

**SUPREME COURT OF TENNESSEE
 SUPREME COURT DISCRETIONARY APPEALS
Grants & Denials List**

Monday, August 19, 2013

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
State of Tennessee v. Barry H. Hogg M2012-00303-SC-R11-CD	Wilson County Criminal Court Judge David Earl Durham No. 10-CR-57	Smith, J Affirmed	Rule 11	Granted: Application of Barry H. Hogg (Order Filed 8-13-2013; copy attached)
State of Tennessee v. Kiara Tashawn King M2012-00236-SC-R11-CD	Marshall County Circuit Court Judge Robert Crigler No. 1170CR	Williams, J Affirmed	Rule 11	Granted: Application of Kiara Tashawn King (Order Filed 8-14-2013; copy attached)
Richard Thurmond v. Mid-Cumberland Infectious Disease Consultants, PLC M2012-02270-SC-R11-CV	Montgomery County Circuit Court Judge Ross Hicks No. MCCCCVMA120053	Bennett, J Affirmed	Rule 11	Granted: Application of Richard Thurmond (Order Filed 8-13-2013; copy attached)
Cha Yang v. Nissan North America, Inc. Et al M2012-01196-SC-WCM-WC	Rutherford County Circuit Court Judge Nos. 58227, 58921			Granted: Motion to review should be granted (Order Filed 8-15-2013; copy attached)

Knoxville

State of Tennessee v. Justin Ellis E2011-02017-SC-R11-CD	Knox County Criminal Court Judge Bobby R. McGee No. 93768	Thomas, J Reversed	Rule 11	Granted: Application of State of Tennessee (Order Filed 8-13-2013; copy attached)

Jackson

Clarence Nesbit v. State of Tennessee W2009-02101-SC-R11-PD	Shelby County Criminal Court Judge Chris Craft No. P-21818	Woodall, J Affirmed	Rule 11	Granted: Application of Clarence Nesbit (Order Filed 8-13-2013; copy attached)
Diane West et al. v. Shelby County Healthcare Corp., D/B/A Regional Medical Center At Memphis M2012-0044-SC-SC-R11-CV	Shelby County Circuit Court Judge Donna M. Fields No. CT-006339-07	Stafford, J Reversed	Rule 11	Granted: Application of Shelby County Healthcare Corp., d/b/a Regional Medical Center at Memphis (the “Med”) with review limited to two issue (<i>See Attached Order</i>) (Order Filed 8-15-2013)

**SUPREME COURT OF TENNESSEE
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DENIALS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
George Barbour v. Logan's Roadhouse, Inc. M2013-01553-WC-R9-WC	Rutherford County Chancery Court No. 12CV-1263 Chancellor Robert E. Corley, III		Rule 9	Denied: Application of Logan's Roadhouse (Order Filed 8-13-2013)
Craig L. Beene v. State of Tennessee M2012-01578-SC-R11-CO	Dickson County Circuit Court Judge Robert Burch No. CR-611A	Tipton, J Affirmed	Rule 11	Denied: Application of Craig L. Beene (Order Filed 8-14-2013)
Clifford Eric Burgess v. State of Tennessee M2012-02064-SC-R11-PC	Montgomery County Circuit Court Judge Michael R. Jones No. 40500792	Wedemeyer, J Affirmed	Rule 11	Denied: Application of Clifford Eric Burgess (Order Filed 8-14-2013)
Shundell Lynn Dickerson v. State of Tennessee M2011-00644-SC-R11-PC	Davidson County Criminal Court Judge Cheryl Blackburn No. 2004-A-538	Woodall, J Affirmed	Rule 11	Denied: Application of Shundell Lynn Dickerson (Order Filed 8-14-2013)

