

Supreme Court Appeals
Pending Cases
05-01-15

1. Style Action Chiropractic Clinic, LLC v. Prentice Delon Hyler & Erie Ins. Exchange
 2. Docket Number M2013-01468-SC-R11-CV
 3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/actionchiroclinicopncorrected.pdf>
 4. Lower Court Summary
Chiropractic clinic which provided services to party injured in an automobile accident brought action against the injured party, who had assigned the proceeds of his claim against tortfeasor to the clinic in payment of the services, and the tortfeasor's liability insurer, which did not honor the assignment. The trial court granted summary judgment to the insurer holding that: the victim did not have any rights relative to the insurance provider; the insurance policy required written consent for an assignment and there was no evidence of such consent; there was no privity between the clinic and the insurance provider; the clinic was not a beneficiary of the insurance policy; and the suit was a direct action against an insurance company which is prohibited by Tennessee law. The clinic appeals. Finding no error, we affirm the grant of summary judgment.
 5. Status Heard 02/05/15 in Nashville.
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1. Style Clayton Arden v. Kenya I. Kozawa, M.D., et al.
2. Docket Number E2013-01598-SC-R11-CV
3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/ardenopnfinal.pdf>
4. Lower Court Summary
The plaintiff, as surviving spouse, appeals the trial court's dismissal of his health care liability action against the defendant doctor who treated the plaintiff's wife prior to her death and the hospital wherein the treatment occurred. The trial court granted the defendants' motions for summary judgment based upon the plaintiff's failure to strictly comply with the pre-suit notice requirements of Tennessee Code Annotated § 29-26-121 (Supp. 2013). We reverse the trial court's ruling that the plaintiff had to strictly comply with the provisions of the notice requirement and conclude that the plaintiff substantially complied with said requirement. We affirm, however, the trial court's ruling that the plaintiff could not rely upon the statutory 120-day extension of the statute of limitations due to his failure to properly serve the notice. We therefore affirm the trial court's dismissal of the plaintiff's claims as barred by the statute of limitations.
5. Status Application granted 10/21/14; Appellant brief filed 11/21/14; Appellee brief filed 12/19/14; Appellant reply brief filed 01/06/15; TBH 05/05/15 in Knoxville.

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| 1. | Style | State v. Ricky Alvis Bell, Jr. |
| 2. | Docket Number | W2012-02017-SC-DDT-DD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/bell_ricky_1.pdf |
| 4. | Lower Court Summary | <p>A Lauderdale County jury convicted the defendant, Rickey Alvis Bell, Jr., of felony murder in the perpetration of a kidnapping, felony murder in the perpetration of a rape, aggravated kidnapping, and aggravated sexual battery. Following the penalty phase, the jury sentenced the defendant to death on the two counts of felony murder. The trial court merged the two felony murder convictions and sentenced the defendant to twenty years each for the aggravated kidnapping and aggravated sexual battery convictions. The trial court ordered the defendant to serve the two twenty-year sentences concurrent to each other but consecutive to the death sentence, for an effective sentence of death plus twenty years. On appeal, the defendant asserts that: (1) the trial court erred in denying his motion to strike the State's notice of its intent to seek the death penalty because he is intellectually disabled; (2) the evidence is insufficient to support the convictions; (3) the trial court erred in denying his two motions for a mistrial; (4) the trial court erred in refusing to allow the defense to question the victim's husband regarding an extramarital affair; (5) the aggravating circumstance codified in Tennessee Code Annotated section 39-13-204(i)(7) is unconstitutional; (6) the absence of an intent to kill renders the death penalty disproportionate; (7) proportionality review should be modified and the pool of cases considered in proportionality review should be broadened; and (8) the sentence of death is arbitrary and disproportionate. We affirm the judgments of the trial court.</p> |
| 5. | Status | Heard 03/04/15 in Jackson. |

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| 1. | Style | Richard A. Berent v. CMH Homes, Inc. et al. |
| 2. | Docket Number | E2013-01214-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/berentraopn.pdf |
| 4. | Lower Court Summary | <p>The issue on this appeal is the enforceability of an arbitration agreement. The trial court, applying the principles promulgated in <i>Taylor v. Butler</i>, 142 S.W.3d 277 (Tenn. 1996), held that the arbitration agreement was unconscionable because it requires the plaintiff to submit to arbitration virtually all of his claims, while allowing the defendants access to a judicial forum for some of their potential claims. We agree with the trial court that the Supreme Court's decision in <i>Taylor</i> is controlling and that <i>Taylor</i> mandates a holding that the agreement is unconscionable and unenforceable. The judgment of the trial court is affirmed.</p> |
| 5. | Status | Heard 11/03/14 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 | Application granted 12/18/14; Supplemental brief filed by Appellee 02/20/15; Supplemental brief filed by Appellant 02/24/15; Supplemental brief filed by Appellee 03/24/15. |

