrial diversion.
5.	Status	Application granted 11/24/15; Appellant brief filed 1/4/16; Appellee brief due 2/3/16; TBH 4/22/16.
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1.	Style	Kim Hardy v. Tournament Players Club at Southwind, Inc., d/b/a “TPC Southwind,” et al.
2.	Docket Number	W2014-02286-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/hardykim.opn_.pdf http://tncourts.gov/sites/default/files/hardykimdis.pdf
4.	Lower Court Summary	This is an interlocutory appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure. In March 2014, Plaintiff food server/bartender filed an action alleging, in relevant part, that Defendants violated Tennessee Code Annotated § 50-2-107 by failing to pay her and other similarly situated employees all of the gratuities that they earned. Plaintiff further alleged that Defendants caused the gratuities to be shared with non-tipped employees. The trial court dismissed Plaintiff’s claim under § 50-2-107 upon determining that

the section does not permit a private cause of action in light of amendments to § 50-2-101 in 2013. We reverse and remand for further proceedings.

5. Status Application granted 12/09/15; Appellant brief filed 1/11/16; Appellee brief due 2/10/16.

1. Style Guy Hawkins v. Diana Le-Hawkins

2. Docket Number M2013-02068-SC-R11-CV

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

4. Lower Court Summary

The principal issue in this appeal is whether a marital dissolution agreement the parties entered into while Wife’s complaint for a legal separation was pending was enforceable in an action husband commenced for an absolute divorce six days after Wife voluntarily dismissed her complaint. In Husband’s subsequent action, from which this appeal arises, Wife contested the divorce and challenged the validity of the MDA claiming it was not entered into in contemplation of Husband filing this action; she also contended it was invalid because Husband did not disclose all of his assets. The trial court found the MDA was valid because it was entered into without fraud or duress and with full knowledge of all the parties’ assets, granted a divorce, and divided the marital estate pursuant to the MDA. Wife appeals, contending that the MDA does not comply with Tenn. Code Ann. § 36-4-103, which expressly directs that “a divorce may be granted on the grounds of irreconcilable differences where there has been a contest or denial, if a properly executed marital dissolution agreement is presented to the court.” To constitute a properly executed marital dissolution agreement, an MDA must be entered into in compliance with Tenn. Code Ann. § 36-4-103(a)(2), which expressly requires, inter alia, that an MDA be entered into in regards to a pending divorce or in contemplation of one being filed. Wife claims that the MDA was entered into in regards to a legal separation, and not in contemplation of divorce. The language of the MDA clearly reveals that the parties expressly contemplated a divorce and that the agreement would be incorporated in any decree of divorce that may ensue. Moreover, the evidence does not preponderate against the trial court’s finding that the parties entered into the MDA without fraud or duress and with full knowledge of the parties’ assets; therefore, the MDA constitutes a properly executed marital dissolution agreement for purposes of this action and is a valid and binding agreement upon the parties. Accordingly, we affirm.