In Re: Mya E. et al M2012-02323-SC-R11-PT	Davidson County Juvenile Court Judge Betty K Adams Green Nos. 2009-7016, 2009-7017	Frierson, II, J Affirmed & Remanded	Rule 11	Denied: Application of the Father (Order Filed 8-16-2013)
In Re: Estate of Danny Keith Ellis M2012-00585-SC-R11-CV	Davidson County Circuit Court Judge David Randall Kennedy NO. 10P1507	Cottrell, P.J. Affirmed	Rule 11	Denied: Application of Janet Kenyon (Order Filed 8-14-2013)
Erie Insurance Exchange v. Columbia National Insurance Company, et al M2012-00331-SC-R11-CV	Wilson County Chancery Court Chancellor Charles K. Smith No. 08323	Clement, J. Affirmed	Rule 11	Denied: Application of Erie Insurance Exchange (Order Filed 8-13-2013)
Charlie M. Gardner v. State of Tennessee M2011-01847-SC-R11-CO	Davidson County Criminal Court Judge Cheryl Blackburn No. 97-D-2814	McMullen Affirmed	Rule 11	Denied: Application of Charlie M. Gardner (Order Filed 8-14-2013)
State of Tennessee v. Antwain Green M2012-00234-SC-R11-CD	Davidson County Criminal Court Judge J. Randall Wyatt No. 2009-D-3571	Williams, J Affirmed	Rule 11	Denied: Application of Antwain Green (Order Filed 8-14-2013)
State of Tennessee v. Dominick S. Hodges M2011-02668-SC-R11-CD	Montgomery County Circuit Court Judge Michael R. Jones No. 41001252	Ogle, J Affirmed	Rule 11	Denied: Application of Dominick S. Hodges (Order Filed 8-14-2013)

Doris Nell Jones v. State of Tennessee M2011-02343-SC-R11-PC	Lawrence County Circuit Court Judge Robert L. Jones No. 29418	Smith, J Affirmed	Rule 11	Denied: Application of Doris Nell Jones <i>Denied Motion for Appointment of Counsel</i> <i>Granted Motion of Doris Nell Jones Motion to Proceed in Forma Pauperis</i> (Order Filed 8-14-2013)
Freddie Jones et al v. Abbott Laboratories M2013-00769-SC-R23-CQ	United States District Court for the Western District of Tennessee (Western Division) No. 0702120WGY		Rule 23	Denied the Rule 23 appeal : 1. Does the Tennessee law recognize exceptions to the learned intermediary doctrine when prescription drug companies advertise their products directly to consumers or pay physicians to prescribe their drugs? 2. Does Tennessee follow section 6(d)(2) of the Restatement (Third) of Torts: Products Liability, which mandates that pharmaceutical companies warn patients directly when healthcare providers are poorly positioned to reduce the risk of harm to patients taking prescription drugs? (Order Filed 8-14-13)
State of Tennessee v. Khaleefa Lambert M2011-01797-SC-R11-CD	Montgomery County Circuit Court Judge Michael R. Jones No. 40900680	Ogle, J Vacated and Remanded	Rule 11	Denied: Khaleefa Lambert (Order Filed 8-14-2013)

State of Tennessee v. Vernon Lockhart M2013-01692-SC-R10-CD	Davidson County Criminal Court Judge Cheryl Blackburn No. 2010-C-2083	Wedemeyer, J Motion to Review Denied 7-11-13	Rule 10	<i>Motion for Review Denied 7-11-13 SC - motion denied, appellant given 60 days from the date of the order to file the transcript of evidence with the trial court clerk</i>
State of Tennessee v. Christopher S. Mayberry M2012-00693-SC-R11-CD	Humphreys County Circuit Court Judge George C. Sexton No. 12044	Smith, J Affirmed	Rule 11	Denied: Application of Christopher S. Mayberry (Order Filed 8-14-2013)
Metropolitan Nashville Education Association and James Fuller v. The Metropolitan Board of Public Education M2011-02242-SC-R11-CV	Davidson County Chancery Court Chancellor Claudia Bonnyman No. 04391I	Cottrell, J Affirmed	Rule 11	Denied: Application of James Fuller (Order Filed 8-14-2013)
Martin D. "Red" Patterson, et al v. The Convention Center Authority of the Metropolitan Government of Nashville and Davidson County, Tennessee et al M2012-00341-SC-R11-CV	Davidson County Chancery Court Chancellor Carol McCoy No. 11-1565-II	Farmer, J Affirmed and Remanded	Rule 11	Denied: Application of The Convention Center Authority of the Metropolitan Government of Nashville and Davidson County, Tennessee, et al (Order Filed 8-14-2013)
George Ridenour v. Darrell Carman et al M2012-00801-SC-R11-CV	Trousdale County Circuit Court Judge John D. Wootten, Jr. No. 4061P261	Clement, J Affirmed in Part, Reversed in Part	Rule 11	Denied: Application of George Ridenour (Order Filed 8-14-2013)
Harvey Taylor v. State of Tennessee M2012-01228-SC-R11-PC	Davidson County Criminal Court Judge Monte Watkins No. 2008-B-1760	Wedemeyer, J Affirmed	Rule 11	Denied: Application of Harvey Taylor <i>Motion for Appointment of Counsel is also denied</i> (Order Filed 8-14-2013)