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| 1. | Style | In re Carrington H., et al. |
| 2. | Docket Number | M2014-00453-SC-R11-PT |
| 3. | Lower Court Decision Link | http://tncourts.gov/sites/default/files/inrecarringtonh.opn_.pdf |
| 4. | Lower Court Summary | This appeal arises from the termination of Mother's parental rights. After a five-year cycle of removal and failed reunification attempts, the juvenile court awarded temporary custody of the child to the State in 2009, and shortly thereafter, ordered that Mother have no visitation or contact with her child. The court later ratified a permanency plan, but nearly two years later, the Tennessee Department of Children's Services petitioned to terminate Mother's parental rights. Following a trial, the juvenile court entered an order terminating Mother's parental rights on the grounds of: (1) substantial noncompliance with the permanency plan; (2) persistence of the conditions that led to the child's removal; and (3) incompetency to adequately provide for the further care and supervision of the child. Mother appeals two of the three grounds for termination and the court's determination that termination was in the best interest of the child. We affirm. |

5. Status Application granted 01/28/15; Appellant brief filed 03/30/15; Appellee brief filed 04/30/15; TBH 05/28/15 at Girls State SCALES Project in Nashville.

1. Style Chartis Casualty Company, et al. v. State of Tennessee

2. Docket Number M2013-00885-SC-R11-CV

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/chartiscasualtycompanyopn.pdf>
http://tncourts.gov/sites/default/files/chartiscasualtyco_opn_0.pdf

4. Lower Court Summary
Five separate groups of Pennsylvania-domiciled insurance companies filed five separate tax refund claims in which each challenges the imposition of retaliatory insurance premium taxes by the Tennessee Department of Commerce and Insurance pursuant to Tenn. Code Ann. § 56-4-218. The central issue presented is whether Pennsylvania's surcharges or assessments for three Workmen's Compensation funds are imposed upon Tennessee-domiciled insurance companies doing business in Pennsylvania and, therefore, fall within Tennessee's retaliatory insurance premium tax statute. The Tennessee Claims Commission ruled in favor of the state and all of the Pennsylvania insurance companies appealed. Finding no error, we affirm.

5. Status Application granted 01/16/15; Amicus brief filed 01/16/15; Appellant brief filed 03/16/15; Appellee brief filed 04/15/15; Appellant reply brief due 05/04/15, after extension; TBH 06/03/15 in Nashville.

1. Style The Chattanooga-Hamilton Co. Hospital Authority d/b/a Erlanger Health Systems v. United Healthcare Plan of the River Valley, Inc. d/b/a Americhoice and TN Attorney General

2. Docket Number M2013-00942-SC-R11-CV

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

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

challenging applicability or validity of TennCare regulations, UAPA does not divest trial court of jurisdiction.

5. Status Heard 02/04/15 in Nashville.

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

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

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

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

5. Status Application granted 11/20/14; Appellant brief filed 12/17/14; Appellee brief filed 01/30/15; Appellant reply brief filed 02/13/15; TBH 09/09/15 in Knoxville.

1. Style Homer L. Cody v. BPR (Kirby, J. n.p.)

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

3. Lower Court Decision Link n/a

4. Lower Court Summary n/a

5. Status Appeal filed 10/15/14; Appellant brief filed 03/17/15; Appellee brief filed 04/10/15; TBH 06/03/15 in Nashville.

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/davidsonlemaricusdevallopn.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 Appellant brief due 06/15/15, after extension.

1. Style State v. Marlo Davis

2. Docket Number W2011-01548-SC-R11-CD

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

4. Lower Court Summary
 The Defendant, Marlo Davis, was convicted by a Shelby County jury of second degree murder and reckless homicide. Subsequently, the trial court merged the reckless homicide into the second degree murder conviction and imposed a sentence of forty years. In this direct appeal, the Defendant challenges (1) the sufficiency of the evidence supporting his convictions; (2) the mutually exclusive nature of the verdicts and whether the offenses were properly merged; (3) the admission of prior inconsistent statements by a witness, who had no memory of making those statements at the time of trial, as substantive evidence; (4) the imposition of the maximum forty-year sentence in violation of *Blakely v. Washington*, 542 U.S. 296 (2004); and (5) the cumulative effect of these errors. After a thorough review of the record and the applicable authorities, we affirm the judgment of the trial court.