5. Status Heard 10/01/15 in Nashville.

1. Style State v. James Hawkins

2. Docket Number W2012-00412-SC-DDT-DD

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

4. Lower Court Summary

Defendant, James Hawkins, appeals from his Shelby County Criminal Court jury convictions of premeditated first degree murder, see T.C.A. ' 39-13-202(a)(1); initiating a false report, *see id.* § 39-16-502, a Class D felony; and abuse of a corpse, *see id.* § 39-17-312, a Class E felony. The jury sentenced Defendant to death for the first degree murder conviction based upon its findings that the defendant was previously convicted of one (1) or more felonies whose statutory elements involve the use of violence to the person, *see id.* § 39-13-204(i)(2); and that the defendant knowingly mutilated the body of the victim after death, *see id.* § 39-13-204(i)(13); and that these aggravating circumstances outweighed any mitigating circumstances beyond a reasonable doubt. For the remaining felonies, the trial court imposed an effective sentence of 18 years' incarceration to be served consecutively to the death sentence. On appeal, Defendant alleges that (1) the trial court erred by denying Defendant's motion to suppress his statements given to the police; (2) the trial court erred by refusing to accept Defendant's guilty pleas to counts two and three of the indictment; (3) the trial court erred by admitting statements made by the victim through the victim's children, through Melvin Gaither, and through an application for order of protection; (4) the trial court erred by admitting evidence of other acts in violation of Tennessee Rule of Evidence 404(b); (5) the trial court erred by admitting photographs of bone fragments taken from the victim;(6) the trial court erred by admitting crime scene photographs that had not been provided during pretrial discovery; (7) the trial court erred by permitting improper closing argument by the State; (8) the evidence is insufficient to support Defendant's conviction of first degree murder; (9) the trial court erred by not requiring the State to provide discovery concerning an ongoing investigation of sexual abuse committed by Defendant's father against Defendant's sisters for use in the penalty phase of the trial; (10) the trial court erred by denying Defendant's special jury instruction request to charge the jury on the presumption that any sentence imposed for the first degree murder conviction would be carried out according to the laws of this State; (11) myriad aspects of Tennessee's death penalty statutes and procedure are unconstitutional in general and as applied to Defendant; (12) the trial court imposed an excessive sentence in both length and manner of service relative to the sentences for filing a false report and abuse of a corpse; and (13) the cumulative effect of these errors violated Defendant's right to due process. As an additional issue, Defendant alleges that the trial court erred by denying his petition for writ of error coram nobis. Following oral argument at the Cecil C. Humphreys School of Law at the University of Memphis and this court's full consideration, we affirm the judgments of the trial court.

5. Status Appeal initiated 9/25/15; Appellant brief filed 1/11/16; Appellee brief due 2/10/16.

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1. Style State v. Glen Howard
 2. Docket Number E2014-01510-SC-R11-CD
 3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/howardglenopn.pdf>
 4. Lower Court

Summary

Defendant, Glen B. Howard, was indicted by the Hamilton County Grand Jury with five counts of rape of a child and one count of aggravated sexual battery. After a jury trial, Defendant was found guilty of four counts of rape of a child and one count of aggravated sexual battery as charged and one count of aggravated sexual battery as a lesser included offense of rape of a child. He was sentenced to an effective sentence of fifty years in incarceration. After a thorough review of the record, and in light of *State v. John J. Ortega, Jr.*, No. M2014-01042-CCA-R3-CD, 2015 WL 1870095 (Tenn. Crim. App. Apr.23, 2015), we determine that Defendant's conviction for aggravated sexual battery as a lesser included offense of rape of a child was improper. We are unable to determine from the record whether the evidence supports a conviction for the next properly charged lesser included offense, child abuse. Consequently, we vacate the conviction for aggravated sexual battery. The remaining convictions and fifty year sentence are affirmed. Accordingly, the judgments of the trial court are affirmed in part, vacated in part, and remanded for further proceedings consistent with this opinion.

5. Status Application granted 12/11/15; Appellant brief filed 1/13/16; Appellee brief due 3/14/16, after extension; TBH 4/22/16.
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1. Style State v. Rhakim Martin

2. Docket Number W2013-02013-SC-R11-CD

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

4. Lower Court Summary The defendant, Rhakim Martin, was convicted by a Shelby County Criminal Court jury of carjacking, a Class B felony, and employment of a firearm during the commission of a dangerous felony, a Class C felony, and was sentenced to an effective term of sixteen years in the Tennessee Department of Correction. On appeal, he argues that: (1) his conviction for employing a firearm during a dangerous felony violates the terms of Tennessee Code Annotated section 39-17-1324(c) and the prohibitions against double jeopardy; (2) the failure to name the predicate felony in the indictment for employment of a firearm during the commission of a dangerous felony voids the conviction; (3) the trial court erred in denying his motion to suppress the victim's identification of him; (4) the evidence is insufficient to sustain his convictions; and (5) the trial court committed plain error by failing to charge the jury on possession of a firearm during the commission of a dangerous felony as a lesser included offense of employing a firearm during the commission of a dangerous felony. After review, we affirm the judgments of the trial court.