Markina Westmoreland, et al v. William L. Bacon, M. D. Et al M2011-01811-SC-R11-CV	Davidson County Circuit Court Judge Joseph P. Binkley, Jr. No. 05C3729	Cottrell, J Reversed and Remanded	Rule 11	Denied: Application of William L. Bacon, M.D., Chukwuemeka Venatius Ikpeazu, M.D. (Order Filed 8-13-2013)
Charles Edward Wilbourn v. State of Tennessee M2012-00488-SC-R11-PC	Davidson County Criminal Court Judge Cheryl Blackburn No. 2010-A-11	Smith, J Affirmed	Rule 11	Denied: Application of Charles Edward Wilbourn (Order Filed 8-14-2013)
State of Tennessee v. Charles L. Williams M2010-01451-SC-R11-CD	Davidson County Criminal Court Judge Monte Watkins No. 2003-D-3000	Smith, J Affirmed	Rule 11	Denied: Application of Charles L. Williams (Order Filed 8-14-2013)
Williamson County Election Commission et al. v. Paul Webb, et al M2012-01418-SC-R11-CV	Williamson County Chancery Court Chancellor Timothy L. Easter No. 40537	Dinkins, J Reversed	Rule 11	Denied: Application of City of Brentwood et al (Order Filed 8-13-2013)
Charhela Wilson v. State of Tennessee M2012-01786-SC-R11-PC	Davidson County Criminal Court Judge Cheryl Blackburn No. 2008-D-3608	Thomas, J Dismissed	Rule 11	Denied: Application of Charhela Wilson (Order Filed 8-14-2013)
<u>Knoxville</u>				
Jonathan Adams v. State of Tennessee E2012-00297-SC-R11-PC	Knox County Criminal Court Judge Bobby R. McGee No. 95646	Thomas, J Dismissed	Rule 11	Denied: Application of Jonathan Adams (Order Filed 8-14-2013)

Citimortgage, Inc. v. Angeline Renee Drake E2012-00722-SC-R11-CV	Hamilton County Circuit Court Judge Jeff Hollingsworth No. 11C684	Susano, J Affirmed	Rule 11	Denied: Application of Angeline Renee Drake (Order Filed 8-14-2013)
Federal National Mortgage Association v. James W. Frierson et al E2012-00715-SC-R11-CV	Hamilton County Circuit Court Judge Ward Jeffrey Hollingsworth No. 11C684	Susano, Jr., P.J. Affirmed	Rule 11	Denied: Application of James W. Frierson and Patricia M. Frierson (Order Filed 8-14-2013)
State of Tennessee v. Mark Zane Gibson E2011-00938-SC-R11-CD	Monroe County Circuit Court Judge Amy F. Reedy No. 07149	Smith, J Affirmed	Rule 11	Denied: Application of Mark Zane Gibson <i>Opinion of the Court of Criminal Appeals is designated "Not for Citation"</i> (Order Filed 8-13-2013)
State of Tennessee v. Erica Harris E2012-01107-SC-R11-CD	Knox County Criminal Court Judge J. Curwood Witt No. 93165	McGee, J Affirmed	Rule 11	Denied: Application of Erica Harris (Order Filed 8-14-2013)
Basil Marceaux v. State of Tennessee E2013-00749-SC-R11-CV	Bradley County Criminal Court	Frierson, J Susano, J. Swiney, J. Denial of Order of Writ of Mandamus	Rule 11	Denied: Application of Basil Marceaux (Order Filed 8-13-2013)
State of Tennessee v. Herbert Michael Merritt E2011-01348-SC-R11-CD	Knox County Criminal Court Judge Mary B. Leibowitz No. 91370	Woodall, J Affirmed	Rule 11	Denied: Application of Herbert Michael Merritt (Order Filed 8-13-2013)

