

Supreme Court Appeals
Pending Cases
3-29-19

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| 1. | Style | Douglas Ralph Beier v. Board of Professional Responsibility of the Supreme Court of Tennessee |
| 2. | Docket Number | E2019-00463-SC-R3-BP |
| 3. | Lower Court Decision Links | N/A |
| 4. | Lower Court | N/A |
| 5. | Summary Status | Notice of Appeal filed 3/14/19 |

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| 1. | Style | Nathan E. Brooks v. Board of Professional Responsibility |
| 2. | Docket Number | E2018-00125-SC-R3-BP |
| 3. | Lower Court Decision Links | N/A |
| 4. | Lower Court | N/A |
| 5. | Summary Status | Heard 9/6/18 at Knoxville |

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| 1. | Style | Jeffery Todd Burke v. Sparta Newspapers, Inc. |
| 2. | Docket Number | M2016-01065-SC-R11-CV |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/burke.jeffery.opn_.pdf |
| 4. | Lower Court Summary | The trial court granted summary judgment to defendant publisher of an allegedly defamatory newspaper article concerning plaintiff. The article was based upon a one-on-one, private interview between the public information officer for the White County Sheriff's Office and a newspaper reporter. The court determined that the interview given by the public information officer constituted an "official action" of government that the article fairly and accurately reported. As such, the court concluded that any alleged defamatory statements included in the article were privileged under the common-law "fair report privilege." Plaintiff appealed, arguing in part, that the fair report privilege does not apply. Because we conclude that the interview did not constitute an official act of government, we reverse the grant of summary judgment. |
| 5. | Status | Application granted 1/17/19; Appellant brief filed 2/19/19; Appellee brief due 4/11/19, after extension; TBH May 31, 2019, in Nashville. |

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| 1. | Style | Coffee County Board of Education v. City of Tullahoma This case has been consolidated with four other cases for oral argument: <i>Washington County School System, et al. v. The City of Johnson City Tennessee</i> , No. E2016-02583-SC-R11-CV; <i>Sullivan County, Tennessee, et al., v. The City of Bristol, Tennessee, et al.</i> , No. E2016-02109-SC-R11-CV; <i>Bradley County School System, et al. v. The City of Cleveland, Tennessee</i> , No. E2016-01030-SC-R11-CV; and <i>Blount County Board of Education, et al. v. City of Maryville, Tennessee, et al.</i> , No. E2017-00047-SC-R11-CV. |
| 2. | Docket Number | M2017-00935-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/coffeecountyv.cityoftullahoma.opn_.pdf |
| 4. | Lower Court Summary | This is a controversy between the City of Tullahoma and Coffee County about the proper distribution of a portion of liquor by the drink revenues collected in Tullahoma. The trial court ruled that the distribution provisions of Tenn. Code Ann. § 57-4-306(2)(A) were not effective in Coffee County and that the statute was ambiguous. The trial court resorted to the legislative history to determine that Tullahoma should keep the funds addressed in Tenn. Code Ann. § 57-4-306(2)(A). We do not find the statutory language ambiguous and reverse the decision of the trial court. |
| 5. | Status | Heard 10/4/18 at Nashville. |

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| 1. | Style | State of Tennessee v. Brandon Cole-Pugh |
| 2. | Docket Number | W2017-00469-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tsc.state.tn.us/sites/default/files/cole-pugh_brandon_opn.pdf |
| 4. | Lower Court Summary | Following a jury trial, the defendant, Brandon Cole-Pugh, was convicted of being a felon in possession of a handgun and sentenced to eight years. On appeal, the defendant challenges the trial court's denial of his request for an instruction on the defense of necessity. Having thoroughly reviewed the record, we conclude the trial court did not err in denying the defendant's request on the defense of necessity. |
| 5. | Status | Application granted 6/22/18; Appellant brief filed 9/06/18 after extension; Appellee brief filed 11/5/18 after extension; TBH 5/30/19 at SCALES Girls State. |

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| 1. | Style | Benjamin Shea Cotten, as Personal Representative for the Estate of Christina Marie Cotten, Deceased, et al. v. Jerry Scott Wilson |
| 2. | Docket Number | M2016-02402-SC-R11-CV |
| 3. | Lower Court Decision Links | http://www.tncourts.gov/sites/default/files/cotten.christina.opn_.pdf |
| 4. | Lower Court Summary | The personal representative, on behalf of the decedent's estate, brought this negligence action against the defendant based, <i>inter alia</i> , on the defendant's alleged acts of displaying and failing to properly store and prevent accessibility to the firearm with which the decedent ultimately committed suicide. The trial court granted summary judgment in favor of the defendant, determining that he owed no duty of care to the decedent and that her suicide was an independent, intervening cause that broke the chain of causation. The estate |

has appealed. Based upon the applicable balancing test, we conclude that the defendant owed a legal duty of care to the decedent and that summary judgment was improperly granted in the defendant's favor on the basis of lack of duty. We further determine that the estate's evidence at the summary judgment stage was sufficient to establish the existence of a genuine issue of material fact for trial regarding causation. We therefore vacate the trial court's grant of summary judgment and remand for further proceedings consistent with this opinion. We affirm, however, the trial court's determination that no special relationship existed such as to impose liability for nonfeasance.