5. Status Heard 11/04/15 in Jackson.
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1. Style State v. Kenneth McCormick

2. Docket Number M2013-02189-SC-R11-CD

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

4. Lower Court Summary The defendant, Kenneth McCormick, was indicted for driving under the influence of an intoxicant (first offense), a Class A misdemeanor. The defendant moved to suppress the evidence against him on the basis that law enforcement lacked reasonable suspicion to effect the seizure of his parked vehicle through the activation of emergency lights. The trial court denied the motion to suppress, and the defendant was convicted after a jury trial. Because we conclude that the activation of the emergency lights was an exercise of the community caretaking function and did not constitute a seizure, we affirm the judgment of the trial court.
5. Status Application granted 09/25/15; Appellant brief filed 11/30/15; Appellee brief filed 12/30/15; Reply brief filed 1/14/16; TBH 2/10/16 in Nashville.
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1. Style In re: Estate of Edward Stephen McRedmond
2. Docket Number M2013-02582-SC-R11-CV
3. Lower Court Decision Link <https://www.tncourts.gov/sites/default/files/mcredmondedwardstephenopn.pdf>
4. Lower Court Summary This appeal involves a longstanding dispute among ten siblings with respect to a family business. After years of litigation, the parties agreed to dissolve the corporation that operated the family business and sell its assets. A receiver was appointed and authorized to sell the assets. The three defendant-siblings in this case placed the highest bid for the assets, and the trial court approved the sale to those three siblings. Prior to the closing of the sale, the three siblings formed a new corporation and assigned their right to purchase the assets to the newly formed corporation. Accordingly, at closing, the receiver conveyed the assets directly to the new corporation. The new corporation began conducting business just as the family business had done in the past. One of the plaintiff siblings formed another corporation and went into direct competition with the corporation that purchased the assets of the family business. The three individual siblings filed a counterclaim against the competing sibling, alleging intentional interference with business relations, breach of fiduciary duty, and that they lost the benefit of their bargain. They also sought injunctive relief against the competing sibling. Neither of the newly formed corporations was made a party to the proceedings. Following a three-day bench trial, the trial court awarded compensatory damages to each of the three siblings and entered a permanent injunction against the competing sibling. The competing sibling appeals the trial court's order on numerous grounds. For the following reasons, we reverse the trial court's order, vacate the injunction, and dismiss the counterclaim.
5. Status Heard 10/01/15 in Nashville.
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1. Style MLG Enterprises, LLC v. Richard Johnson
2. Docket Number M2014-01205-SC-R11-CV
3. Lower Court

	Decision Link	http://tncourts.gov/sites/default/files/mlgenterprises.opn_.pdf
4.	Lower Court Summary	<p>The lessor of commercial property brought this action for breach of a lease agreement against the tenant, a limited liability company, and the tenant's president/owner, Richard Johnson, whom Plaintiff contends agreed to be personally liable for "all of tenant's obligations" under the lease. Mr. Johnson signed the lease in two places. It is undisputed that his first signature was in a representative capacity on behalf of the tenant; the disputed issue is whether his second signature expresses a clear intent to be personally liable for the tenant's obligations. After a default judgment was entered against the tenant, Mr. Johnson's alleged personal liability was tried without a jury. At the close of Plaintiff's proof, Mr. Johnson made an oral motion for involuntary dismissal. The trial court granted the motion, concluding that Mr. Johnson did not personally agree to be liable for the tenant's obligations. This determination was based on the findings that Mr. Johnson was entitled to the presumption that he signed the lease in a representative capacity because he handwrote the words "for Mobile Master Mfg. L.L.C." after his second signature, and that the sole provision in the lease, which states that he agreed to be personally liable, was not in capital or bold letters, nor was the one-sentence paragraph indented or otherwise emphasized. The court also noted that the signature provision at issue did not bear the title Guarantor. Plaintiff appealed. As the foregoing indicates, our review is benefited by the trial court's Tenn. R. Civ. P. 41.02 findings of facts and conclusions of law, which disclose the reasoned steps by which the trial court reached its ultimate conclusion and enhance the authority of the trial court's decision. Having reviewed the trial court's findings of fact in accordance with Tenn. R. App. P. 13(d), we have concluded that the evidence does not preponderate against the trial court's findings, and that the trial court identified and properly applied the applicable legal principles. For these reasons, we affirm.</p>
5.	Status	Application granted 12/10/15; Appellant brief filed 1/8/16; Appellee brief due 2/7/16; TBH 4/22/16.
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1.	Style	Rashe Moore v. State
2.	Docket Number	W2013-00674-SC-R11-PC
3.	Lower Court Decision Link	http://www.tsc.state.tn.us/sites/default/files/moorerasheopn.pdf
4.	Lower Court Summary	<p>In this post-conviction appeal, the Petitioner contends that he received the ineffective assistance of counsel at trial because trial counsel was deficient in failing to file a written motion requesting jury instructions on lesser-included offenses and that this failure resulted in prejudice because it precluded appellate review of the trial court's refusal to instruct the jury on any lesser-included offenses. After a review of the record and the applicable authorities, we reverse the judgment of the post-conviction court with respect to trial counsel's failure to file a written motion requesting an instruction on lesser-included offenses of especially aggravated kidnapping. We affirm the judgment in all other respects.</p>
5.	Status	Heard 11/04/15 in Jackson.