Donald Kurt Nelson v. Gerald E. Nelson, et al E2012-01316-SC-R11-CV	Hamilton County Circuit Court Judge Jacqueline Schulten Bolton No. 09C170	Susano, Jr., J. Reversed	Rule 11	Denied: Application of Donald Kurt Nelson (Order Filed 8-13-2013)
Patelco Credit Union v. Chris E. Dutton E2012-01225-SC-R11-CV	Hamilton County Circuit Court Judge Ward Jeffrey Hollingsworth No. 11C1378	Susano, Jr., J Affirmed	Rule 11	Denied: Application of Chris E. Dutton (Order Filed 8-14-2013)
State of Tennessee v. Thomas D. Taylor A/K/A James Ray McClinton E2011-00500-SC-R11-CD E2011-02114-SC-R11-PC	Bradley County Criminal Court Judge Amy F. Reedy No. 2009274	McMullen, J Affirmed	Rule 11	Denied: Application of Thomas D. Taylor a/k/a James Ray McClinton (Order Filed 8-14-2013)
<u>Jackson</u>				
Armstrong Allen, PLLC v. Jerome Broadhurst, et al W2013-00925-SC-S10-CV	Shelby County Chancery Court Judge Chancellor Walter Evans No. CH-11-1619-3		Rule 10	Denied: Application of Jerome A. Broadhurst, Charles D. Reaves, Gretchen W. Reaves. <i>Motion for leave to file reply to Armstrong Allen's Answer to Rule 10 Application for Extraordinary Appeal filed by applicants Jerome A. Broadhurst, Charles D. Reaves, and Gretchen W. Reaves is denied as moot.</i> (Order Filed 8-13-2013)

State of Tennessee v. Carl Bond W2011-02518-SC-R11-CD	Shelby County Criminal Court Judge Chris Craft No. 1001325	Bivins, J Affirmed	Rule 11	Denied: Application of Carl Bond (Order Filed 8-14-2013)
State of Tennessee v. Christopher Rodney Butler W2010-01729-SC-R11-CD	Madison County Circuit Court Judge Roy B. Morgan, Jr. No. 09-684	Ogle, J Affirmed	Rule 11	Denied: Application of Christopher Butler (Order Filed 8-13-2013)
Jameel Childress v. State of Tennessee W2012-02104-SC-R11-HC	Shelby County Criminal Court Judge Mark Ward Nos. 98-01632, 98-02535-37, 98028250-51	Williams, J Affirmed	Rule 11	Denied: Application of Jameel Childress (Order Filed 8-13-2013)
Island Properties Associates v. The Reaves Firm, Inc. D/B/A Reaves, Sweeney, and Marcum, et al W2012-00202-SC-R11-CV	Shelby County Circuit Court Judge Karen Williams No. CT-005755-03	Stafford, J Vacated	Rule 11	Denied: Application of Island Properties Associates (Order Filed 8-13-2013)
State of Tennessee v. Mahlon Johnson W2011-01786-SC-R11-CD	Shelby County Criminal Court Judge James c. Beasley, Jr. No. 09-06118	Wedemeyer, J Affirmed	Rule 11	Denied: Application of Mahlon Johnson (Order Filed 8-14-2013)
Donald Mickens v. State of Tennessee W2012-00562-SC-R11-PC	Shelby County Criminal Court Judge John Fowlkes No. 07-01696	Smith, J Affirmed	Rule 11	Denied: Application of Donald Mickens (Order Filed 8-13-2013)

