



Tennessee Supreme Court
DISCRETIONARY APPEALS
Grants & Denials List
February 9, 2015 - February 13, 2015

GRANTS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Appellate Judge/Judgment	Nature Of Appeal	Action
<u>Nashville</u>				
GUY HAWKINS v. DIANA LE-HAWKINS M2013-02068-SC-R11-CV	Coffee County Chancery Court Vanessa Jackson 2012CV380	Clement Jr., Frank G.: Affirmed	TRAP 11	Granted: Application of Diana Le-Hawkins Order filed 2-13-15 (See Attached Order)
ADAM ELLITHORPE, ET AL. v. JANET WEISMAR M2014-00279-SC-R11-CV	Davidson County Circuit Court Thomas W. Brothers 13C2775	Stafford, J. Steven: Vacated	TRAP 11	Granted: Application of Janet Weismark Order filed 2-13- 15(See Attached Order)

STEPHEN MICHAEL WEST, ET AL. v. DERRICK D. SCHOFIELD, ET AL.
M2014-02478-SC-R10-CV

Davidson County Chancery Court
Claudia Bonnyman
1316271

TRAP 10 (from
Interm. Court)

Granted:
Application of
Derrick D. Schofield,
et al; Order filed 2-
13-15 (See Attached
Order)

Knoxville

RHONDA POTTER, ET AL. v. WILLIAM DALE
PERRIGAN M. D., ET AL.
E2013-01442-SC-R11-CV

Cumberland County Circuit Court
Amy V. Hollars
CV005289

McClarty, John W.: Reversed

TRAP 11

Granted:
Applcation of
Michael Dale
Perrigan, M. D and
Crossville
Gynecology
Associates, P. C.

Order filed 2-13-
15(See Attached
Order)

Jackson

PERVIS TYRONE PAYNE v. STATE OF TENNESSEE
W2013-01248-SC-R11-PD

Shelby County Criminal Court
J. Robert Carter, Jr.
P9594

Glenn, Alan E.: Affirmed
McMullen, Camille R.: Concur in
Part/Dissent in Part

TRAP 11

Granted:
Application of
Pervis Tyrone Payne

Order filed 2-13-15
(See Attached
Order)

STATE OF TENNESSEE v. WILLIE DUNCAN
W2013-02554-SC-R11-CD

Shelby County Criminal Court
W. Mark Ward
1202348

Smith, Jerry L.: Affirmed in Part,
Reversed in Part, Dismissed

TRAP 11

Granted:
Applcation of State
of Tennessee;
Denied: Application
of Willie Duncan

Order filed 2-13-
15(See Attached
Order)

DENIALS

Style/Appeal Number

County/Trial Judge/ Trial Court No.

