

Supreme Court Appeals
Pending Cases
8-11-21

1.	Style	State of Tennessee v. Tyshon Booker
2.	Docket Number	E2018-01439-SC-R11-CD
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/tyshon_booker_cca_majority_opinion.pdf
4.	Summary	<p>During a botched robbery, sixteen-year-old Tyshon Booker, the Defendant-Appellant, shot and killed the victim, G'Metrick Caldwell. Following extensive hearings in juvenile court, the Defendant was transferred to criminal court to be tried as an adult. At trial, the Defendant admitted that he shot the victim several times in the back while seated in the backseat of the victim's car; however, he claimed self-defense. A Knox County jury convicted the Defendant of two counts of first-degree felony murder and two counts of especially aggravated robbery, for which he received an effective sentence of life imprisonment. In this appeal as of right, the Defendant raises the following issues for our review: (1) whether the process of transferring a juvenile to criminal court after a finding of three statutory factors by the juvenile court judge violates the Defendant's rights under <u>Apprendi v. New Jersey</u>, 530 U.S. 466 (2000); (2) whether the State's suppression of alleged eyewitness identifications prior to the juvenile transfer hearing constitutes a Brady violation, requiring remand for a new juvenile transfer hearing; (3) whether the juvenile court erred in transferring the Defendant to criminal court given defense expert testimony that the Defendant suffered from post-traumatic stress disorder (PTSD) and was amenable to treatment; (4) whether the trial court erred in finding that the Defendant was engaged in unlawful activity at the time of the offense and in instructing the jury that the Defendant had a duty to retreat before engaging in self-defense; (5) whether an improper argument by the State in closing arguments constitutes prosecutorial misconduct requiring a new trial; (6) whether evidence of juror misconduct warrants a new trial and whether the trial court erred in refusing to subpoena an additional juror; (7) whether a sentence of life imprisonment for a Tennessee juvenile violates the United States and Tennessee Constitutions. Discerning no reversible error, we affirm.</p>
5.	Status	Heard 2/24/21 in Nashville (by video); Court ordered supplemental briefing due 7/10/21; Appellee's supplemental brief filed on 7/10/21; Appellant's supplemental brief filed 7/12/21.

1.	Style	Donna Cooper, et al. v. Dr. Mason Wesley Mandy, et al.
2.	Docket Number	M2019-01748-SC-R11-CD
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/cooper.donna_.opn_.pdf
4.	Lower Court Summary	<p>The principal issue in this interlocutory appeal is whether intentional misrepresentations made by health care providers to induce a prospective patient to engage the health care providers' services are within the purview of the Tennessee Health Care Liability Act ("the Act"), Tenn. Code Ann. § 29-26-101 to -122. The complaint filed by the patient, Donna Cooper ("Mrs. Cooper"), and her husband alleges that Dr. Mason Wesley Mandy ("Dr. Mandy") and Rachelle Norris ("Ms. Norris") with NuBody Concepts, LLC, intentionally misrepresented that Dr. Mandy</p>

was a board-certified plastic surgeon and, based on their misrepresentation, Mrs. Cooper gave Dr. Mandy her consent to perform the surgery. Following “painful, disastrous results,” the plaintiffs asserted four claims: (1) intentional misrepresentation; (2) medical battery; (3) civil conspiracy; and (4) loss of consortium. Defendants filed a Tenn. R. Civ. P. 12 motion to dismiss for failure to comply with the presuit notice and filing requirements of the Act, specifically Tenn. Code Ann. §§ 29-26-121 and -122. The trial court denied the motion to dismiss, finding the Act did not apply. This interlocutory appeal followed. We hold that Mrs. Cooper is entitled to proceed on her claims of intentional misrepresentation and civil conspiracy because the alleged misrepresentations were inducements made prior to the existence of a patient-physician relationship; thus, the claims were not related to “the provision of . . . health care services.” See Tenn. Code Ann. § 29-26-101(a)(1). We also affirm its ruling on the medical battery claim because a physician’s misrepresentation of a material fact, if proven, may vitiate consent, and, without consent, the very act of touching Mrs. Cooper may constitute an unlawful and offensive act that is not related to the provision of health care services. See *Holt v. Alexander*, No. W2003-02541-COA-R3-CV, 2005 WL 94370, at *6 (Tenn. Ct. App. Jan. 13, 2005). Further, we affirm the trial court’s ruling on Mr. Cooper’s claim for loss of consortium because, as the trial court held, his claims relate to Dr. Mandy’s and Ms. Norris’s false representations of Dr. Mandy’s credentials, not to a provision of, or a failure to provide, a health care service. Accordingly, we affirm the trial court in all respects and remand for further proceedings consistent with this opinion.