Gregory Robinson v. State of Tennessee W2011-00967-SC-R11-PD	Shelby County Criminal Court Judge W. Otis Higgs, Jr. No. 97-13179-80	Page, J Affirmed	Rule 11	Denied: Application of Gregory Robinson (Order Filed 8-14-2013)
State of Tennessee v. Patrick Leighton Ryan, Jr. W2013-01155-SC-S10-CD	Hardeman County Circuit Court Judge J. Weber McGraw No. 12CR105		Rule 10	Denied: Application of Patrick Leighton Ryan, Jr. (Order Filed 8-14-2013)
Joe Tubwell v. City of Memphis W2012-01017-SC-R11-CV	Shelby County Circuit Court Judge Kay S. Robilio No. CT-00459-12	Stafford, J Affirmed and Remanded	Rule 11	Denied: Application of Joe Tubwell (Order Filed 8-13-2013)

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. BARRY H. HOGG

**Criminal Court for Wilson County
No. 10-CR-57**

No. M2012-00303-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Barry H. Hogg, and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. KIARA TASHAWN KING

**Circuit Court for Marshall County
No. 1170CR**

No. M2012-00236-SC-R11-CD

ORDER

Upon consideration of the Tenn. R. App. P. 11 application for permission to appeal filed on behalf of Kiara Tashawn King, and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**RICHARD THURMOND v. MID-CUMBERLAND INFECTIOUS DISEASE
CONSULTANTS, PLC**

**Circuit Court for Montgomery County
No. MCCCCVMA120053**

No. M2012-02270-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of Richard Thurmond, and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

CHA YANG v. NISSAN NORTH AMERICA, INC. ET AL.

Circuit Court for Rutherford County
Nos. 58227, 58921

No. M2012-01196-SC-WCM-WC

ORDER

This case is before the Court upon motion for review pursuant to Tenn. Code Ann. § 50-6-225(e)(5)(B), the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference;

Whereupon, it appears to the Court that the motion for review should be granted. Review shall be limited to the record and briefs on file before the Special Workers' Compensation Appeals Panel pursuant to Tenn. Code Ann. § 50-6-225(e)(6).

IT IS SO ORDERED.

Koch, J., not participating

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

STATE OF TENNESSEE v. JUSTIN ELLIS

**Criminal Court for Knox County
No. 93768**

No. E2011-02017-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of the State of Tennessee and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

CLARENCE NESBIT v. STATE OF TENNESSEE

**Criminal Court for Shelby County
No. P-21818**

No. W2009-02101-SC-R11-PD

ORDER

Upon consideration of the application for permission to appeal of Clarence Nesbit, and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

**DIANE WEST ET AL. v. SHELBY COUNTY HEALTHCARE CORP., D/B/A REGIONAL
MEDICAL CENTER AT MEMPHIS**

**Circuit Court for Shelby County
No. CT-006339-07**

No. W2012-00044-SC-R11-CV

ORDER

Upon consideration of the Tenn. R. App. P. 11 application for permission to appeal filed on behalf of Shelby County Healthcare Corp., d/b/a Regional Medical Center at Memphis (the “Med”), and the record before us, the application is granted with review limited to the following two issues:

- (1) Whether the Court of Appeals erred by denying the Med and Blue Cross Blue Shield of Tennessee (“BCBST”) their right to contract in determining that the Med may not return payments for medical care made by BCBST in an attempt to seek payment from liable third party tortfeasors.
- (2) Whether the Court of Appeals erred by determining that the Baptist Health Services Group of the Mid-South, Inc.’s provider network contract with the Med (the “BHSG Network Contract”) provides that the Med agreed to accept the payments from BHSG as “payment in full” when the BHSG contract was not introduced into the record by the Plaintiffs and was not contained in the record before the Court of Appeals.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM