

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

MONDAY, SEPTEMBER 24, 2012

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
Doris Cannon, <u>ex rel.</u> , Juanita E. Good v. Bhaskar Reddy, M.D. M2012-01332-SC-S10-CV	Maury County Circuit Court Judge Jim T. Hamilton No. 13810	Per Curiam Rule 10 Denied	Rule 11	Granted - Application of Bhaskar Reddy, M.D. (Order filed - 9-19-12 - attached)
Hong Samouth Rajvongs v. Anthony Wright M2011-01889-SC-S09-CV	Rutherford County Circuit Court Judge Royce Taylor No. 62176	Cantrell, Sr.J. Affirmed	Rule 11	Granted - Application of Anthony Wright (Order filed - 9-19-12 - attached)
<u>Knoxville</u>				
<u>Jackson</u>				

State of Tennessee v. Princeton Moody W2011-00376-SC-R11-CD	Shelby County Criminal Court Judge John T. Fowlkes, Jr. No. 09-06207	Glenn, J. Affirmed	Rule 11	Granted - Application of Princeton Moody (Summarily granted for the limited purpose of remanding the case to the trial court to set aside the Reckless Endangerment conviction as void) (Order filed - 9-18-12 - attached)
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DENIALS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
Randy Bray v. State of Tennessee M2011-00665-SC-R11-PC	Grundey County Circuit Court Judge Thomas W. Graham No. 4155	McMullen, J. Affirmed	Rule 11	Denied - Application of Randy Bray (Order filed - 9-19-12)

Gary Bullard v. State of Tennessee M2011-00215-SC-R11-PC	Rutherford County Circuit Court Judge David Bragg No. F-64551	McMullen, J. Affirmed	Rule 11	Denied - Application of Gary Bullard (Order filed - 9-18-12)
Charles Wayne Dalton v. State of Tennessee M2011-00949-SC-R11-PC	Lincoln County Circuit Court Judge Robert Crigler No. S1000042	Page, J. Affirmed	Rule 11	Denied - Application of Charles Wayne Dalton (Order filed - 9-19-12)
Richard Frank D'Antonio v. State of Tennessee M2011-01378-SC-R11-PC	Davidson County Criminal Court Judge Randall Wyatt No. 2002-C-1280	McMullen, J. Affirmed	Rule 11	Denied - Application of Richard FrankD'Antonio (Order filed - 9-19-12)
Jon Douglas Hall v. Ricky Bell, Warden, and State of Tennessee M2011-00858-SC-R11-HC	Davidson County Circuit Court Judge Hamilton V. Gayden, Jr. No. 10-C-2789	Tipton, P.J. Affirmed	Rule 11	Denied - Application of Jon Douglas Hall (Jon Douglas Hall's motion to proceed in forma pauperis is granted) (Order filed - 9-21-12)
James H. Harris III v. Edward K. White III M2011-00992-SC-R11-CV	Davidson County Chancery Court Chancellor Russell Perkins No. 071972IV	Bennett, J. Affirmed	Rule 11	Denied - Application of Edward K. White III (Order filed - 9-18-12)
In Re: Ashley E., <u>et al.</u> M2011-02473-SC-R11-PT	Montgomery County Circuit Court Judge Ross H. Hicks No. MCCCCVSG101195	Dinkins, J. Affirmed	Rule 11	Denied - Application of Georgia E. and Robert E., Sr. (Order filed - 9-20-12)
In the Matter of Lyle L. Lawton M2011-00475-SC-R11-CV	Coffee County Chancery Court Judge Vanessa A. Jackson No. 1022	Kirby, J. Affirmed	Rule 11	Denied - Application of Lyle L. Lawton (Order filed - 9-19-12)