Appellate Judge/Judgment

Nature Of Appeal

Action

Nashville

KATHRYN A. DUKE v. HAROLD W. DUKE, III
M2013-00624-SC-R11-CV

Williamson County Chancery
Court
James G. Martin, III
33519

McBrayer, W. Neal: Affirmed in Part,
Reversed in Part

TRAP 11

Denied: Application
of Harold W. Duke,
III

Order filed 2-13-15

STATE OF TENNESSEE v. BRIAN CASSELL
MCGROWDER
M2013-01184-SC-R11-CD

Davidson County Criminal Court
Mark J. Fishburn
2012B1817

Ogle, Norma McGee: Affirmed

TRAP 11

Denied: Application
of Brian Cassell
McGrowder

Order filed 2-12-15

STATE OF TENNESSEE v. ANTONIO LAMONT FREEMAN M2013-01813-SC-R11-CD	Sumner County Circuit Court Dee David Gay 2010CR820	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Antonio Lamont Freeman Order filed 2-12-15
BRINGLE FARMS PARTNERSHIP v. STATE OF TENNESSEE M2013-02278-SC-R11-CV	Tennessee Claims Commission Commissioner, TN. Claims Commission (Middle Division) 20090796	Clement Jr., Frank G.: Affirmed in Part, Reversed in Part	TRAP 11	Denied: Application of Bringle Farms Partnership Order filed 2-12-15
RANDY SCOTT LOWER v. MELANIE EWING LOWER M2013-02593-SC-R11-CV	Montgomery County Chancery Court Ross H. Hicks MCCHCVDI09328	McClarty, John W.: Affirmed	TRAP 11	Denied: Application of Randy Scott Lower Order filed 2-13-15
TWB ARCHITECTS, INC. v. THE BRAXTON, LLC, ET AL. M2013-02740-SC-R11-CV	Cheatham County Chancery Court Robert E. Burch 14181	Bennett, Andy D.: Reversed	TRAP 11	Denied: Application of The Braxton, LLC and Fidelity and Deposit Company of Maryland

STATE OF TENNESSEE v. CARY ARNAZ HARBIN, III M2013-02742-SC-R11-CD	Sumner County Criminal Court Dee David Gay 4922013	Thomas Jr., D. Kelly: Reversed	TRAP 11	Denied: Application of Cary Arnaz Harbin, III; Opinion of the Court of Criminal Appeals designated "Not For Citation"with Supreme Court Rule 4(E) Order filed 2-13-15(See Attached Order)
STATE OF TENNESSEE v. JEFFERY SCOTT HUTCHINSON M2013-02746-SC-R11-CD	Bedford County Circuit Court Franklin L. Russell 17535, 17609	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Jeffery Scott Hutchinson Order filed 2-13-15
WILLIAM LAMONT GREEN v. STATE OF TENNESSEE M2013-02840-SC-R11-PC	Davidson County Criminal Court Cheryl A. Blackburn 2007B1404	Montgomery Jr., Robert H.: Affirmed	TRAP 11	Denied: Application of Wiliam Lamont Green Order filed 2-13-15

JERRY LYNN DRIVER v. STATE OF TENNESSEE M2014-00015-SC-R11-CO	Davidson County Criminal Court J. Randall Wyatt, Jr. 8851651	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Jerry Lynn Driver Order filed 2-12-15
KAITYLYN ALEXIS MCGINNIS, ET AL. v. AUBIE L. COX, ET AL. M2014-00102-SC-R11-CV	Giles County Circuit Court Robert L. Jones CC11441	Stafford, J. Steven: Affirmed	TRAP 11	Denied: Application of Kaitlyn Alexis McGinnis Order filed 2-12-15
STATE OF TENNESSEE v. ROBERT ALLEN LESTER, JR. M2014-00225-SC-R11-CD	Dekalb County Circuit Court David A. Patterson 2013CR115, 2013CR116, 2013CR117, 2013CR118, 2013CR119, 2013CR120, 2013CR121, 2013CR122, 2013CR123, 2013CR124, 2013CR125, 2013CR126, 2013CR127, 2013CR128	Easter, Timothy L.: Affirmed in Part	TRAP 11	Denied: Application of Robert Allen Lester Order filed 2-13-15
TERRY DONELLE SANDERS v. STATE OF TENNESSEE M2014-00236-SC-R11-PC	Houston County Circuit Court George C. Sexton 2008CR5130	Montgomery Jr., Robert H.: Affirmed	TRAP 11	Denied: Application of Terry Donelle Sanders Order filed 2-12-15

STATE OF TENNESSEE v. LUCIAN ALAN GREEN M2014-00242-SC-R11-CD	Robertson County Circuit Court Michael R. Jones 2013CR447	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of Lucian Alan Green Order filed 2-12-15
NELSON V. PLANA v. STATE OF TENNESSEE M2014-00359-SC-R11-PC	Montgomery County Circuit Court Paul G. Summers 40100094	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Nelson V. Plana Order filed 2-13-15
NATHANIEL CARSON v. STATE OF TENNESSEE M2014-00422-SC-R11-PC	Davidson County Criminal Court Seth W. Norman 2009A260	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Nathaniel Carson Order filed 2-12-15
STATE OF TENNESSEE v. ERIC T. GILBERT M2014-00473-SC-R11-CD	Robertson County Circuit Court Michael R. Jones 2012CR579	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Eric T. Gilbert Order filed 2-13-15