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

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| 1. | Style | Timothy Davis v. Michael Ibach, M.D. and Martinson Ansah, M.D. (Kirby, J. n.p.) |
| 2. | Docket Number | W2013-02514-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/davistopn_0.pdf |
| 4. | Lower Court Summary | This is a medical malpractice wrongful death action. After the plaintiff filed this lawsuit, hetimely filed a certificate of good faith, as required by the medical malpractice statute. Thecertificate did not include a statement that the executing party had “zero” violations of thestatute. The defendants filed a motion to dismiss based on this omission. The plaintiff in turnfiled a notice of voluntary nonsuit without prejudice. The defendants objected to a dismissalwithout prejudice. The defendants argued that, if the certificate of good faith does not strictlycomply with the statutes, the trial court must dismiss the case with prejudice. The trial courtgranted the voluntary nonsuit without prejudice, and the defendants now appeal that decision. Discerning no error, the Court of Appeals affirmed. |
| 5. | Status | Heard 03/04/15 in Jackson. |

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| 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 | 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. |

5. Status Application granted 02/13/15; Appellant brief filed 03/16/15; Appellee brief due 05/15/15, after extension.

1. Style Adam Ellithorpe, et al. v. Janet Weismark

2. Docket Number M2014-00279-SC-R11-CV

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

4. Lower Court Summary Parents and minor child brought this action against a licensed clinical social worker, alleging that the social worker provided counseling to the minor child in violation of a court order. The social worker moved to dismiss the complaint for failure to comply with the Tennessee Health Care Liability Act's procedural requirements. The trial court found that the complaint sounded in health care liability and accordingly dismissed it in its entirety. The Court of Appeals concluded that the trial court applied an improper standard in dismissing the complaint, vacated the judgment, and remanded for further proceedings.

5. Status Application granted 02/13/15; Appellant brief filed 03/16/15; Appellee brief filed 04/13/15; Appellant reply brief filed 04/23/15; TBH 06/03/15 in Nashville.

1. Style State v. Terence Justin Feaster

2. Docket Number E2012-02636-SC-R11-CD

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

4. Lower Court Summary This case involves the attempted voluntary manslaughter, aggravated assault, and false imprisonment of the victim, Molly Kate McWhirter, at her home in Knox County on May 27, 2010. For his involvement in these offenses, a Knox County grand jury indicted appellant for one count of attempted first degree murder, two counts of especially aggravated kidnapping, one count of aggravated robbery by causing serious bodily injury, and one count of aggravated assault by causing serious bodily injury. See Tenn. Code Ann. §§ 39-12-101, -13-202, -13-305, -13-402, -13-102. Following a trial, the jury found appellant guilty of attempted voluntary manslaughter, a lesser included offense of attempted first degree murder, a Class D felony; false imprisonment by confining the victim, a lesser included offense of especially aggravated kidnapping, a Class A misdemeanor; and aggravated assault, a Class C felony. The jury returned verdicts of not guilty for aggravated robbery and the remaining count of especially aggravated kidnapping based on removal of the victim. The trial court sentenced appellant to consecutive terms of twelve years for attempted voluntary manslaughter, fourteen years for aggravated assault, and eleven months, twenty-nine days for false imprisonment.

5. Status Application granted 10/24/14; Appellant brief filed 01/12/15; Appellee brief filed 02/27/15; Appellant reply brief filed 03/10/15; TBH 05/05/15 in Knoxville.

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| 1. | Style | First Community Bank, N.A. v. First Tennessee Bank, N.A., et al. |
| 2. | Docket Number | E2012-01422-SC-R11-CV |
| 3. | Lower Court Decision Link | http://tncourts.gov/sites/default/files/firstcommbankopn.pdf http://tncourts.gov/sites/default/files/communitybankopn.pdf |
| 4. | Lower Court Summary | <p>Plaintiff brought this action against Defendants for fraud, constructive fraud, negligent misrepresentation, civil conspiracy, unjust enrichment, and violation of the Tennessee Securities Act, codified at Tennessee Code Annotated section 48-1-101, et seq. The claims arose out of the purchase of asset-backed securities that were later deemed unmarketable, causing a significant financial loss to Plaintiff. Defendants filed motions to dismiss pursuant to Rule 12.02(6), arguing that the claims were untimely, that Plaintiff failed to plead its claims with particularity, and that the losses were caused by general market conditions. Nonresident Defendants also objected to the court’s personal jurisdiction. The trial court dismissed the complaint. Plaintiff appealed the dismissal to this court, and we affirmed the dismissal against Nonresident Defendants for lack of personal jurisdiction but reversed the dismissal for failure to state a claim as to the remaining defendants. In so holding, this court found that consideration of matters outside the pleadings pertaining to the running of the statute of limitations converted the motions to dismiss into one for summary judgment, thereby requiring remand of the entire case for further discovery. The remaining defendants filed an application for permission to appeal. The Tennessee Supreme Court granted the application and remanded the case for “consideration of the trial court’s alternative basis of dismissal of [the] complaint, i.e., the failure to state a cause of action or state a claim for which relief can be granted (other than on the basis of the running of the applicable statutes of limitations or repose).” Upon remand, we reverse the decision of the trial court.</p> |
| 5. | Status | Application granted 01/15/15; Appellant brief filed 02/13/15; Appellee elected not to file brief 03/20/15; Appellant reply brief filed 03/27/15; TBH 05/06/15 in Knoxville. |