Jeffrey Klocko v. State of Tennessee M2011-00219-SC-R11-CD	Davidson County Criminal Court Judge Randall Wyatt No. 2004-B-961	Bivins, J. Affirmed	Rule 11	Denied - Application of Jeffrey Klocko (Order filed - 9-19-12)
Jonathan Lawrence v. State of Tennessee M2010-02548-SC-R11-PC	Davidson County Criminal Court Judge Steve Dozier Nos. 2008-D-3487 and 2008-D-3507	Ogle, J. Affirmed	Rule 11	Denied - Application of Jonathan Lawrence (Order filed - 9-19-12)
Joseph S. Lucas, Jr. v. State of Tennessee M2011-00316-SC-R11-PC	Williamson County Circuit Court Judge Timothy L. Easter No. CR-024729	Tipton, P.J. Affirmed	Rule 11	Denied - Application of Joseph S. Lucas, Jr. (Order filed - 9-20-12)
Ricky Morgan v. State of Tennessee M2011-02129-SC-R11-PC	Davidson County Criminal Court Judge Mark J. Fishburn No. 2008-A-61	Witt, J. Affirmed	Rule 11	Denied - Application of Ricky Morgan (Order filed - 9-18-12)
Jimmy Marcell Morris v. Perrionne Rochelle Wigfall M2012-00719-SC-R11-JV	Rutherford County Juvenile Court Judge Donna Scott Davenport No. 4795C	Per Curiam Dismissed	Rule 11	Denies - Application of Jimmy Marcell Morris (Motion to proceed as a poor person denied) (Order filed - 9-18-12)
James D. R. Roberts, Jr. v. Board of Professional Responsibility of the Supreme Court of Tennessee M2012-01952-SC-S10-CV	Davidson County Chancery Court Ben H. Cantrell, Sr. Judge No. 111449IV	Per Curiam COA Rule 10 Denied	Rule 10	Denied - Application of James D. R. Roberts (Order filed - 9-19-12)
State of Tennessee v. Patricia Adkisson M2010-02501-SC-R11-CD	Hickman County Circuit Court Judge Timothy L. Easter No. 08-5095-CRA	Witt, J. Affirmed	Rule 11	Denied - Application of Patricia Adkisson (Order filed - 9-19-12)

State of Tennessee v. Antonio D. Alexander M2010-02485-SC-R11-CD	Rutherford County Circuit Court Judge Don R. Ash No. F-64676	McMullen, J. Affirmed	Rule 11	Denied - Application of Antonio D. Alexnader (Order filed - 9-20-12)
State of Tennessee v. Robert Jason Burdick M2011-01299-SC-R11-CD	Williamson County Circuit Court Judge Timothy L. Easter No. II-CR053486	Wedemeyer, J. Affirmed	Rule 11	Denied - Application of Robert Jason Burdick (Order filed - 9-18-12)
State of Tennessee v. Antonio D. Johnson M2010-02086-SC-R11-CD	Montgomery County Circuit Court Judge John H. Gasaway III No. 40900303	Woodall, J. Affirmed	Rule 11	Denied - Application of Antonio D. Johnson (Order filed - 9-19-12)
State of Tennessee v. Barry D. McCoy M2011-02121-SC-R11-CD	Montgomery County Circuit Court Judge John H. Gasaway III No. 41001277	Witt, J. Vacated and Remanded	Rule 11	Denied - Application of Barry D. McCoy (Order filed - 9-19-12)
State of Tennessee v. Randall Kelvin Madison M2010-0059-SC-R11-CD	Davidson County Criminal Court Judge Steve Dozier No. 2008-D-4188	Bivins, J. Affirmed and Remanded	Rule 11	Denied - Application of Randall Kelvin Madison (Order filed - 9-19-12)
State of Tennessee v. Brandi Nichole Miller M2011-02025-SC-R11-CD	Giles County Circuit Court Judge Jim T. Hamilton No. 10085	Glenn, J. Affirmed	Rule 11	Denied -Application of Brandi Nichole Miller (Order filed - 9-21-12)
State of Tennessee v. Bo Prendergast M2011-00571-SC-R11-CD	Williamson County Circuit Court Judge Timothy L. Easter No. II-CR064237	Witt, J. Affirmed	Rule 11	Denied - Application of Bo Prendergast (Order filed - 9-18-12)