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| 5. | Status | Heard 5/23/18 at SCALES Boys State. |
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| 1. | Style | Bradley James Cox v. Laura Nicole Lucas |
| 2. | Docket Number | E2017-02264-SC-R11-CV |
| 3. | Lower Court Decision Links | http://www.tncourts.gov/sites/default/files/bradley_james_cox_v._laura_nicole_lucas.pdf |
| 4. | Lower Court Summary | This opinion is being filed contemporaneously with our opinion in <i>Minyard v. Lucas</i> , No. E2017-02261-COA-R3-CV.1 Each case involves a post-divorce custody dispute between Laura Nicole Lucas (mother) and one of her two ex-husbands. In the present case, Bradley James Cox (father) filed a petition in the trial court for ex parte emergency relief and modification of the permanent parenting plan. Nearly two years later, mother filed a motion to dismiss all orders resulting from father's petition as void for lack of subject matter jurisdiction. Mother argued that father's petition included allegations of dependency and neglect, which implicated the exclusive original jurisdiction of the juvenile court. After a hearing on the matter, the trial court denied mother's motion. Mother appeals. We reverse and remand for further proceedings. |
| 5. | Status | Application granted 02/22/19; Appellant brief filed 3/18/19; Appellee brief due 4/12/19; Reply brief due 4/24/19; TBH 5/7/19 in Knoxville (consolidated for purposes of oral argument with <i>Lewis Alvin Minyard v. Laura Nicole Lucas</i> , E2017-02261-SC-R11-CV). |
| 6. | Issue(s) | The Court has granted the appeal with respect to the following issue: "Whether, in the absence of a dependency and neglect proceeding in juvenile court, a petition for modification of a parenting plan filed in a post-divorce custody dispute in circuit or chancery court that alleges facts which may fit the statutory definition of dependency and neglect but does not seek such a determination or remedy nonetheless divests the jurisdiction of the circuit or chancery court and invokes the exclusive original jurisdiction of the juvenile court pursuant to Tenn. Code Ann. § 37-1-103." |
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| 1. | Style | John R. DeBerry v. Cumberland Electric Membership Corporation |
| 2. | Docket Number | M2017-02399-SC-R11-CV |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/deberry.john_opn.pdf |
| 4. | Lower Court Summary | This is a retaliatory discharge claim brought by an employee against his employer, alleging he was fired in retaliation for claiming workers' compensation benefits. The trial court ruled in favor of the employee, finding that the employee had made a prima facie showing that his termination was in retaliation for his claim for workers' compensation benefits. The trial court also found that the employee established the employer's stated non-discriminatory reason was pretext. Because the record does not reflect that the trial court |

exercised its own independent judgment, we vacate and remand for proceedings consistent with this opinion.

5. Status Application granted 02/20/19; Appellant brief filed 3/22/19; Appellee brief due 4/21/19; TBH May 31, 2019, in Nashville.

1. Style James A. Dunlap v. Board of Professional Responsibility

2. Docket Number M2018-01919-SC-R3-BP

3. Lower Court Decision Links N/A

4. Lower Court N/A

5. Summary Status Notice of Appeal Filed 11/8/18; Appellate record filed 3/8/19; Appellant brief due 4/8/19.

1. Style Stephen P. Geller v. Henry County Board of Education

2. Docket Number W2017-01678-SC-R11-CV

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

4. Lower Court Summary A tenured teacher serving as an assistant principal was transferred to teach at an alternative school after the local director of schools learned that the teacher did not hold an administrator's license. On appeal, the teacher asserts that the transfer was arbitrary and capricious where the director of schools did not comply with the law concerning when assistant principals are required to hold administrator's licenses. Following a trial, the trial court dismissed the teacher's complaint, ruling that the director of school's belief that the teacher was required to hold an administrator's license was reasonable. We conclude that the director of schools' actions and beliefs were not reasonable under the circumstances; as such, we reverse and remand for further proceedings.

5. Status Application granted 3/28/19; Appellant brief due 4/29/19.

1. Style Estate of Ella Mae Haire et al., v. Shelby J. Webster et al.

2. Docket Number E2017-00066-SC-R11-CV

3. Lower Court Decision Link http://www.tsc.state.tn.us/sites/default/files/estate_of_ella_mae_haire_et_al._v_shelby_j_webster.pdf

4. Lower Court Summary This appeal arises from a family dispute over joint bank accounts. Phillip Daniel Haire ("Danny Haire") sued First Tennessee Bank National Association ("the Bank") in the Chancery Court for Knox County ("the Trial Court") alleging, among other things, breach of contract. The Bank had allowed Danny Haire's late mother Ella Mae Haire ("Decedent") to remove him unilaterally as joint tenant with right of survivorship from certain accounts. The Bank filed a motion to dismiss, which the Trial Court granted. Danny Haire appealed. We hold, *inter alia*, that Danny Haire's complaint failed to identify which contract term the Bank allegedly breached, and that Decedent could have removed all of the funds from the

account, thus effectuating the same practical result as that which actually occurred. We affirm the judgment of the Trial Court.

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| 5. | Status | Heard 01/09/19 in Knoxville; Opinion filed 3/20/19. |
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| 1. | Style | State of Tennessee v. Angela Carrie Payton Hamm and David Lee Hamm |
| 2. | Docket Number | W2016-01282-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/hamm_angela_david_opn.pdf |
| 4. | Lower Court Summary | The State appeals the trial court's order granting the Defendants' motions to suppress evidence seized as a result of a warrantless search of their house. The trial court found that, although Defendant Angela Hamm was on probation at the time of the search and was subject to warrantless searches as a condition of her probation, the search was invalid because the police officers did not have reasonable suspicion to justify the search. On appeal, the State contends that (1) the search was supported by reasonable suspicion; (2) the search was reasonable based upon the totality of the circumstances; (3) Angela Hamm consented to the search by agreeing to the warrantless search probation condition; and (4) the warrant search was valid as to Defendant David Lee Hamm under the doctrine of common authority. Upon review, we affirm the judgment of the trial court. |
| 5. | Status | Application granted 8/13/18; Appellant brief filed 9/12/18; Appellee brief filed 10/11/18; TBH April 4, 2019, in Jackson. |
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| 1. | Style | Bonnie Harmon, et al. v. Hickman Community Healthcare Services, Inc. |
| 2. | Docket Number | M2016-02374-SC-R11-CV |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/harmon.bonnie.opn_.pdf |
| 4. | Lower Court Summary | This suit was brought by the children of a woman who died while incarcerated at Hickman County Jail. Defendant is a contractor of the jail that provides medical services at the jail; a nurse in Defendant's employment treated the decedent for symptoms of drug and alcohol withdrawal. She passed away shortly after. The children brought this suit under the Health Care Liability Act claiming negligence and negligent hiring, retention, and supervision. In due course, Defendant moved for summary judgment, arguing, among other things, that there was not a genuine issue of material fact as to causation and it was entitled to judgment as a matter of law on that element of Plaintiffs' claim; the trial court granted Defendant's motion and subsequently denied a motion to revise, filed by the Plaintiffs. This appeal followed. |
| 5. | Status | Application granted 11/15/18; Appellant brief filed 12/14/18; Appellee brief filed 1/15/19; Reply brief filed 1/29/19; TBH May 31, 2019, in Nashville. |
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| 1. | Style | State of Tennessee v. Steve M. Jarman |
| 2. | Docket Number | M2017-01313-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/jarman.steve_.opn_.pdf |

https://www.tncourts.gov/sites/default/files/jarman.steve_.concurringopn.pdf

4. Lower Court Summary
The Defendant, Steve M. Jarman, was convicted by a jury of voluntary manslaughter and received a sentence of five years to be served in the Tennessee Department of Correction. On appeal, the Defendant challenges: (1) the sufficiency of the evidence to support his conviction; (2) the admission of evidence of a prior assault charge for which the Defendant was acquitted and of prior threats against the victim's sister; (3) the admission of evidence of the Defendant's attempt to cash a check made out to the victim after the victim's death; (4) the admission of the victim's testimony in a prior trial as violating the Confrontation Clause; (5) and his five-year sentence to be served in confinement. We conclude that the trial court committed reversible error in admitting evidence of a prior criminal offense for which the Defendant was acquitted and evidence of the Defendant's prior threats against the victim's sister. Accordingly, we reverse the judgment of the trial court and remand the case for a new trial.

5. Status Application granted 3/27/19; Appellant brief due 4/26/19.

1. Style State of Tennessee v. Denton Jones

2. Docket Number E2017-00535-SC-R11-CD

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

4. Lower Court Summary
The defendant, Denton Jones, appeals his Knox County Criminal Court jury conviction of theft of property valued at \$1,000 or more, arguing that the State should not have been permitted to aggregate into a single count of theft the value of property taken on five separate occasions from two different locations; that the trial court erred by permitting testimony concerning evidence that suggested the defendant had committed other offenses; that the trial court erred by denying his motions for mistrial, including one based upon an alleged violation of Brady v. Maryland; that the evidence was insufficient to support his conviction; and that the cumulative effect of the errors at trial entitle him to a new trial. Discerning no error, we affirm.

5. Status Application granted 10/11/18; Appellant brief filed 11/9/18; Appellee brief filed 12/10/18; Reply brief filed 12/21/18; TBH 5/22/19 at SCALES Boys State.

1. Style Board of Professional Responsibility v. Loring Edwin Justice

2. Docket Number E2017-01334-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Notice of Appeal received 6/30/17; Motion for extension to file record granted on 10/23/17; Record filed 02/06/18; Certified transcript due 03/05/18 after extension; Case remanded to trial court for resolution of any alleged irregularity and for final certification of the transcripts 4/13/2018; Briefing schedule stayed pending certification of the transcripts; Appellant brief filed 12/4/18, after extension; Appellee brief filed 1/17/19, after extension; TBH 5/7/19 in Knoxville.