JOHN JOSEPH KRATOCHVIL v. STATE OF TENNESSEE M2014-00600-SC-R11-HC	Davidson County Criminal Court J. Randall Wyatt, Jr. 2009B1893	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of John Joseph Kratochvil Order filed 2-13-15
STATE OF TENNESSEE v. ROHMAN M. HARPER M2014-00944-SC-R11-CD	Cheatham County Circuit Court George C. Sexton 16363	Montgomery Jr., Robert H.: Affirmed in Part, Vacated in Part	TRAP 11	Denied: Application of Rohman M. Harper Order filed 2-12-15
RONNIE LEE JOHNSON v. STATE OF TENNESSEE M2014-01198-SC-R11-ECN	Putnam County Criminal Court David A. Patterson 070589	Wedemeyer, Robert W.: Affirmed	TRAP 11	Denied: Application of Ronnie Lee Johnson Order filed 2-13-15
EMMITT CARTER v. JAMES MICHAEL ROGAN M2014-01340-SC-R11-CV	Sumner County Chancery Court Tom E. Gray 2011C11	Per Curiam: Case Dispositional Decision	TRAP 11	Denied: Application of James Michael Rogan Order filed 2-13-15

Knoxville

PAUL T. COLEMAN v. BILLIE A. BROWN, ET AL. E2013-01544-SC-R11-CV	Knox County Chancery Court John F. Weaver 1604961	Frierson II, Thomas R.: Affirmed as Modified	TRAP 11	Denied: Application of Paul T. Coleman Order filed 2-13-15
STATE OF TENNESSEE v. DARYLL SHANE STANLEY E2013-01739-SC-R11-CD	Knox County Criminal Court Bobby R. McGee 58548	Woodall, Thomas T.: Affirmed in Part, Modified in Part	TRAP 11	Denied: Application of Daryll Shane Stanley Order filed 2-12-15
ROMELIO R. RUIZ v. SHEILA RUIZ E2013-02142-SC-R11-CV	Hamilton County Circuit Court W. Neil Thomas, III 11D258	Susano Jr., Charles D.: Affirmed as Modified	TRAP 11	Denied: Application of Romelio Ruiz Order filed 2-12-15
STATE OF TENNESSEE v. TRAVIS GROVER RICHARDSON E2013-02250-SC-R11-CD	Carter County Circuit Court Jon Kerry Blackwood 21401	Easter, Timothy L.: Affirmed in Part, Reversed in Part	TRAP 11	Denied: Application of Travis Grover Richardson Order field 2-13-15

IVAN CHARLES GRAVES v. STATE OF TENNESSEE E2013-02445-SC-R11-PC	Knox County Criminal Court Jon Kerry Blackwood 97941	Woodall, Thomas T.: Affirmed	TRAP 11	Denied: Application of Ivan Charles Graves Order filed 2-12-15
BLAIN STEVEN COVERT v. STATE OF TENNESSEE E2013-02531-SC-R11-PC	Campbell County Circuit Court E. Shayne Sexton 15983	Tipton, Joseph M.: Reversed Woodall, Thomas T.: Dissent	TRAP 11	Denied: Application of Blain Steven Covert Order filed 2-12-15
GREGORY LEE BOGGS, ET AL v. DINAH K. RHEA E2013-02859-SC-R11-CV	Greene County Circuit Court Thomas J. Wright 11CV288TJW	Swiney, D. Michael: Affirmed as Modified	TRAP 11	Denied: Application of Gregory Lee Boggs Order filed 2-12-15
WALTER ALLEN GAULT v. JANO JANNOYAN, ET AL E2014-00218-SC-R11-CV	Knox County Chancery Court Michael W. Moyers 1851553	Susano Jr., Charles D.: Affirmed	TRAP 11	Denied: Application of Walter Allen Gault Order filed 2-13-15