5. Status Application granted 4/7/21; Appellants’ briefs filed 5/7/21; Appellee’s brief filed 6/8/21; Appellants’ reply briefs filed 7/6/21 (by Court order 6/18/21); Appellee’s reply brief filed 7/19/21 (by Court order 7/12/21).

1. Style State of Tennessee v. Craig Dagnan

2. Docket Number M2020-00152-SC-R11-CD

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/dagnan.craig_opn.pdf
https://www.tncourts.gov/sites/default/files/dagnan.craig_opnseparate-judge_easter-concur.pdf

4. Lower Court Summary Craig Dagnan, Defendant, violated the conditions of probation, and the trial court revoked his probation but ordered his probation reinstated after eleven months and twenty-nine days’ incarceration. Defendant was granted a furlough from jail to attend an inpatient drug and alcohol program. After being dismissed from the inpatient program, Defendant failed to report back to jail and absconded. He was charged with escape, and a revocation warrant was issued. He was apprehended in Georgia and returned to Tennessee. Following a hearing, the trial court revoked Defendant’s probation and ordered Defendant to serve the balance of his six-year sentence. Discerning no error, we affirm.

5. Status Application granted 4/7/21; Appellant brief filed 5/7/21; Appellee brief filed 6/7/21; Appellant’s reply brief filed 6/21/21.

1. Style Mindy Donovan v. Joshua R. Hastings

2. Docket Number M2019-01396-SC-R11-CV

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/donovan.mindy_opn.pdf
https://www.tncourts.gov/sites/default/files/donovan.mindy_sep_opn.pdf

4.	Lower Court Summary	The trial court dismissed a contractor's amended countercomplaint against a homeowner for failure to state a claim upon which relief could be granted. The court then awarded the homeowner her attorney fees in the amount of \$3,600 pursuant to Tenn. Code Ann. § 20-12-119(c). The homeowner appealed arguing that, in limiting her recovery to \$3,600, the trial court interpreted the statute too narrowly. Because the trial court properly interpreted the statute, we affirm the trial court's decision.
5.	Status	Application granted 4/7/21; Appellant brief filed 5/5/21; Appellee brief filed 6/4/21.

1.	Style	Tyree Harris, IV v. Board of Professional Responsibility of the Supreme Court of Tennessee
2.	Docket Number	M2020-01113-SC-R3-BP
3.	Lower Court Decision Links	N/A
4.	Lower Court Summary	N/A
5.	Status	Notice of Appeal filed 8/19/20; Appellate record received 12/3/20; Appellate record filed 3/3/21; Appellant brief filed 5/3/21 (by Court Order 3/19/21); Appellee's brief filed 7/1/21 (By Court Order 5/19/21); Appellant's reply brief filed 7/28/21 (by Court order 7/1/21); Case submitted on briefs by Court order filed 8/9/21.

1.	Style	In re: Loring Edwin Justice
2.	Docket Number	E2020-01089-SC-R3-BP
3.	Lower Court Decision Links	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard 3/31/21 in Jackson (on briefs).