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| 1. | Style | State of Tennessee v. Charles Keese |
| 2. | Docket Number | E2016-02020-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/charles_keese_opinion.pdf |
| 4. | Lower Court Summary | In this appeal, the State challenges the trial court’s decision to apply the amended version of Code section 39-14-105, which provides the grading of theft offenses, when calculating the defendant’s sentence. The defendant asserts that the State has no right to appeal the ruling of the trial court and, in the alternative, that the trial court correctly applied the amended statute in this case. The defendant also appeals the judgment of the trial court, claiming that the evidence was insufficient to support his convictions because the State failed to adequately establish the value of the stolen property. We agree with the defendant that no appeal of right lies for the State pursuant to either Tennessee Rule of Appellate Procedure 3 or Code section 40-35-402. Because we have concluded that the trial court exceeded its authority by the application of the amended version of Code section 39-14-105 before the effective date, we could treat the improperly-filed Rule 3 appeal as a common law petition for writ of certiorari. We need not do so, however, because, pursuant to Tennessee Rule of Appellate Procedure 13, this court acquired jurisdiction of the State’s claim when the defendant filed a timely notice of appeal. Following our review of the issues presented, we hold that sufficient evidence supports the defendant’s conviction but that the trial court erred by applying the amended version of Code section 39-14-105. Accordingly, we affirm the defendant’s conviction but vacate the six-year sentence imposed by the trial court and remand the case for the entry of a modified judgment reflecting a 12-year sentence for a Class D felony conviction of theft of property valued at \$1,000 or more but less than \$10,000. |
| 5. | Status | Application granted 08/09/18; Appellant brief filed 10/10/18 after extension; Appellee brief filed 12/19/18; Reply brief filed 1/2/19; TBH 5/7/19 in Knoxville. |

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| 1. | Style | Polly Spann Kershaw v. Jeffrey L. Levy |
| 2. | Docket Number | M2017-01129-SC-R11-CV |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/kershaw.polly_opn.pdf |
| 4. | Lower Court Summary | This is a legal malpractice case. Appellant filed suit against Appellee, who had previously served as Appellant’s attorney in a divorce matter. Appellant alleged that she suffered monetary damages and was convicted of criminal contempt as a result of the negligent legal representation she received from Appellee in her divorce case. Appellee filed a motion for summary judgment claiming that Appellant’s claims were, among other things, barred by the doctrine of judicial estoppel as a result of the sworn statements Appellant made in conjunction with her divorce settlement. The trial court agreed and granted summary judgment in favor of Appellee. We affirm. |
| 5. | Status | Heard 02/06/19 in Nashville. |

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| 1. | Style | Gregory J. Lammert, et al., v. Auto Owners (Mutual) Insurance Company |
| 2. | Docket Number | M2017-02546-SC-R23-CV |
| 3. | Lower Court Decision Link | N/A |

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| 4. | Lower Court Summary | As described in the memorandum opinion by the Chief Judge Crenshaw: Under an insurance policy that (1) defines actual cash value as "the cost to replace damaged property with new property of similar quality and features reduced by the amount of depreciation applicable to the damaged property immediately prior to the loss," or (2) states that "actual cash value includes a deduction for depreciation," can the insurer depreciate not only materials, but also a portion of the labor costs? Because the answer to that question is central to resolution of this case and has not been definitively answered by the Tennessee courts, and because the answer could affect thousands of policy-holders in this state, the Court will grant Plaintiffs' Motion to Certify Question to the Tennessee Supreme Court. |
| 5. | Status | Heard 10/4/18 at Nashville. |
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| 1. | Style | Board of Professional Responsibility v. James S. MacDonald |
| 2. | Docket Number | E2018-01699-SC-R3-BP |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Notice of appeal filed 09/18/18; Appellate record filed 1/14/19; Appellant brief filed 2/13/19; Appellee brief filed 3/14/19; TBH 5/7/19 in Knoxville. |
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| 1. | Style | Melissa Martin, et al. v. Rolling Hills Hospital, LLC, et al. |
| 2. | Docket Number | M2016-02214-SC-R11-CV |
| 3. | Lower Court Decision Link | http://tncourts.gov/sites/default/files/martin.melissa.opn_.pdf |
| 4. | Lower Court Summary | This is an appeal in a health care liability action from the dismissal of the action for Plaintiffs' failure to comply with Tennessee Code Annotated section 29-26-121(a)(2)(E) when they failed to provide the Defendants with HIPAA compliant authorizations for release of medical records. The trial court held that, as a result of the failure, Plaintiffs were not entitled to an extension of the one-year statute of limitations for bringing suit and the action was barred. Plaintiffs appeal. Upon our review, we find that Plaintiffs substantially complied with the requirements of section 29-26-121 and that the Defendants have not shown that they were prejudiced by the deficiencies in the authorizations; accordingly, we reverse the decision of the trial court and remand the case for further proceedings. |
| 5. | Status | Application granted 11/16/18; Appellant brief filed 12/17/18; Appellee brief filed 3/1/19, after extension; Reply briefs filed 3/14/19 and 3/15/19; TBH May 30, 2019, in Nashville. |
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| 1. | Style | State of Tennessee v. Quintis McCaleb |
| 2. | Docket Number | E2017-01381-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/quintis_mccaleb_cca_opinion.pdf |
| 4. | Lower Court Summary | The State, pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure, appeals the trial court's grant of Defendant's motion to suppress inculpatory statements made during |

his post-polygraph interview. The trial court found that the statements were voluntary but determined that they were inadmissible under Tennessee Rule of Evidence 403 because Defendant would be required to reference the polygraph examination to provide context for Defendant's statements made during the post-polygraph interview. Concluding that the trial court abused its discretion by excluding the statements, we reverse the judgment of the trial court and remand this case for further proceedings consistent with this opinion.