1. Style Pervis Tyrone Payne v. State
 2. Docket Number W2013-01248-SC-R11-PD
 3. Lower Court Decision Link <http://www.tsc.state.tn.us/sites/default/files/paynepervisopn.pdf>
<http://www.tsc.state.tn.us/sites/default/files/paynepervisopndissent.pdf>
 4. Lower Court Summary
The Petitioner, Pervis Tyrone Payne, appeals from the Shelby County Criminal Court's denial of his petition for writ of error coram nobis in which he challenged his death sentence resulting from his 1988 convictions for first degree murder. On appeal, the Petitioner contends that he is entitled to coram nobis relief because he is intellectually disabled and, therefore, ineligible for the death penalty. We affirm the judgment of the trial court.
 5. Status Heard 09/30/15 at SCALES Project in Lebanon.
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1. Style State v. John Henry Pruitt
 2. Docket Number M2013-02393-SC-R11-CD
 3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/pruittjhopn.pdf>
 4. Lower Court Summary
A Hickman County jury found the Defendant, John Henry Pruitt, guilty of two counts of first degree murder, one count of attempted first degree murder, and three counts of aggravated assault. Thereafter, the jury sentenced the Defendant to life imprisonment without the possibility of parole for both the first degree murder convictions. The trial court imposed a consecutive sentence of twenty-five years for his attempted first degree murder conviction and concurrent six-year sentences for each of the three aggravated assault convictions. On appeal, the Defendant contends that the trial court erred when it denied his motion to suppress the evidence obtained during the execution of a search warrant. The Defendant also contends that the evidence is insufficient to sustain his convictions for first degree murder and attempted first degree murder, and that the evidence is insufficient to sustain his sentence of life without the possibility of parole. After a thorough review of the record and relevant law, we affirm the judgments of the trial court.
 5. Status Application granted 1/19/16; Appellant brief due 2/18/16.
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1. Style Edward Martin v. Gregory Powers, et al.
2. Docket Number M2014-00647-SC-R11-CV
3. Lower Court Decision Link http://tncourts.gov/sites/default/files/martine.opn_.pdf
4. Lower Court Summary

Holder of an automobile liability insurance policy brought suit to recover for injuries sustained after being struck by a driver in a rental vehicle. The policy holder also sought coverage under the uninsured motorist coverage provision of his policy. Insurance carrier filed answer denying coverage and moved for summary judgment, contending that the policyholder was not entitled to coverage because the vehicle involved in the incident was owned by a rental car agency and, consequently, his damages did not arise out of the ownership, maintenance or use of an uninsured motor vehicle as required by the policy. The trial court held that the rental car agency was a self-insurer under Tennessee law and, consequently, the vehicle was not an “uninsured motor vehicle,” and granted the carrier’s motion. Policyholder appeals; finding no error, we affirm the judgment.

5. Status Application granted 08/13/15; Appellant brief filed 09/14/15; Appellee brief filed 10/13/15; TBH 2/10/16 in Nashville.