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| 1. | Style | State v. Thomas Lee Hutchison |
| 2. | Docket Number | E2012-02671-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/hutchisonthomasleeopn_0.pdf http://www.tncourts.gov/sites/default/files/hutchinsonthomasleecon.pdf |
| 4. | Lower Court Summary | <p>This case concerns the February 19, 2002 murder and robbery of the victim, Gary Lindsey. The victim was killed in appellant’s home, and the police arrested appellant for the crime. On December 11, 2007, a Knox County grand jury indicted appellant for premeditated murder, murder in the perpetration of robbery, murder in the perpetration of theft, and especially aggravated robbery. Prior to trial, appellant moved the court, in separate pleadings, to suppress blood evidence taken from appellant without a warrant and to suppress all evidence</p> |

seized from appellant’s house during a warrantless search. The trial court denied both motions. On or around November 19, 2010, the State notified appellant that physical evidence in his case had been inadvertently destroyed by the Knoxville Police Department (“KPD”). Consequently, appellant moved the court to dismiss the indictment based on the destruction of evidence. The trial court heard appellant’s motion to dismiss the indictment on February 25, 2011, and subsequently denied the motion. On May 27, 2011, appellant filed a motion requesting that the trial court reconsider the previously filed motions to suppress evidence. The trial court granted the motion to reconsider but ultimately denied the motions to suppress by written order filed July 13, 2011. The matter proceeded to trial on August 8, 2011, and the jury found appellant guilty of three counts of the lesser included offense of facilitation of first degree murder and one count of the lesser included offense of facilitation of especially aggravated robbery.

5. Status Application granted 10/20/14; Appellant’s brief filed 01/12/15; Appellee brief filed 04/06/15; Appellant reply brief filed 04/24/15; TBH 05/27/15 at SCALES Project in Cookeville.

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 Application granted 02/13/15; Appellant brief filed 03/16/15; Appellee brief filed 04/21/15; TBH 09/09/15 in Knoxville.

1. Style State v. Courtney Knowles

2. Docket Number W2013-00503-SC-R11-CD

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

4. Lower Court Summary The defendant, Courtney Knowles, appeals his Shelby County Criminal Court jury conviction of rape of a child, challenging the sufficiency of the convicting evidence. Discerning no reversible error, we affirm.

5. Status Heard 03/04/15 in Jackson.

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

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

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

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

5. Status Application granted 01/16/15; Appellant brief filed 02/13/15; Amicus brief filed 02/25/15; Appellee brief filed 04/07/15; Appellant reply brief filed 04/21/15; Supplemental authority filed 04/23/15; TBH 06/03/15 in Nashville.

1. Style Mortgage Electronic Registration Systems, Inc. v. Carlton J. Ditto, et al.

2. Docket Number E2012-02292-SC-R11-CV

3. Lower Court

- Decision Link <http://www.tncourts.gov/sites/default/files/dittoopn.pdf>
4. Lower Court Summary
 This appeal involves the purchase of property at a tax sale. MERS filed suit against Purchaser to invalidate his purchase of property because it had not received notice of the sale even though it was listed as a beneficiary or nominee on the deed of trust. Purchaser claimed that MERS was not entitled to notice because MERS did not have an interest in the property. Purchaser also alleged that MERS failed to properly commence its lawsuit because it did not remit the proper funds pursuant to Tennessee Code Annotated section 67-5-2504(c). The trial court refused to set aside the tax sale, holding that the applicable notice requirements were met and that Purchaser was the holder of legal title to the property. MERS appeals. We affirm the decision of the trial court.
5. Status
 Application granted 10/20/14; Appellant brief filed 11/25/14; Appellee brief filed 01/12/15; Amicus brief filed 01/30/15; Appellant reply brief filed 02/19/15; Supplemental brief filed 03/17/15; Supplemental brief filed 04/30/15; TBH 05/05/15 in Knoxville.

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

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
 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.