State of Tennessee v. Nicholas Short M2010-01914-SC-R11-CD	Davidson County Criminal Court Judge Steve Dozier No. 2009-B-1035	McMullen, J. Affirmed	Rule 11	Denied - Application of Nicholas Short (Order filed - 9-20-12)
State of Tennessee v. Christopher Earl Watts M2009-02570-SC-R11-CD	Davidson County Criminal Court Judge Cheryl Blackburn No. 2007-D-3224	Ogle, J. Affirmed in Part; Reversed in Part	Rule 11	Denied - Application of Christopher Earl Watts (Order filed - 9-21-12)
Phillip Sullivan v. Wilson County, <u>et al.</u> M2011-00217-SC-R11-CV	Davidson County Circuit Court Judge Joseph P. Binkley, Jr. No. 09C934	Cottrell, P.J., M.S., COA Affirmed	Rule 11	Denied - Application of Phillip Sullivan (Order filed - 9-18-12)
The Convention of the Protestant Episcopal Church in The Diocese of Tennessee d/b/a The Diocese of Tennessee, etc. v. The Rector, Wardens, and Vestryment Corp. of St. Andrew's Parish, a Tennessee corporation M2010-01474-SC-R11-CV	Davidson County Chancery Court Chancellor Carol McCoy No. 092092II	Cottrell, P.J., M.S., COA Affirmed	Rule 11	Denied - Application of The Rector, <u>et al.</u> (Koch, William C., Jr., J., Not Participating) (Order filed - 9-18-12)
Michael Blaine Ward II v. State of Tennessee M2011-00122-SC-R11-PC	Coffee County Circuit Court Judge Vanessa A. Jackson No. 34417	Tipton, P.J. Affirmed	Rule 11	Denied - Application of Michael Blaine Ward II (Order filed - 9-18-12)
William E. Wright v. State of Tennessee M2011-01461-SC-R11-PC	Davidson County Criminal Court Judge Cheryl Blackburn No. 2003-C-2045	Witt, J. Affirmed	Rule 11	Denied - Application of William E. Wright (Order filed - 9-18-12)

Knoxville

Donna Bellomy v. Auto Zone, Inc. E2011-00803-SC-R11-CV	Hamilton County Chancery Court Chancellor W. Frank Brown III No. 051135	Susano, J. Vacated	Rule 11	Denied - Application of Auto Zone, Inc. (Order filed - 9-18-12)
David Cosgriff v. State of Tennessee E2012-01354-SC-S10-PC	Roane County Criminal Court Judge E. Eugene Eblen No. 12963B	Witt, J., Ogle, J. Thomas, J. Rule 10 Dismissed	Rule 10	Denied - Application of David Cosgriff (Order filed - 9-20-12)
Federal Home Loan Mortgage Corporation v. Alan Paul Wilsey, <u>et al.</u> E2011-01507-SC-R11-CV	Hamilton County Circuit Court Judge Ward Jeffrey Hollingsworth No. 10C1343	Kirby, J. Affirmed	Rule 11	Denied - Application of Alan Paul Wilsey and Sandra Louise Wilsey (Order filed - 9-18-12)
Drew David Kirkman v. State of Tennessee E2010-02296-SC-R11-PC	Bradley County Criminal Court Judge Carroll Ross No. 09-219	Williams, J. Affirmed	Rule 11	Denied - Application of Drew David Kirkman (Order filed - 9-19-12)
Janice LaCroix, <u>et al.</u> v. L. W. Matteson, Inc., <u>et al.</u> E2011-01702-SC-R11-CV	Roane County Circuit Court Judge Russell E. Simmons, Jr. No. 14843	Franks, P.J. Reversed	Rule 11	Denied - Application of L. W. Matteson, Inc. and Great Lakes Dredge & Dock Company, LLC, Severson Environmental Services, Inc., and Jacobs Engineering Corp, Inc. (Motion filed by Simon Tonkin asking for leave to file the application and to appear in this Court <i>pro hac vice</i> on behalf of L. W. Matteson is granted) (Order filed - 9-19-12)
Danny Miller v. State of Tennessee E2011-00498-SC-R11-PC	Knox County Criminal Court Judge Mary B. Leibowitz	Ogle, J. Affirmed	Rule 11	Denied - Application of Danny Miller (Order filed - 9-19-12)