1.	Style	Stephen Kampmeyer et al. v. State of Tennessee
2.	Docket Number	W2019-01196-SC-R11-CV
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/kampmeyer.steven.opn_.pdf
4.	Lower Court Summary	Appellants, Husband and Wife, filed a complaint for damages, including Wife's loss of consortium claim, with the Tennessee Claims Commission. The State filed a Tennessee Rule of Civil Procedure 12.02(6) motion to dismiss Wife's loss of consortium claim because she did not file notice of her claim with the Division of Claims Administration within the applicable statute of limitations. The Claims Commission dismissed Wife's claim for failure to comply with the notice requirement. See Tenn. Code Ann. § 9-8- 402(b). Discerning no error, we affirm.

5. Status Heard 4/28/21 in Knoxville (by video).

1. Style State of Tennessee v. Ronald Lyons, James Michael Usinger, Lee Harold Cromwell, Austin Gary Cooper, and Christopher Alan Hauser

2. Docket Number M2019-01946-SC-R11-CD

3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/lyonsusingercromwellcooperandhauser.opn.pdf>

4. Lower Court Summary Ronald Lyons, James Michael Usinger, Lee Harold Cromwell, Austin Gary Cooper, and Christopher Alan Hauser, Defendants, were named in a 302-count indictment by the Davidson County Grand Jury for multiple counts of forgery and fraudulently filing a lien for their role in filing a total of 102 liens against 42 different individuals with the office of the Tennessee Secretary of State. Defendant Cooper was also named in a second indictment for five additional counts of forgery and five additional counts of fraudulently filing a lien. Prior to trial, Defendant Hauser filed a motion to dismiss for improper venue. Defendants Cromwell and Cooper joined in the motion. The trial court denied the motion after a hearing. After a jury trial, each defendant was convicted as charged in the indictment. The trial court sentenced Defendant Cromwell to an effective sentence of twenty-five years; Defendant Cooper to an effective sentence of fifty years; Defendant Lyons to an effective sentence of twenty-two years; Defendant Usinger to an effective sentence of twenty-one years; and Defendant Hauser to an effective sentence of twenty years. After motions for new trial and several amended motions for new trial were filed, the trial court held a hearing. The trial court denied the motions in a lengthy and thorough written order. Each defendant appealed, raising various issues challenging their convictions and sentences. After deep review, we affirm the all judgments and all sentences.

5. Status Application granted 8/5/21; Appellant's briefs due 9/6/21.

1. Style State of Tennessee v. Douglas E. Linville

2. Docket Number W2019-02180-SC-R11-CD

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

4. Lower Court Summary A jury convicted the Defendant, Douglas E. Linville, of possession of 0.5 grams or less of methamphetamine with intent to deliver in a drug-free zone, possession of Oxycodone with intent to deliver in a drug-free zone, possession of Xanax with intent to deliver in a drug free zone, simple possession of marijuana, and possession of drug paraphernalia. He received an effective twelve-year sentence. The Defendant appeals his conviction, arguing that the evidence was insufficient to support his convictions and that the trial court committed plain error by allowing a witness to testify about information the trial court previously ruled inadmissible. We affirm the trial court's judgments, and we remand to the trial court for correction of the judgment form in count three in accordance with this opinion.

5. Status Application granted 8/5/21; Appellant's brief due 9/6/21.

1. Style Metropolitan Government of Nashville and Davidson County et al. v. Tennessee Department of Education, et al.
 2. Docket Number M2020-00683-SC-R11-CV
 3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/metropolitangov.ofnash.v.tndepart.ofedu.opn.pdf>
 4. Lower Court Summary Davidson and Shelby counties sued the State of Tennessee to challenge the constitutionality of the Tennessee Education Savings Account Pilot Program. The trial court found that both counties had standing and that the act was unconstitutional under paragraph 2 of article XI, section 9 of the Tennessee Constitution. The State and intervening defendants appealed. We affirm.
 5. Status Heard 6/3/21 in Nashville (by video); Appellants' brief with supplemental authority filed 7/2/21; Appellees' response to Appellant's brief with supplemental authority filed 7/12/21.
-