1. Style State of Tennessee v. Corrin Kathleen Reynolds

2. Docket Number E2013-02309-SC-R11-CD

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/reynoldscorrinopn2.pdf>
<http://tncourts.gov/sites/default/files/reynoldscorrinkathleencon.pdf>

4. Lower Court Summary Defendant, Corrin Kathleen Reynolds, was charged with several criminal offenses, including driving under the influence, after she was involved in a fatal car accident in Knox County. While Defendant was at the hospital being treated for her injuries, a blood sample was taken for law enforcement purposes. Defendant filed motions seeking to suppress the results of the blood analysis. After two hearings, the trial court granted Defendant’s motion. The trial court and this Court granted the State’s request to pursue an interlocutory appeal. After a thorough review of the record and applicable law, we determine that the record supports the trial court’s conclusion that Defendant did not give actual consent to the contested blood draw. However, the record preponderates against the trial court’s conclusion that Officer Strzelecki lacked probable cause to believe that Defendant had consumed alcohol. Therefore, we determine that the warrantless blood draw was proper under subsection (f)(1) of the implied consent statute because Defendant did not refuse the blood draw. Accordingly, Defendant’s blood test results are not subject to suppression on the grounds argued; we reverse the trial court’s grant of Defendant’s motion to suppress and remand this matter for further proceedings.

5. Status Heard 09/30/15 at SCALES Project in Lebanon.

1. Style State v. Linzey Danielle Smith

2. Docket Number M2013-02818-SC-R11-CD

3. Lower Court Decision Link <https://www.tncourts.gov/sites/default/files/smithlinzeydanielleopn.pdf>
<https://www.tncourts.gov/sites/default/files/smithlinzeydis.pdf>

4. Lower Court

Summary

Defendant, Linzey Danielle Smith, entered a plea of guilty to the offense of driving while her blood or breath alcohol concentration was 0.08% or more (DUI) in violation of T.C.A. § 55- 10-401(2), but explicitly reserved the right to appeal a certified question of law pursuant to Tenn. R. Crim. P. 37(b)(2)(A). The certified question of law limits this court to the following narrow issue: whether probable cause that Defendant had committed the Class C misdemeanor offense described in T.C.A. § 55-8-123(1) (a driver must maintain a vehicle entirely within a single lane “as nearly as practicable”) authorized a stop of Defendant’s vehicle by a state trooper or, alternatively, whether the trooper had reasonable suspicion, based on specific and articulable facts, that Defendant had committed or was about to commit the Class C misdemeanor offense set forth in T.C.A. § 55-8-123(1). Based upon the General Assembly’s classification as a criminal offense the failure of a driver to maintain her vehicle totally within a single lane of traffic “as nearly as practicable” and guidance from our supreme court’s decision in *State v. Brotherton*, 323 S.W.3d 866 (Tenn. 2010), we affirm the judgment of the trial court.

5. Status Heard 09/30/15 at SCALES Project in Lebanon.

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 Heard 11/05/15 in Memphis.

1. Style Starlink Logistics, Inc. v. ACC, LLC, et al.

2. Docket Number M2014-00362-SC-R11-CV

3. Lower Court Decision Link http://tncourts.gov/sites/default/files/starklinklogisticsv.acc_llcopn.pdf
 4. Lower Court Summary

This appeal stems from an environmental dispute involving the Appellant, StarLink Logistics Inc. (“StarLink”), the Tennessee Department of Environment and Conservation (“TDEC”), and Appellee ACC, LLC (“ACC”). StarLink appeals the trial court’s affirmance of an order of the Tennessee Solid Waste Disposal Control Board (“Board”), which had adopted a consent order entered into between TDEC and ACC. We affirm in part, and remand the case to the trial court for further remand to the Board for further proceedings consistent with this Opinion.
 5. Status Application granted 08/21/15; Appellant brief filed 9/21/15; Appellee ACC brief filed 11/4/15; Appellee Starlink Logistics brief filed 12/4/15; TBH 2/10/16 in Nashville.
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1. Style State v. Susan Gail Stephens
 2. Docket Number M2014-01270-SC-R11-CD
 3. Lower Court Decision Link http://www.tsc.state.tn.us/sites/default/files/stephenssusangail.opn_.pdf
 4. Lower Court Summary

In this interlocutory appeal, Susan Gail Stephens (“the Defendant”) challenges the prosecutor’s denial of her application for pretrial diversion. She asks this court to remand the case to the prosecutor with instructions that the Defendant be granted pretrial diversion. She also asks us to instruct the prosecutor to grant pretrial diversion nunc pro tunc to the Defendant’s 2012 update to her application for pretrial diversion. Upon review, we find that there is no substantial evidence in the record to support the denial of pretrial diversion. Accordingly, we reverse the order of the trial court and remand the case to the trial court with instructions that the Defendant be granted pretrial diversion upon the terms and conditions of the diversion to be established by the trial court. However, we decline to instruct that pretrial diversion be granted nunc pro tunc to 2012.
 5. Status Application granted 11/24/15; Appellant brief filed 12/23/15; Appellee brief filed 1/26/16; TBH 4/22/16 in Nashville.
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1. Style The Tennessean, 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 Intervenor's 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

Heard 5/28/15 at Girls State SCALES Project in Nashville.