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| 5. | Status | Heard 01/09/19 in Knoxville. |
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| 1. | Style | State of Tennessee v. Jerome Antonio McElrath |
| 2. | Docket Number | W2015-01794-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/mcelrathj_opinion.pdf |
| 4. | Lower Court Summary | The State appeals the suppression of evidence by the Obion County Circuit Court. The defendant, Jerome Antonio McElrath, was arrested on two separate occasions for criminal trespass. The searches of the defendant's person incident to those arrests produced marijuana in the amounts of 10.1 grams and 4.0 grams, respectively. After an evidentiary hearing, the trial court granted the defendant's motion to suppress the evidence seized incident to his arrests and dismissed the charges. The State argues that the arresting officer had probable cause to arrest the defendant and, therefore, the search incident to each arrest was lawful. Furthermore, the State contends that the evidence was legally obtained because the officer acted in good-faith reliance on information provided by dispatch. After review, we affirm the decision of the trial court. |
| 5. | Status | Heard 04/04/18 at Jackson; Opinion filed 3/12/19. |
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| 1. | Style | Jennifer Elizabeth Meehan v. Board of Professional Responsibility |
| 2. | Docket Number | M2018-01561-SC-R3-BP |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Notice of appeal filed 08/29/18; Appellate record filed 11/6/18; Appellant brief filed 12/20/18; Appellee brief filed 2/26/19, after extension; TBH May 30, 2019, in Nashville. |
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| 1. | Style | State of Tennessee v. Ashley N. Menke |
| 2. | Docket Number | M2017-00597-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/menke_ashley_nopn.pdf |
| 4. | Lower Court Summary | On July 14, 2016, Ashley N. Menke, the Defendant, entered an open guilty plea in Case No. 925-CR-2015 to five felonies and three misdemeanors, including one count of theft in the amount of \$1,000 or more but less than \$10,000 (Count 9), and to a violation of probation |

in Case No. 268-CR-2014. The value of the property taken in Count 9 was exactly \$1,000, and the Defendant was released on bail for felony offenses in Counts 3, 4, 5, and 6 at the time she committed the theft in Count 9. Following the December 2, 2016 sentencing hearing, the trial court took the matter under advisement without sentencing the Defendant. On January 1, 2017, the Public Safety Act of 2016 became effective. Section 5 of the Public Safety Act “deleted and replaced” Tennessee Code Annotated section 39-14-105(a), the “grading of theft” statute. Theft in the amount of \$1,000 or less committed after January 1, 2017, is now graded as a Class A misdemeanor. In its March 10, 2017 sentencing order, the trial court imposed an eleven month and twenty-nine day sentence in Count 9 based on the criminal savings statute, Tennessee Code Annotated section 39-11-112, and ordered the sentence to be served concurrently with the effective three-year sentence for the other seven counts. The judgment states that the conviction offense is a Class D felony. We hold that the criminal savings statute does not apply and that the trial court erred in sentencing the Defendant in Count 9 to a concurrent sentence of eleven months and twenty-nine days because of the following: (1) the General Assembly did not specifically indicate that Section 5 of the Public Safety Act operated retrospectively so the statute is presumed to operate prospectively; (2) “the value of the property or services obtained” is an essential element of the offense of theft; and (3) the legislature changed an essential element of, not the sentence for, Class A misdemeanor theft, Class E felony theft, and Class D felony theft. We affirm the judgment of conviction for the Class D felony theft in Count 9, vacate the sentence in Count 9, and remand the case to the trial court for resentencing within the applicable range for Class D felony theft and for consecutive alignment of the sentence pursuant to Tennessee Code Annotated section 40-20-111(b) and Tennessee Rule of Criminal Procedure 32(c)(3)(C).