Outdoor Resorts at Gatlinburg, Inc. v. Utility Management Review Board, <u>et al.</u> E2011-01449-SC-R11-CV	Sevier County Chancery Court Chancellor Telford E. Forgety, Jr. No. 0911501	Susano, J. Vacated	Rule 11	Denied - Applications of Utility Management Review Board and Webb Creek Utility District (The opinion of the Court of Appeals is designated "Not For Citation" in accordance with Tennessee Supreme Court Rule 4(E)) (Order filed - 9-18-12)
Michael Panzini v. State of Tennessee E2011-01497-SC-R11-HC	Knox County Criminal Court Jon Kerry Blackwood, Sr. Judge No. 92222	Wedemeyer, J. Affirmed	Rule 11	Denied - Application of Michael Panzini (Order filed - 9-19-12)
Beth Proffitt v. Smoky Mountain Woodcarvers Supply, Inc., <u>et al.</u> E2011-01801-SC-R11-CV	Blount County Circuit Court Judge Jon Kerry Blackwood, Sr.J. No. E23145	Swiney, J. Affirmed as modified in Part; Reversed in Part	Rule 11	Denied - Application of Smoky Mountain Woodcarvers Supply, Inc., Ray Proffitt, and Mac Proffitt (Order filed - 9-19-12)
State of Tennessee v. Edward L. Baird E2011-01763-SC-R11-CD	Blount County Circuit Court Judge Tammy Harrington Nos. C-18929 & C-19798	Page, J. Affirmed	Rule 11	Denied - Application of Edward L. Baird (Order filed - 9-19-12)
State of Tennessee v. Doyle Everette Haney E2010-02151-SC-R11-CD	Cocke County Circuit Court Judge Ben W. Hooper II No. 0216	Thomas, J. Affirmed	Rule 11	Denied - Application of Doyle Everette Haney (Order filed - 9-18-12)
State of Tennessee v. Rocky Joe Houston E2011-01855-SC-S10-CD	Roane County Criminal Court Jon Kerry Blackwood, Sr.J. No. 13226	Tipton, P.J. Rule 10 - 8-28-12-Denied Rule 10 - 9-18-12-Denied	Rule 10	Denied - Applications of Rocky Joe Houston (Cornelia A. Clark, J., Not Participating) (Order filed - 9-19-12)

State of Tennessee v. Robert Hutchison E2012-00899-SC-S09-CD	Anderson County Criminal Court Judge Donald Ray Elledge No. A9CR0873	Witt, J. Ogle, J. Thomas, J. Rule 9 Denied	Rule 9	Denied - Application of Robert Hutchison (Order filed - 9-19-12)
State of Tennessee v. Charles Milton Spencer E2012-00459-SC-S09-CD	Anderson County Criminal Court Judge Donald Ray Elledge No. A9CR0069	Witt, J. Ogle, J. Thomas, J. Rule 9 Denied	Rule 9	Denied - Application of Charles Milton Spencer (Order filed - 9-19-12)
<u>Jackson</u>				
Ydale Banks v. State of Tennessee W2010-01610-SC-R11-PC	Shelby County Criminal Court Judge John T. Fowlkes, Jr. No. 96-06381	Glenn, J. Affirmed	Rule 11	Denied - Application of Ydale Banks (Order filed - 9-18-12)
In Re: Estate of John J. Goza W2011-01303-SC-R11-CV	Shelby County Probate Court Judge Robert Benham No. D-10567	Farmer, J. Affirmed	Rule 11	Denied - Application of Estate of John J. Goza (SunTrust's request for an award of its attorneys fees and costs incurred in answering the Tenn. R. App. P. 11 application is likewise denied). (Order filed - 9-20-12)
Jason M. Justice v. State of Tennessee W2010-02646-SC-R11-PC	Madison County Circuit Court Judge Roger A. Page No. C-10-102	Woodall, J. Affirmed	Rule 11	Denied - Application of Jason M. Justice (Order filed - 9-18-12)

Vivian Kennard v. Methodist Hospitals of Memphis a/k/a Methodist Healthcare-Memphis Hospitals, <u>et al.</u> W2010-01355-SC-R11-CV	Shelby County Circuit Court Judge Robert L. Childers No. CT-000267-07	Highers, P.J., W.S. Remanded	Rule 11	Denied - Application of Methodist Healthcare-Memphis Hospitals, Michael Vernon, Paula Strong, and Medical Anesthesia Group, P.A. (Order filed - 9-18-12)
PNC Multifamily Capital Institutional Fund XXVI Limited Partnership, <u>et al.</u> v. Bluff City Community Development Corporation, <u>et al.</u> W2011-00325-SC-R11-CV	Shelby County Chancery Court Chancellor Arnold B. Goldin No. CH-08-1494	Stafford, J. Reversed in Part; Affirmed in Part; and Remanded	Rule 11	Denied - Application of PNC Multifamily Capital Institutional Fund XXVI Limited Partnership, <u>et al.</u> (Order filed - 9-19-12)
State of Tennessee v. Curtis Blackmon W2011-00963-SC-R11-CD	Shelby County Criminal Court Judge W. Mark Ward No. 10-01211-12	Glenn, J. Affirmed	Rule 11	Denied - Application of Curtis Blackmon (Order filed - 9-19-12)
State of Tennessee v. Bryan Keith Bradford W2010-02627-SC-R11-CD	Gibson County Circuit Court Judge Clayburn Peoples No. 18276	Tipton, P.J. Affirmed	Rule 11	Denied - Application of Brian Keith Bradford (Order filed - 9-20-12)
State of Tennessee v. Brian Montrel Brawner, Randy Leon Miller, and Sam Edward Stevenson W2010-02591-SC-R11-CD	Madison County Circuit Court Judge Roy B. Morgan No. 10-125	Glenn, J. Affirmed	Rule 11	Denied - Application of Randy Leon Miller and Sam Edward Stevenson (Order filed - 9-18-12)
State of Tennessee v. James Britt W2010-02090-SC-R11-CD	Shelby County Criminal Court Judge W. Mark Ward No. 08-05557	Woodall, J. Affirmed	Rule 11	Denied - Application of James Britt (Order filed - 9-18-12)
State of Tennessee v. Bryant Carter W2010-02673-SC-R11-CD	Shelby County Criminal Court Judge John T. Fowlkes, Jr. No. 09-02185	Woodall, J. Affirmed	Rule 11	Denied - Application of Bryant Carter (Order filed - 9-20-12)

State of Tennessee v. Jeremiah Dawson W2010-02621-SC-R11-CD	Shelby County Criminal Court Judge J. Robert Carter No. 08-06150	Ogle, J. Affirmed in Part and Reversed in Part	Rule 11	Denied - Application of Jeremiah Dawson (Order filed - 9-20-12)
State of Tennessee v. Mark Demcovitz W2010-02459-SC-R11-CD	Shelby County Criminal Court Judge Paula Skahan No. 06-06817	Bivins, J. Affirmed	Rule 11	Denied - Application of Mark Demcovitz (Order filed - 9-19-12)
State of Tennessee v. Ronald Duckett W2010-02158-SC-R11-CD	Shelby County Criminal Court Judge John T. Fowlkes, Jr. No. 09-04577	Woodall, J. Affirmed	Rule 11	Denied - Application of Ronald Duckett (Order filed - 9-19-12)
State of Tennessee v. Sean Higgins W2010-00779-SC-R11-CD	Shelby County Criminal Court Judge Chris Craft No. 07-08275	Ogle, J. Affirmed	Rule 11	Denied - Application of Sean Higgins (Order filed - 9-18-12)
State of Tennessee v. Monte Hull W2010-02322-SC-R11-CD	Shelby County Criminal Court Judge W. Mark Ward No. 09-06874	Woodall, J. Affirmed	Rule 11	Denied - Application of Monte Hull (Order filed - 9-18-12)
State of Tennessee v. Doris Miller W2011-01181-SC-R11-CD	Shelby County Criminal Court Judge W. Mark Ward No. 08-03558	Glenn, J. Affirmed	Rule 11	Denied - Application of Doris Miller (Order filed - 9-20-12)
State of Tennessee v. Randall Murphy W2011-00744-SC-R11-CD	Madison County Circuit Court Judge Donald H. Allen No. 10-515	Witt, J. Affirmed	Rule 11	Denied - Application of Randall Murphy (Order filed - 9-19-12)