1. Style Milan Supply Chain Solutions Inc. f/k/a/ Milan Express Inc. v. Navistar Inc. et al.
 2. Docket Number W2018-00084-SC-R11-CV
 3. Lower Court Decision Links <http://www.tsc.state.tn.us/sites/default/files/milansupplychainopn.pdf>
 4. Lower Court Summary This appeal involves a jury verdict in a commercial dispute pertaining to the quality of trucks purchased by the plaintiff, Milan Supply Chain Solutions, Inc. Contending that the purchased trucks were defective, Milan filed suit against Navistar, Inc. and Volunteer International, Inc., alleging various legal claims, including breach of contract, violation of the Tennessee Consumer Protection Act, and fraud. Although some of Milan's claims were dismissed prior to trial, the remaining fraud and Tennessee Consumer Protection Act claims were tried before a jury. Defendant Volunteer International, Inc. was granted a directed verdict upon the conclusion of Milan's proof and later awarded attorney's fees, but a monetary judgment for both compensatory and punitive damages was entered against Navistar, Inc. The parties now appeal, raising a plethora of issues for our consideration. For the reasons stated herein, including our conclusion that the asserted fraud claims are barred by the economic loss doctrine, we reverse the judgment awarded to Milan. We affirm, however, the trial court's award of attorney's fees in favor of Volunteer International, Inc.
 5. Status Opinion filed 8/2/21.
-

1. Style State of Tennessee v. Urshawn Eric Miller
2. Docket Number W2019-00197-SC-DDT-DD
3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/miller_urshawn_eric_opn.pdf
4. Lower Court Summary Defendant, Urshawn Eric Miller, was convicted by a Madison County jury of premeditated first-degree murder, felony first degree murder, attempted especially aggravated robbery, attempted second degree murder, aggravated assault, employing a firearm during the commission of a dangerous felony, evading arrest, and resisting

arrest. The trial court merged the felony murder conviction into the premeditated murder conviction and the aggravated assault conviction into the attempted second-degree murder conviction. The jury sentenced Defendant to death for the first-degree murder conviction. For the remaining convictions, the trial court imposed an effective sentence of thirty years, to be served concurrently with his death sentence. On appeal, Defendant raises the following issues, as renumbered and reorganized by this Court: (1) the evidence was insufficient to sustain his convictions; (2) the trial court erred in ruling on various challenges during jury selection; (3) the trial court erred in admitting a video of his prior aggravated robbery during the penalty phase; (4) the death penalty is unconstitutional; (5) the aggravating factors did not outweigh the mitigating factors beyond a reasonable doubt; and (6) the death penalty is disproportionate in this case. Having carefully reviewed the record before us, we affirm the judgments of the trial court. However, we remand the case to the trial court for the correction of a clerical error.

5. Status Heard 6/3/21 in Nashville (by video).

1. Style State of Tennessee v. William Eugene Moon

2. Docket Number M2019-01865-SC-R11-CD

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/moon.william.opn_.pdf

4. Lower Court Summary A Coffee County jury convicted William Eugene Moon, Defendant, of attempted second degree murder and unlawful employment of a firearm during the commission of or attempt to commit a dangerous felony. On appeal, Defendant argues that the trial court erred by allowing the improper impeachment of a defense witness, that there was insufficient evidence to support his convictions, and that he was denied the right to a speedy trial. After a thorough review of the record and applicable case law, the judgments of the circuit court are affirmed

5. Status Application granted 5/13/21; Appellant’s brief filed 6/14/21; Appellee’s motion for extension to file brief granted (by Court order 7/21/21); Appellee’s reply brief due 8/13/21.

1. Style Tommie Phillips v. State of Tennessee

2. Docket Number W2019-01927-SC-R11-PC

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/00130_-_phillips_tommie_majority_opinion.pdf

4. Lower Court Summary The petitioner, Tommie Phillips, appeals the denial of his petition for post-conviction relief, which petition challenged his 2011 Shelby County Criminal Court jury convictions of felony murder, reckless homicide, attempted first degree murder, aggravated rape, aggravated sexual battery, especially aggravated kidnapping, and aggravated burglary. He argues that he was deprived of the effective assistance of counsel. Discerning no error, we affirm.