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| 5. | Status | Application granted 10/11/18; Appellant brief filed 12/20/18; Appellee brief filed 1/22/19; Reply brief filed 2/20/19, after extension; TBH 5/7/19 in Knoxville. |
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| 1. | Style | State of Tennessee v. Anthony Jerome Miller |
| 2. | Docket Number | E2016-01779-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/anthony_jerome_miller_opinion.pdf |
| 4. | Lower Court Summary | Anthony Jerome Miller, the Defendant, pled guilty to sexual exploitation of a minor and reserved a certified question for appeal regarding the trial court’s denial of his motion to suppress evidence. He asserts that the trial court erred in denying his motion to suppress the evidence obtained by the State during a search of his residence because the District Attorney General’s Office did not apply for the search warrant, as required by Tennessee Code Annotated section 39-17-1007. The State responds that: (1) a search warrant is not “process” as intended by the meaning of section 39-17-1007; (2) the search warrant is valid under section 39-17-1007 because Investigator O’Keefe’s application falls under the “except as otherwise provided” clause because law enforcement are authorized to apply for search warrants under Tennessee Rule of Criminal Procedure 41(a); and (3) if a search warrant is considered process under section 39-17-1007, then Investigator O’Keefe fulfilled the requirements of the statute by seeking verbal consent from an Assistant District Attorney. After a thorough review of the record and applicable law, we affirm. |
| 5. | Status | Heard 5/23/18 at SCALES Boys State. |

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| 1. | Style | Lewis Alvin Minyard v. Laura Nicole Lucas |
| 2. | Docket Number | E2017-02261-SC-R11-CV |

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| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/lewis_alvin_minyard_v_laura_nicole_lucas.pdf |
| 4. | Lower Court Summary | This opinion is being filed contemporaneously with our opinion in <i>Cox v. Lucas</i> , No. E2017-02264-COA-R3-CV.1 Each case involves a custody dispute between Laura Nicole Lucas (mother) and one of her two ex-husbands. In the present case, Lewis Alvin Minyard (father) filed a petition in the trial court for ex parte emergency relief and modification of the permanent parenting plan. Over two and a half years later, mother filed a motion to dismiss all orders resulting from father’s petition as void for lack of subject matter jurisdiction. Mother argued that father’s petition included allegations of dependency and neglect, which implicated the exclusive original jurisdiction of the juvenile court. After a hearing on the matter, the trial court denied mother’s motion. Mother appeals. We reverse and remand for further proceedings. |
| 5. | Status | Application granted 02/22/19; Appellant brief filed 3/18/19; Appellee brief due 4/12/19; Reply brief due 4/24/19; TBH 5/7/19 in Knoxville (consolidated for purposes of oral argument with <i>Bradley James Cox v. Laura Nicole Lucas</i> , E2017-02264-SC-R11-CV). |

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| 1. | Style | State of Tennessee v. Reuben Eugene Mitchell |
| 2. | Docket Number | E2017-01739-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/reuben_mitchell_cca_majority_opinion.pdf https://www.tncourts.gov/sites/default/files/reuben_mitchell_cca_separate_opinion.pdf |
| 4. | Lower Court Summary | A Knox County jury convicted the Defendant, Reuben Eugene Mitchell, of arson and filing a false insurance claim valued between \$10,000 and \$60,000, and the trial court sentenced him to four years of probation. On appeal, the Defendant contends that the evidence is insufficient to sustain his convictions. After review, we conclude that the evidence is insufficient to sustain the Defendant’s conviction for filing a false insurance claim, and we vacate the judgment and dismiss that charge. We affirm the Defendant’s conviction for arson. |
| 5. | Status | Application granted 3/27/19; Appellant brief due 4/26/19. |

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| 1. | Style | Carlos Eugene Moore v. Board of Professional Responsibility |
| 2. | Docket Number | W2018-00969-SC-R3-BP |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Heard 11/7/18 in Jackson. |

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| 1. | Style | Paul Zachary Moss v. Shelby County Civil Service Merit Board |
| 2. | Docket Number | W2017-01813-SC-R11-CV |
| 3. | Lower Court | |

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| | Decision Link | https://www.tncourts.gov/sites/default/files/mosspaulzacharyopn.pdf |
| 4. | Lower Court Summary | Appellant was previously terminated from his employment with the Shelby County Fire Department. After the Shelby County Civil Service Merit Board upheld Appellant's termination, judicial review followed in the Shelby County Chancery Court, which affirmed the Merit Board's decision. In his appeal to this Court, Appellant contends that the decision upholding his termination should be reversed due to a violation of his due process rights. We agree and reverse. |
| 5. | Status | Application granted 02/25/19; Appellant brief filed 3/27/19; Appellee brief due 4/26/19. |
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| 1. | Style | State of Tennessee v. Hassan Falah al Mutory |
| 2. | Docket Number | M2017-00346-SC-R11-CD |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Heard 02/06/19 in Nashville. |
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| 1. | Style | State of Tennessee v. Leroy Myers, Jr. |
| 2. | Docket Number | M2015-01855-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/myers_leroyopn.pdf |
| 4. | Lower Court Summary | After a bench trial, the trial court issued a written order finding the Defendant, Leroy Myers, Jr., not guilty of the charged offense, aggravated assault, but guilty of reckless endangerment. The Defendant appealed, asserting that reckless endangerment is not a lesser-included offense of aggravated assault under the facts of this case and that there was not an implicit amendment to the indictment to include reckless endangerment. We affirmed the trial court. <i>State v. Leroy Myers, Jr.</i> , No. M2015-01855-CCA-R3-CD, 2016 WL 6560014 (Tenn. Crim. App., at Nashville, November 4, 2016). The Defendant filed an application for permission to appeal with the Tennessee Supreme Court pursuant to Rule 11(a) of the Tennessee Rules of Appellate Procedure. On September 22, 2017, the Tennessee Supreme Court granted the Defendant's application for the purpose of remanding the case to this Court to supplement the record. On remand, we again affirm the trial court's judgment. |
| 5. | Status | Heard 02/06/19 in Nashville. |
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| 1. | Style | In Re: Petition to Stay the Effectiveness of Formal Ethics Opinion 2017-F-163 |
| 2. | Docket Number | M2018-01932-SC-BAR-BP |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court | |