TRAY D. TURNER v. STATE OF TENNESSEE E2014-00666-SC-R11-PC	Knox County Criminal Court Bobby R. McGee 102127	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Tray D. Turner Order filed 2-12-15
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IN RE AUSTIN A., ET AL. E2014-00910-SC-R11-PT	Washington County Juvenile Court Robert D. Arnold J14271, J14272	McClarty, John W.: Affirmed	TRAP 11	Denied: Application of the mother, Amanda P. Order filed 2-13-15
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Jackson

STATE OF TENNESSEE V. MITCHELL GARNER W2008-01333-SC-R11-CD	Shelby County Criminal Court Paula L. Skahan 0702157	McMullen, Camille R.: Affirmed	TRAP 11	Denied: Application of Mitchell Garner Order filed 2-13-15
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STATE OF TENNESSEE v. ANTONIO JACKSON and JOLETTA SUMMERS W2013-00185-SC-R11-CD	Shelby County Criminal Court Carolyn W. Blackett 1101531	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Joletta Summers Order filed 2-13-15
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STATE OF TENNESSEE v. KENNETH BROWN W2013-00329-SC-R11-CD	Shelby County Criminal Court Lee V. Coffee 1107432	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of Kenneth Brown Order filed 2-13-15
STATE OF TENNESSEE v. RACRIS THOMAS W2013-00851-SC-R11-CD	Shelby County Criminal Court Lee V. Coffee 1107851	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of Racris Thomas; OPN of Court of Criminal Appel designated "Not for Citation" accordance with Supreme Court Rule 4(E), Order filed 2-12-15(See Attached Order)
CHARLES HALL v. STATE OF TENNESSEE W2013-01438-SC-R11-PC	Shelby County Criminal Court W. Mark Ward 0400120	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Charles Hall Order field 2-13-15
DEMARIO THOMAS v. STATE OF TENNESSEE W2013-01818-SC-R11-PC	Shelby County Criminal Court James M. Lammey 0803938	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Demario Thomas Order filed 2-12-15

STATE OF TENNESSEE v. MICHAEL KIZER W2013-02559-SC-R11-CD	Shelby County Criminal Court James C. Beasley, Jr. 1008128	Holloway Jr., Robert L.: Affirmed	TRAP 11	Denied: Application of Michael Kizer Order filed 2-13-15
SAMUEL E. STEVENSON v. STATE OF TENNESSEE W2013-02656-SC-R11-PC	Madison County Circuit Court Roy B. Morgan, Jr. C13266	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Samuel E. Stevenson Order filed 2-12-15
CARL RENEE BROWN v. STATE OF TENNESSEE W2013-02774-SC-R11-PC	Shelby County Criminal Court James M. Lammey 8606424, 8606425, 8606426	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Carl Renee Brown Order filed 2-12-15
GARY LILLEY v. STATE OF TENNESSEE W2013-02779-SC-R11-PC	Shelby County Criminal Court Lee V. Coffee 1104740	Wedemeyer, Robert W.: Affirmed	TRAP 11	Denied: Application of Gary Lilley Order filed 2-12-15

STATE OF TENNESSEE v. CARL MILLER JR. W2014-00054-SC-R11-CD	Shelby County Criminal Court Paula L. Skahan 1003135	Holloway Jr., Robert L.: Affirmed	TRAP 11	Denied: Application of Carl Miller, Jr. Order filed 2-13-15
MACK TRANSOU v. STATE OF TENNESSEE W2014-00537-SC-R11-ECN	Madison County Circuit Court Roy B. Morgan, Jr. C1441	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Mack Transou Order field 2-13-15
BARRY LAMONT PRICE v. STATE OF TENNESSEE W2014-01209-SC-R11-ECN	Madison County Circuit Court Roy B. Morgan, Jr. C1432	Page, Roger A.: Affirmed	TRAP 11	Denied: Application og Barry Lamont Price Order filed 2-12-15
RONNIE BRADFIELD v. STATE OF TENNESSEE W2014-01611-SC-R11-PC	Shelby County Criminal Court James C. Beasley, Jr. P18580	Glenn, Alan E., Page, Roger A., Williams, John Everett: Case Dispositional Decision	TRAP 11	Denied: Application of Ronnie Bradfield Order field 2-13-15