5. Status Application granted 6/17/21; Appellant’s motion for extension to file brief granted (by Court order 7/19/21); Appellant’s brief due 8/18/21.

1.	Style	Pryority Partnership v. AMT Properties, LLC et al.
2.	Docket Number	E2020-00511-SC-R11-CV
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/e2020-00511_pryority_v._amt.pdf
4.	Summary	In this action involving a commercial lease, the trial court granted judgment in favor of the lessee, determining that the lessor had materially breached the lease. The court further determined that the lessor was liable for negligent misrepresentation, due to its misrepresentations concerning the condition of the roof on the leased building and its intent to repair the roof, and constructive eviction, due to its failure to timely repair the building and render it tenantable. The court awarded compensatory damages to the lessee in the amount of \$193,006.35 as well as attorney's fees in the amount of \$69,002.68. The lessor has appealed. Discerning no reversible error, we affirm.
5.	Status	Application granted 8/6/2021; Appellant's brief due 9/6/21.

1.	Style	Recipient of Final Expunction Order in McNairy County Circuit Court Case No. 3279 v. David B. Rausch, Director of the Tennessee Bureau of Investigation, et al.
2.	Docket Number	M2021-00438-SC-R11-CV
3.	Lower Court Decision Links	N/A
4.	Summary	N/A
5.	Status	Application granted 8/9/2021; Appellant's brief due 9/8/21.

1.	Style	State of Tennessee v. Jeremy Reynolds
2.	Docket Number	E2018-01732-SC-R11-CD
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/jeremy_reynolds_corrected_opinion.pdf
4.	Lower Court Summary	The Defendant, Jeremy Reynolds, appeals his Hamilton County Criminal Court jury conviction for first degree premeditated murder. See Tenn. Code Ann. § 39-13-202. On appeal, the Defendant argues that (1) the evidence was insufficient to support his conviction; (2) the trial court erred by admitting evidence that the Defendant and other individuals were gang members in violation of Tennessee Rules of Evidence 403 and 404(b); (3) exculpatory evidence, namely the victim's gunshot residue test and a photograph referenced by the gang report, were improperly withheld by the State; (4) the trial court erred by failing to compel the State to produce the above-referenced gunshot residue test and photograph; and (5) the cumulative effect of these errors deprived the Defendant of a fair trial. After a thorough review of the record and applicable law, we conclude that the evidence is insufficient relevant to premeditation and that some of the evidence relative to gangs was improperly admitted. We remand for a new trial on one count of second-degree murder, in which some gang evidence shall be excluded.

5. Status Heard 3/31/21 in Jackson (by video).

1. Style Elijah "LIJ" Shaw, et al. v. Metropolitan Nashville Government of Nashville and Davidson County

2. Docket Number M2019-01926-SC-R11-CV

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/shaw.elijah.opn_.pdf

4. Lower Court Summary Two homeowners filed suit against a metropolitan government challenging a metropolitan code provision that prevented them from serving customers at their home-based businesses. The trial court granted summary judgment to the metropolitan government. After the homeowners filed this appeal, the metropolitan council repealed the challenged code provision and enacted a new provision allowing certain home-based businesses to serve up to six clients a day. We have determined that, in light of the metropolitan government's enactment of the new ordinance, this appeal is moot.

5. Status Application granted 7/12/21; Joint motion for extension of time to file and for entry of a briefing schedule granted 7/20/21; Appellants' brief due 9/10/21; Appellee's brief due 11/9/21; Appellants' reply brief due 12/3/21.

1. Style Board of Professional Responsibility of the Supreme Court of Tennessee v. Charles Edward Walker

2. Docket Number M2021-00099-SC-R3-BP

3. Lower Court Decision Links N/A

4. Lower Court Summary N/A

5. Status Notice of Appeal filed in Court of Appeals 1/27/21; Case transferred to Supreme Court 4/1/21; Appellate record filed 4/29/21; Appellant brief filed 6/1/21; Appellee brief filed 8/2/21 (by Court order 6/30/21); Case submitted on brief by Court order filed 8/9/21.