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| | Summary | N/A |
| 5. | Status | Petition to vacate filed 1/15/19; Amicus Brief (USA) filed 3/1/19; Appellant's brief filed 3/5/19; Amicus Brief (Attorney General & Reporter for the State of Tennessee) filed 3/8/19; Appellee brief due 4/1/19; TBH May 30, 2019, in Nashville. |
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| 1. | Style | State of Tennessee v. A.B. Price, Jr. and Victor Tyrone Sims |
| 2. | Docket Number | W2017-00677-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/price_a.b._jr._and_sims_victor_tyrone_opn.pdf http://www.tncourts.gov/sites/default/files/price_a.b._jr._and_sims_victor_tyrone_concur.pdf http://www.tncourts.gov/sites/default/files/price_a.b._jr._and_sims_victor_tyrone_dissent.pdf |
| 4. | Lower Court Summary | <p>This consolidated appeal comes to us following the passage of the Public Safety Act (“the PSA”), which, as relevant here, see Tenn. Code Ann. §§ 40-28-301,-306, changed how non-criminal or “technical” violations of probation are handled in Tennessee. These provisions require the Tennessee Department of Probation and Parole (“the department”) to develop, among other things, a single system of graduated sanctions for technical violations of community supervision and an administrative review process for objections by the probationer to imposition of such sanctions. Prior to accepting the Defendants’ guilty pleas, the trial court expressed concern regarding the implementation of the PSA, as these consolidated cases were the first in its district to which the graduated sanctions of the PSA would apply. The Defendants then objected to the imposition of the PSA as a mandatory condition of their probation and “request[ed] that the Court find certain of the provisions of T.C.A. § 40-28-301 through § 40-28-306, relative to sentences of probation, to be facially unconstitutional, and, therefore, decline to incorporate them within the judgment.” Specifically at issue are the provisions (1) mandating trial courts to include as a condition of probation that the department supervising the individual may impose graduated sanctions for violations of probation; and (2) the extent to which the department’s administrative process to review graduated sanctions contested by supervised individuals complies with principles of due process. After a hearing, the trial court issued an extensive order finding these sections of the PSA violated the separation of powers doctrine and principles of due process and equal protection. It is from this order that the State appeals. For the reasons that follow, we affirm the judgments of the trial court.</p> |
| 5. | Status | Application granted 12/05/18; Appellant brief filed 1/4/19; Appellee brief filed 2/4/19; Reply brief filed 2/19/19; TBH April 4, 2019, in Jackson. |
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| 1. | Style | State of Tennessee v. Ernesto Delgadilo Rodriguez |
| 2. | Docket Number | E2017-00369-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tsc.state.tn.us/sites/default/files/ernesto_rodriguez_cca_opinion.pdf |
| 4. | Lower Court Summary | <p>A Knox County jury convicted the Defendant, Ernesto Delgadilo Rodriguez, of resisting arrest and assault. The trial court sentenced the Defendant to six months for the resisting arrest conviction and to eleven months and twenty-nine days for the assault conviction. On appeal, the Defendant challenges (1) a jury instruction of the definition of “arrest”; (2) the sufficiency of the evidence; and (3) the admissibility of evidence regarding alcohol and</p> |

drug use. After a thorough review of the record and applicable law, we affirm the judgments of the trial court.

5. Status Application granted 10/11/18; Appellant brief filed 11/13/18; Appellee brief filed 12/13/18; TBH 5/22/19 at SCALES Boys State.

1. Style Paul J. Springer, Sr. v. Board of Professional Responsibility of the Supreme Court of Tennessee

2. Docket Number M2019-00132-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Notice of Appeal filed 1/18/19.

1. Style Tennessee Farmer's Mutual Ins. Co. v. Brandon DeBruce

2. Docket Number E2017-02078-SC-R11-CV

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

4. Lower Court Summary This appeal involves a plaintiff with a personal injury claim who has challenged the validity of a declaratory judgment involving the defendant tortfeasor and his insurer because the personal injury plaintiff was not made a party to the declaratory judgment action. The personal injury plaintiff brought an action for damages against the defendant tortfeasor in December 2013 in Hamilton County, prior to the filing of the instant declaratory judgment action, based upon an automobile accident that occurred in December 2012. The defendant tortfeasor in the personal injury action reportedly failed to notify his insurance company of the lawsuit or cooperate with his insurance company regarding an investigation into the accident, which allegedly amounted to a breach of the automobile insurance policy between them. In March 2015, the insurance company filed the instant action in the Bradley County Chancery Court against the defendant tortfeasor, seeking a declaratory judgment that the insurance company had no duty to defend or indemnify the defendant tortfeasor based on his alleged breach of the insurance contract. In June 2015, the Bradley County Chancery Court entered a declaratory judgment against the defendant tortfeasor, holding that the insurer had no duty to defend or indemnify him. In June 2017, the personal injury plaintiff filed a petition to set aside that declaratory judgment pursuant to Tennessee Rule of Civil Procedure 60.02, alleging that she was a missing indispensable party to the declaratory judgment action and requesting to intervene therein. Following a hearing, the Bradley County Chancery Court denied the personal injury plaintiff's petition. The personal injury plaintiff has appealed. Having determined that the personal injury plaintiff had a sufficient interest in the declaratory judgment action and was therefore an indispensable party, we set aside the underlying declaratory judgment as void for lack of subject matter jurisdiction.