5. Status Application granted 04/13/15; Appellant brief due 05/13/15.

1. Style Anne Payne v. CSX Transportation, Inc.

2. Docket Number E2012-02392-SC-R11-CV

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/payneacorr1-14opn.pdf>

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

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| 5. | Status | Heard 01/07/15 at SCALES Project in Greeneville. |
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| 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 | Application granted 02/13/15; Appellant brief filed 03/16/15; Appellee brief filed 04/14/15; Appellant reply brief filed 04/28/15. |
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| 1. | Style | State of Tennessee v. Jimmy Dale Qualls |
| 2. | Docket Number | W2013-01440-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tsc.state.tn.us/sites/default/files/quallsjimmydaleopn.pdf |
| 4. | Lower Court Summary | The Defendant, Jimmy Dale Qualls, was convicted by a Hardeman County Circuit Court jury of thirty-seven counts of sexual battery by an authority figure, Class C felonies. See T.C.A. § 39-13-527 (2010). The trial court sentenced the Defendant as a Range I, standard offender to five years for each conviction and ordered partial consecutive sentences. The thirty-seven counts were separated into seven groups for sentencing purposes. Group A contained Counts 1 through 6, Group B contained Counts 7 and 8, Group C contained Counts 9 through 14, Group D contained Counts 15 through 20, Group E contained Counts 21 through 26, Group F contained Counts 27 through 32, and Group G contained Counts 33 to 37. The court ordered each group to run consecutively to each other, for an effective thirty-five-year sentence. The court further ordered the effective thirty-five-year sentence. On appeal, he contends that the State failed to make a proper election of the offenses and that the evidence is insufficient to support his convictions. We conclude that the State failed to make an adequate election of the offenses, and we reverse the judgments of the trial court and remand the case for a new trial. |
| 5. | Status | Application granted 01/15/15; Appellant's brief filed 02/23/15; Appellee brief filed 03/25/15. |
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| 1. | Style | Board of Professional Responsibility v. Connie Reguli |

2. Docket Number M2015-00406-SC-R3-BP
 3. Lower Court Decision Link N/A
 4. Lower Court Summary N/A
 5. Status Notice of Appeal filed 03/02/15.
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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 Application granted 12/18/14; Appellant's brief due 05/15/15, after extension.
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1. Style Arthur B. Roberts, et al. v. Robert Bailey, et al.
2. Docket Number E2013-01950-SC-R11-CV
3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/roberts_opinion_final.pdf
4. Lower Court Summary This is the second appeal involving the instant real property dispute. At issue is a 58-acre portion ("Disputed Property") of what was an approximately 100-acre tract acquired by N.B. Bailey and his wife, Pearl Bailey, by warranty deed in 1918. The original plaintiffs, Arthur B. and Tia Roberts, were neighboring landowners who brought a boundary dispute action in March 2009 against the original defendants, Robert W. Bailey, Richard Neal Bailey, and Lisa Bailey

Dishner. During the course of the boundary dispute, N.B. and Pearl Bailey’s descendants and successors in title became aware that their ownership interest in the Disputed Property could be affected by the possibility that N.B. and Pearl Bailey owned the original 100 acres as tenants in common rather than tenants by the entirety. The first appeal arose when the Baileys, proceeding as third-party plaintiffs, filed a motion to quiet title to the Disputed Property against the third-party defendants, Dale Littleton, Alice Littleton, Kimber Littleton, Mark Lee Littleton, and Charlotte Dutton. On March 30, 2010, the trial court granted partial summary judgment in favor of the Littletons and Ms. Dutton, and the court certified its order as a final judgment pursuant to Tennessee Rule of Civil Procedure 54.02. On appeal, this Court questioned the finality of that March 2010 order but allowed the appeal to proceed on an interlocutory basis. *Roberts v. Bailey*, 338 S.W.3d 540, 541 n.1 (Tenn. Ct. App. 2010), perm. denied (Tenn. Mar. 9, 2011) (“Roberts I”). This Court affirmed the trial court’s ruling and held that because N.B. and Pearl Bailey acquired title during the “gap years” between the emancipation of women and enactment of the Bejach statutes reestablishing tenancies by the entirety—spanning January 1, 1914, through April 16, 1919—N.B. and Pearl Bailey owned the real property as tenants in common rather than as tenants by the entireties. *Id.* at 541. On remand, the Baileys moved to amend their third-party complaint, averring that despite the affirmed judgment in favor of the Littletons’ and Ms. Dutton’s ownership interest in the Disputed Property, the Baileys nonetheless possessed absolute fee simple title by prescription. The Roberts are not parties to this appeal. The trial court granted the Baileys’ motion to amend the complaint and subsequently considered competing motions for summary judgment. The trial court found, *inter alia*, that the Baileys failed to establish title by prescription because the Littletons and Ms. Dutton had no knowledge of their co-tenancy prior to initiation of this action. The court granted summary judgment to the Littletons and Ms. Dutton, quieting title to the Disputed Property among the parties. The Baileys appeal. Discerning no reversible error, we affirm.