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/vodafonedissent.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	Heard 06/02/15 in Nashville.
1.	Style	In re: Robert Lee Vogel, BPR #23374 (Lee, C.J. n.p.)
2.	Docket Number	M2015-00350-SC-BAR-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 09/09/15 in Knoxville.
1.	Style	State v. Thomas William Whited
2.	Docket Number	E2013-02523-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/whitedopn_0.pdf http://tncourts.gov/sites/default/files/whitedthomasdis.pdf
4.	Lower Court Summary	The defendant, Thomas William Whited, was convicted of nine counts of especially aggravated sexual exploitation of a minor, a Class B felony; one count of attempted especially aggravated sexual exploitation of a minor, a Class C felony; thirteen counts of observation without consent, a Class A misdemeanor; and one count of attempted observation without consent, a Class B misdemeanor. The defendant received an effective sentence of twenty-two years. On appeal, the defendant argues that: (1) the evidence is insufficient to support a finding that the defendant used a minor in the production of material that included the minor engaging in “sexual activity”; (2) the trial court erred in refusing to provide the jury with his proposed special instructions; (3) the trial court erred in refusing to permit cross-examination of the victims at the sentencing hearing; and (4) the trial court erred in imposing consecutive sentencing. After a thorough review of the record, the briefs of the parties, and the applicable law, we affirm the judgment of the criminal court.
5.	Status	Heard 1/27/16 in Knoxville.
1.	Style	State v. Howard Hawk Willis
2.	Docket Number	E2012-01313-SC-DDT-DD
3.	Lower Court Decision Link	http://www.tsc.state.tn.us/sites/default/files/willishowardhawkopn.pdf
4.	Lower Court Summary	A Washington County jury convicted appellant, Howard Hawk Willis, of two counts of premeditated first degree murder and one count of felony murder in

the perpetration of a kidnapping. Following the penalty phase, the jury sentenced appellant to death on each conviction. The trial court merged the felony murder conviction into one of the convictions for premeditated first degree murder. On appeal, appellant asserts that: (1) the trial court erred in finding that appellant implicitly waived and forfeited his right to counsel and requiring him to proceed pro se at trial; (2) the trial court erred in denying appellant's motion to suppress his statements; (3) the searches of the residence and the storage unit were unconstitutional; (4) the trial court erred in denying appellant's multiple motions to continue the trial; (5) the trial court erred in staying appellant's funding and other privileges used in preparation for trial after this court granted an interlocutory appeal; (6) the evidence is insufficient to support the convictions; (7) the trial court erred in denying appellant's ex parte motions for expert services for a crime scene expert and a false confession expert; (8) the trial court failed to apply a higher standard of due process in all aspects of the case; (9) the trial court erred in admitting certain photographs; (10) the prosecutor made improper statements during closing arguments in both phases of the trial; (11) the trial court erred in instructing the jury during the guilt phase; (12) the aggravating circumstances upon which the State relied were not stated in the indictment; (13) the trial court erred in denying appellant's motion to preclude for-cause removal of jurors who were not death qualified; (14) Tennessee's death penalty statute is unconstitutional; (15) the trial court erred in failing to advise appellant with respect to his testimony during the penalty phase; (16) the trial court failed to make an adequate inquiry into appellant's competency to waive his right to present mitigating evidence; (17) the trial court erred in instructing the jury during the penalty phase; (18) the trial court erred in admitting victim impact evidence; (19) the proportionality review is unconstitutional; and (20) cumulative error warrants reversal. Following our thorough review, we affirm the judgments of the trial court.

5. Status

Heard 10/01/15 in Nashville.