5. Status Application granted 1/16/19; Appellant brief filed 2/14/19; Appellee brief filed 3/15/19; TBH 5/30/19 at SCALES Girls State.

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| 1. | Style | George H. Thompson, III v. Board of Professional Responsibility of the Supreme Court of Tennessee |
| 2. | Docket Number | M2018-02216-SC-R3-BP |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Notice of Appeal filed 12/12/18. |

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| 1. | Style | John O. Threadgill v. Board of Professional Responsibility |
| 2. | Docket Number | E2018-01211-SC-R3-BP |
| 3. | Lower Court Decision Link | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Heard 01/09/19 in Knoxville. |

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| 1. | Style | State of Tennessee v. Michael Eugene Tolle |
| 2. | Docket Number | E2017-00571-SC-R11-CD |
| 3. | Lower Court Decision Link | https://www.tncourts.gov/sites/default/files/michael_eugene_tolle_opinion.pdf |
| 4. | Lower Court Summary | In this appeal, the State challenges the trial court's decision to apply the amended version of Code section 39-14-105, which provides the grading of theft offenses, to modify the class of the defendant's conviction offense and the corresponding sentence following the revocation of the defendant's probation. No appeal right lies for the State pursuant to either Tennessee Rule of Appellate Procedure 3, Code section 40-35-402, or Tennessee Rule of Criminal Procedure 35 under the circumstances in this case. Because we have concluded that the trial court exceeded its authority by the application of the amended version of Code section 39-14-105, however, we have elected to treat the improperly filed appeal as a petition for the common law writ of certiorari. Accordingly, we vacate the order of the trial court and remand the case for proceedings consistent with this opinion. |
| 5. | Status | Application granted 8/09/18; Appellant brief filed 10/08/18 after extension; Appellee brief filed 11/21/18, after extension; Reply brief filed 12/19/18; TBH 5/7/19 in Knoxville. |

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| 1. | Style | TWB Architects, Inc., v. The Braxton, LLC, et al. |
| 2. | Docket Number | M2017-00423-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tsc.state.tn.us/sites/default/files/twb_architectsv.thebraxton.opn_.pdf |
| 4. | Lower Court | |

Summary This is the second appeal in a dispute over enforcement of a mechanic’s lien. An architect entered into an architect agreement with the developer to build a condominium project in Ashland City, Tennessee. The architect later entered into a purchase agreement with the successor developer to receive a penthouse as “consideration of design fees owed” on the first contract. The architect never received payment for its work and filed suit against the successor developer and its surety to enforce its mechanic’s lien for the amount owed under the architect agreement. The trial court held that the purchase agreement was a novation, extinguishing the rights and obligations of the parties under the architect agreement. In the first appeal, this Court found a lack of intent for a novation and, therefore, reversed the decision of the trial court and remanded the case for further proceedings. On remand, after additional discovery, the architect moved for summary judgment on its claim. The trial court granted summary judgment in favor of the architect. In this appeal, the developer argues that the trial court erred in granting summary judgment on its defense of novation and multiple other defenses. We affirm the decision of the trial court.

5. Status Heard 02/06/19 in Nashville.

1. Style State of Tennessee v. Alexander R. Vance and Damonta Meneese

2. Docket Number M2017-01037-SC-R11-CD

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

4. Lower Court Summary The Defendants, Alexander R. Vance and Damonta M. Meneese, were each convicted of second degree murder, first-degree murder in perpetration of a felony, especially aggravated robbery, and three counts of aggravated assault. As to each, the trial court merged the second degree murder conviction into that for first-degree murder, imposing an effective sentence of life imprisonment plus 21 years. In these consolidated appeals, both defendants argue that the trial court erred in allowing hearsay testimony by a State witness regarding a statement made by a co-defendant whose charges had been severed from the two defendants in this matter. Additionally, the Defendant Vance argues that the evidence is insufficient to sustain his convictions, and the Defendant Meneese argues that the trial court erred by ordering partial consecutive sentencing. Following our review, we affirm the judgments of the trial court as to both defendants.

5. Status Application granted 02/20/19; Appellant brief due 4/8/19, after extension.

1. Style Rhonda Willeford, et al. v. Timothy P. Klepper, M.D., et al. v. State of Tennessee

2. Docket Number M2016-01491-SC-R11-CV

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Heard 01/10/18 in Nashville; Additional oral argument heard 2/6/19 in Nashville.