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| 5. | Status | Application granted 12/18/14; Appellant’s brief filed 02/13/15; Appellee brief filed 03/13/15; Appellant reply brief filed 04/10/15, after extension; TBH 05/06/15 in Knoxville. |
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| 1. | Style | Michelle Rye, et al. v. Women’s Care Center of Memphis, MPLLC, et al. |
| 2. | Docket Number | W2013-00804-SC-R11-CV |
| 3. | Lower Court Decision Link | http://tncourts.gov/sites/default/files/ryemopn.pdf |
| 4. | Lower Court Summary | This interlocutory appeal concerns the trial court’s grant of partial summary judgment to the Defendant/Appellee medical providers on various issues. The Plaintiff/Appellant couple filed a complaint for damages stemming from the medical providers’ failure to administer a RhoGAM injection during wife’s pregnancy. The couple alleged causes of action for compensatory damages associated with medical malpractice, negligent infliction of emotional distress, and disruption of family planning. The trial court granted summary judgment to the medical providers on the wife’s claim for future medical expenses, husband’s claim for negligent infliction of emotional distress, and the couple’s claim for disruption of family planning. The trial court declined to grant |

summary judgment on wife’s physical injury claim, her negligent infliction of emotional distress claim, and the claim that wife could present evidence of the disruption of her family planning as evidence in her negligent infliction of emotional distress claim. We reverse the trial court’s grant of summary judgment on wife’s claim for future medical expenses associated with future pregnancy and husband’s claim for negligent infliction of emotional distress, which he may support with evidence concerning the disruption of the couple’s family planning. The trial court’s ruling is affirmed in all other respects. Affirmed in part, reversed in part, and remanded.

5. Status Heard 03/04/15 in Jackson.

1. Style Yarboro Sallee v. Board of Professional Responsibility

2. Docket Number E2014-01062-SC-R3-BP

3. Lower Court Decision Link n/a

4. Lower Court Summary

A Hearing Panel entered a Judgment on August 30, 2012, imposing a disciplinary sanction against Yarboro Ann Sallee of a one year suspension for violating Rules of Professional Conduct 1.4 (communication), 1.5 (fees), 1.16 (terminating representation), 4.4 (respect for the rights of third parties), and 8.4 (misconduct). Ms. Sallee filed a Petition for Writ of Certiorari in the Knox County Chancery Court, specifically stating that the Hearing Panel’s judgment was in violation of constitutional or statutory provisions, in excess of the panel’s jurisdiction, made upon lawful procedure, arbitrary or capricious or characterized by an abuse of discretion, or unsupported by evidence which is both substantial and material in light of the record. Ms. Sallee also asserted in her Petition that the Hearing Panel denied her due process rights under the Fourteenth Amendment of the United States Constitution and erred in determining that a one year suspension was appropriate discipline in her case. The Knox County Chancery Court upheld Ms. Sallee’s suspension, holding that the Hearing Panel’s findings of fact and conclusions of law were fully supported by the evidence presented and that reversal of the Hearing Panel’s decision was not warranted. Ms. Sallee subsequently filed a Notice of Appeal, seeking review of the Chancery Court’s decision.

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

1. Style State v. Michael Smith

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

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

4. Lower Court Summary

A Shelby County jury found the Defendant, Michael Smith, guilty of aggravated assault and evading arrest. The trial court sentenced the Defendant to ten years for the aggravated assault conviction and eleven months and twenty-nine

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

5. Status Application granted 12/18/14; Appellant brief filed 01/26/15; Appellee brief filed 02/27/15.

1. Style Lea Ann Tatham v. Bridgestone Americas Holding, Inc. et al. (Kirby, J. n.p.)

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

3. Lower Court Decision Link n/a

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

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

1. Style State v. Jerome Maurice Teats (Bivins, J. n.p.)

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

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

4. Lower Court Summary
 Jerome Maurice Teats ("the Defendant") was convicted by a jury of one count of aggravated robbery and four counts of especially aggravated kidnapping. The trial court subsequently imposed an effective sentence of fifty years' incarceration. In this direct appeal, the Defendant raises the following issues: (1) the trial court erred in denying his motion to suppress; (2) the trial court erred in denying his motion to disqualify the district attorney general's office; (3) his

convictions for especially aggravated kidnapping must be reversed on due process and double jeopardy grounds; (4) the trial court improperly instructed the jury on criminal responsibility; (5) the evidence was not sufficient to support his convictions; (6) cumulative error; and (7) his sentence is excessive. Upon our thorough review of the record and applicable law, we affirm the judgments of the trial court.

5. Status Heard 02/05/15 in Nashville.

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 Intervenors appeal, raising numerous and various statutory and constitutional issues. We have determined that the records sought are currently exempt from disclosure due to the continuing police investigation and pending prosecution; accordingly, we reverse the judgment of the Chancery Court and dismiss the petition.