State of Tennessee v. Terry Lee Murphy W2012-01152-SC-S09-CD	Madison County Circuit Court Judge William C. Lee No. 11595	Williams, J. Glenn, J. McMullen, J. Rule 9 Denied	Rule 9	Denied - Application of Terry Lee Murphy (Order filed - 9-18-12)
State of Tennessee v. Paul Richardson W2011-01434-SC-R11-CD	Shelby County Criminal Court Judge James Beasley No. 05-03372	Williams, J. Affirmed	Rule 11	Denied - Application of Paul Richardson (Order filed - 9-18-12)
State of Tennessee v. Michael Small W2009-00858-SC-R11-CD	Shelby County Criminal Court Judge John T. Fowlkes, Jr. Nos. 01-00913 & 01-00914	Glenn, J. Affirmed	Rule 11	Denied - Application of Michael Small (Order filed - 9-20-12)
State of Tennessee v. Bruce Turner W2010-02513-SC- R11-CD	Shelby County Criminal Court Judge Carolyn W. Blackett No. 09-03560	Tipton, P.J. Affirmed	Rule 11	Denied - Application of Bruce Turner (Order filed - 9-19-12)
State of Tennessee v. Tehren Carthel Wilson W2010-02613-SC-R11-CD	Madison County Circuit Court Judge Roger A. Page No. 09-728	Glenn, J. Affirmed and Remanded for entry of corrected Judgment	Rule 11	Denied - Application of Tehren Carthel Wilson (Order filed - 09-20-12)
Steve Sullivan and Kathryn Sullivan, Ind. And as Parents and Next Friends of Geyson Sullivan, a Minor v. Methodist Healthcare-Memphis Hospitals W2012-00397-SC-S09-CV	Shelby County Circuit Court Judge Donna Fields No. CT-005973-06	Per Curiam Rule 9 Denied	Rule 9	Denied - Application of Methodist Healthcare-Memphis Hospitals (Order filed - 9-18-12)
The Board of Mayor and Alderman of the City of Lexington v. Lexington Electric Utility Board, <u>et al.</u> W2012-00450-SC-S09-CV	Henderson County Chancery Court Chancellor James F. Butler No. 24636	Highers, P.J., W.S. COA Farmer, J. Rule 9 Denied	Rule 9	Denied - Application of Board of Mayor and Alderman of the City of Lexington (Order filed - 9-19-12)

Al H. Thomas, <u>ex rel.</u> , Citizens and Taxpayers of the City of Memphis v. Joseph Lee III, <u>et al.</u> W2011-01645-SC-R11-CV	Shelby County Chancery Court Chancellor Arnold B. Goldin No. CH-09-1495-2	Kirby, J. Affirmed	Rule 11	Denied - Application of Al H. Thomas (Order filed - 09-20-12)
Mack Transou v. Dwight Barbee, Warden W2010-00258-SC-R11-HC	Lauderdale County Circuit Court Judge Joe H. Walker III No. CV-6540	Glenn, J. Affirmed - Rule 20	Rule 11	Denied - Application of Mack Transou (Order filed - 9-19-12)

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

DORIS CANNON EX REL. JUANITA E. GOOD v. BHASKAR REDDY, M.D.

**Circuit Court for Maury County
Nos. 13810 and 13648**

No. M2012-01332-SC-S10-CV

ORDER

Upon consideration of the Rule 10 application for extraordinary appeal of Bhaskar Reddy, M.D. and the record before us, the application is granted.

In addition to the issues stated in the Rule 10 application, the Court directs the parties to address the following issue:

Whether, after having once voluntarily dismissed a case, the provision of written notice pursuant to Tennessee Code Annotated section 29-26-121 operates to extend the time for commencing a new action pursuant to the Tennessee Savings Statute, Tenn. Code Ann. § 28-1-105.

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

HONG SAMOUTH RAJVONGS v. ANTHONY WRIGHT

**Circuit Court for Rutherford County
No. 62176**

No. M2011-01889-SC-S09-CV

ORDER

Upon consideration of the Tenn. R. App. P. 11 application for permission to appeal filed on behalf of Anthony Wright, 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

STATE OF TENNESSEE v. PRINCETON MOODY

**Criminal Court for Shelby County
No. 0906207**

No. W2011-00376-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Princeton Moody and the record before us, this Court is of the opinion that the Court of Criminal Appeals properly affirmed the trial court's judgments with regard to the convictions and sentences for Second Degree Murder and Aggravated Assault in Counts One and Two, respectively, but that the Judgment Order for Count Three, Reckless Endangerment, is void. The Court notes that Princeton Moody was originally charged in Count Three with aggravated assault by use of a deadly weapon. After being instructed on the offense of aggravated assault and the lesser included offense of simple assault, the jury returned a verdict for Reckless Endangerment, an offense for which it was not instructed. Furthermore, while the Judgment Order reflects a conviction for felony Reckless Endangerment, the sentence imposed is one for misdemeanor Reckless Endangerment.

Accordingly, Princeton Moody's application is summarily granted for the limited purpose of remanding the case to the trial court to set aside the Reckless Endangerment conviction as void.

PER CURIAM