5. Status Application granted 01/16/15; Appellant brief filed 02/23/15; Amicus brief filed 02/26/15; Amicus brief filed 03/30/15; Appellee briefs filed 04/14/15 and 04/16/15; Amicus brief filed 04/24/15; Appellant reply brief due 05/28/15, after extension; TBH 05/13/15 at Girls State SCALES Project in Nashville.

1. Style Stephanie D. Turner v. Kevin Turner

2. Docket Number W2013-01833-SC-R11-CV

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

4. Lower Court Summary

Father appealed the trial court's order setting aside its prior judgment terminating Mother's parental rights. After a hearing, the trial court ruled that Father's failure to comply with the statutory notice requirements rendered the termination judgment void. Discerning no error, Court of Appeals affirmed

5. Status Application granted 11/20/14; Appellant brief filed 01/15/15; Appellee brief filed 03/17/15; TBH 06/02/15 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/vodafoneidissent.opn_.pdf

4. Lower Court Summary

At issue in this case is the methodology by which multi-state taxpayers are to compute their liability for franchise and excise taxes to Tennessee and, specifically, the authority of the Commissioner of Revenue to require the taxpayers to use an apportionment methodology other than the standard cost of performance methodology codified in Tenn. Code Ann. §§ 67-4-2012 and 67-4-2110. Plaintiffs, taxpayers that provide wireless communication and data services within and without Tennessee, contend they are entitled to apportion their receipts (income) based upon Tennessee’s standard apportionment formulas because the majority of their “earnings producing activities” occurred in a state other than Tennessee. The Commissioner of Revenue disagreed, insisting that Plaintiffs’ approach, even if statistically correct and derived from the language of Tenn. Code Ann. § 67-4-2012(i)(2), fails to meet the higher goal of fairly representing the business Plaintiffs derive from Tennessee. For this reason the Commissioner, acting pursuant to Tenn. Code Ann. § 67-4-2014(a), varied the standard formula requiring Plaintiffs to include “as Tennessee sales” its receipts from service provided to customers with Tennessee billing addresses. The trial court affirmed the decision. In this appeal, Plaintiffs contend the Commissioner does not have authority to impose a variance unless “unusual fact situations,” which are unique to the particular taxpayers, produce “incongruous results” unintended by Tenn. Code Ann. § 67-4-2012; they also insist that no unusual fact situations exist and that no incongruous results occurred when the statutorily-mandated cost of performance methodology was applied. We have determined that the Commissioner acted within the scope of the discretion granted to him by the statutes and rules. Therefore, Court of Appeals affirmed the trial court’s decision.

5. Status Application granted 11/20/14; Appellant brief filed 12/23/14; Appellee brief filed 01/21/15; Appellant reply brief filed 02/18/15; Appellee reply brief filed 03/06/15; TBH 06/02/15 in Nashville.

1. Style In re: Robert Lee Vogel, BPR #23374

2. Docket Number M2015-00350-SC-BAR-BP

3. Lower Court Decision Link n/a

4. Lower Court Summary n/a

5. Status Supplemental brief filed 04/09/15; Reply brief filed 04/23/15; TBH 09/09/15 in Knoxville.

1. Style Paul J. Walwyn v. Russell Parks ex rel. BPR

2. Docket Number M2015-00565-SC-R3-BP

3. Lower Court Decision Link n/a

4. Lower Court Summary n/a

5. Status Notice of Appeal filed 03/27/15

1. Style Stephen Michael West, et al. v. Derrick D. Schofield

2. Docket Number M2014-02478-SC-R10-CV

3. Lower Court Decision Link n/a

4. Lower Court Summary n/a

5. Status Application granted 02/13/15; Supplemental brief filed 03/13/15; Supplemental brief filed 04/10/15; TBH 05/06/15 in Knoxville.

1. Style Ike J. White, III v. David A. Beeks, M.D.

2. Docket Number E2012-02443-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/whiteopn_0.pdf
<http://www.tncourts.gov/sites/default/files/whiteijcon.pdf>
<http://www.tncourts.gov/sites/default/files/whiteijopndissenting.pdf>

4. Lower Court Summary This appeal involves the question of whether the trial court properly limited a medical expert's testimony at trial regarding the standard of care in an informed consent health care liability action. In the case at bar, the defendant filed a motion in limine seeking to limit the testimony of the plaintiff's expert at trial regarding risks that should have been disclosed to the plaintiff to only those risks that actually resulted in injury. The trial court granted the motion. A jury trial was held, and the jury found in favor of the defendant. Plaintiff appeals, asserting that the trial court committed reversible error when it restricted the ability of the plaintiff's medical expert to testify about other known risks. Discerning no error, we affirm.

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

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| 1. | Style | In re Estate of Sarah Margaret Wilkins |
| 2. | Docket Number | M2013-01536-SC-R11-CV |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/wilkins v. golden living.opn .pdf |
| 4. | Lower Court Summary | This appeal stems from a case of alleged nursing home abuse and neglect and involves a dispute as to whether a health care power of attorney executed by decedent was effective to authorize the agent to execute an optional arbitration agreement on the decedent's behalf. The trial court denied the nursing home's motion to compel arbitration, holding that the attorney-in-fact did not have authority to sign the optional arbitration agreement on the principal's behalf. The nursing home appeals. Finding no error, we affirm. |
| 5. | Status | Heard 02/05/15 in Nashville. |

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| 1. | Style | State v. Ricco R. Williams (Bivins, J. n.p.) |
| 2. | Docket Number | W2013-01897-SC-R11-CD |
| 3. | Lower Court Decision Link | http://www.tncourts.gov/sites/default/files/williamsriccofinal.pdf http://www.tncourts.gov/sites/default/files/williamsriccorcon.pdf |
| 4. | Lower Court Summary | A jury convicted Ricco R. Williams ("the Defendant") of five counts of especially aggravated kidnapping, two counts of aggravated robbery, one count of aggravated burglary, two counts of employing a firearm during the commission of a dangerous felony, and one count of unlawful possession of a firearm by a convicted felon. The Defendant appealed and contended, among other issues, that the evidence was not sufficient to support his convictions. Upon our review, this Court reversed the Defendant's two convictions of employing a firearm during the commission of a dangerous felony and remanded those counts for a new trial; modified one of the Defendant's aggravated robbery convictions to a conviction of the lesser-included offense of aggravated assault; reversed and dismissed the Defendant's conviction of unlawful possession of a firearm by a convicted felon; and affirmed the Defendant's convictions of and sentences for especially aggravated kidnapping, aggravated burglary, and the remaining aggravated robbery. <i>See State v. Ricco R. Williams</i> , No. W2011-02365-CCA-R3-CD, 2013 WL 167285, at *1 (Tenn. Crim. App. Jan. 14, 2013) (" <i>Williams I</i> "). Upon the Defendant's application for permission to appeal, the Tennessee Supreme Court remanded the case to this Court for consideration in light of <i>State v. White</i> , 362 S.W.3d 559 (Tenn. 2012), and <i>State v. Cecil</i> , 409 S.W.3d 599 (Tenn. 2013). <i>See State v. Ricco R. Williams</i> , No. W2011-02365-SC-R11-CD (Tenn. Aug. 21, 2013). Upon our consideration of the Defendant's especially aggravated kidnapping convictions in light of <i>White</i> and <i>Cecil</i> , we affirm the Defendant's three convictions of especially aggravated kidnapping as to the victims A.R., K.R., and M.R. We reverse the Defendant's two convictions of especially aggravated kidnapping as to the victims Timothy Currie and Sherita Currie and remand those charges for a new |

trial. Our previous holdings regarding the Defendant's remaining convictions are unaffected by the remand and, thus, remain valid.

5. Status Heard 02/05/15 in Nashville.

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 Appeal initiated 04/01/15.

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

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

3. Lower Court Decision Link n/a

4. Lower Court Summary

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

5. Status

Rule 23 Certified Question accepted 11/19/14; Amicus brief filed 01/28/15; Amicus brief filed 02/09/15; TBH 05/27/15 at Boys State SCALES Project in Cookeville.

1. Style

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

2. Docket Number

E2013-00441-SC-R11-CV

3. Lower Court Decision Link

http://www.tncourts.gov/sites/default/files/young_opinion_final.pdf

4. Lower Court Summary

In this retaliatory discharge action brought by a former city administrator of the City of LaFollette, Tennessee (“LaFollette”), the trial court, following a bench hearing, denied LaFollette’s motion to strike the city administrator’s demand for a jury trial. The trial court, however, granted LaFollette permission for interlocutory appeal on the question of whether the city administrator’s request for a jury trial properly may be granted pursuant to the Tennessee Public Protection Act (“TPPA”), see Tenn. Code Ann. § 50-1-304 (Supp. 2013),

despite the non-jury provision of the Tennessee Governmental Tort Liability Act (“GTLA”), see Tenn. Code Ann. §§ 29-20-307 (Supp. 2013). We conclude that the non-jury requirement of the GTLA applies to this TPPA claim. We therefore reverse the trial court’s denial of LaFollette’s motion to strike the city administrator’s jury demand, and we remand to the trial court for further proceedings without a jury

5. Status

Application granted 10/22/14; Appellant brief filed 11/10/14; Appellee brief filed 01/16/15; Appellant reply brief filed 01/29/15; Supplemental brief filed 05/01/15; TBH 05/06/15 in Knoxville.