CURTIS MOORE v. SHELBY COUNTY CRIMINAL
COURT
W2014-02137-SC-R11-CO

Shelby County Criminal Court
J. Robert Carter, Jr.
1004087

TRAP 11

Denied: Application
of Curtis Moore

Order filed 2-13-15

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

GUY HAWKINS v. DIANA LE-HAWKINS

**Chancery Court for Coffee County
No. 2012CV380**

No. M2013-02068-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of Diana Le-Hawkins and the record before us, the application is granted. In addition to the issues raised in the application, the Court directs the parties to address the issue of the validity of the divorce in light of the challenge to the Marital Dissolution Agreement.

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

ADAM ELLITHORPE, ET AL. v. JANET WEISMAR

**Circuit Court for Davidson County
No. 13C2775**

No. M2014-00279-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of the applicant, Janet Weismark, 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

**STEPHEN MICHAEL WEST, ET AL. V. DERRICK D. SCHOFIELD, ET
AL.**

**Chancery Court for Davidson County
No. 131627I**

No. M2014-02478-SC-R10-CV

ORDER

This case is before the Court on the Tenn. R. App. P. 10 application filed by the defendants, Derrick D. Schofield, et al., and the responses filed by the plaintiffs, Stephen Michael West, et al. Upon due consideration of the application and responses, the Court finds that the application is well-taken and should be GRANTED only as to the first issue raised by the defendants in the application:

Is the plaintiffs' challenge to the constitutionality of electrocution as a method of execution in Tennessee non-justiciable, unripe, and subject to immediate summary dismissal, when none of the plaintiffs is presently subject to execution by electrocution, and the use of that method of execution in Tennessee is contingent on hypothetical, future, and speculative events?

It is further ORDERED that the parties designate for filing in the trial court clerk's office by February 20, 2015, only those portions of the record necessary for resolution of the first issue presented in the application. The trial court clerk is hereby ordered to file only those portions of the record designated by the parties with the Appellate Court Clerk's Office in Nashville on or before March 2, 2015. No additional briefing is required. If the parties wish to file supplemental briefs, the defendants' brief is due to be filed by March 13, 2015, and the plaintiffs' briefs are due to be filed by April 10, 2015. Oral argument is scheduled in this matter for May 6, 2015, in Knoxville.

Justice Gary R. Wade dissents from this order because, in his view, the trial court has not "so far departed from the accepted and usual course of judicial proceedings as to require immediate review," and review at this time is not "necessary for complete determination of

the action on appeal.” Tenn. R. App. P. 10(a); see also Gilbert v. Wessels, No. E2013-00255-SC-R11-CV, 2014 WL 7184306, at *3 (Tenn. Dec. 18, 2014) (“Rule 10 appeals are reserved only for extraordinary departures from the accepted and usual course of judicial proceedings.”).

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

RHONDA POTTER ET AL. v. MICHAEL DALE PERRIGAN, M.D. ET AL.

**Circuit Court for Cumberland County
No. CV005289**

No. E2013-01442-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of Michael Dale Perrigan, M.D. and Crossville Gynecology Associates, P.C. and the record before us, the Court is of the opinion that the application should be, and is hereby, granted for the purpose of remanding the case to the Court of Appeals for reconsideration in light of this Court's opinion in *Foster v. Chiles*, No. E2012-01780-SC-R11-CV, 2015 WL 343872 (Tenn. Jan. 27, 2015).

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

PERVIS TYRONE PAYNE v. STATE OF TENNESSEE

**Criminal Court for Shelby County
No. P9594**

No. W2013-01248-SC-R11-PD

ORDER

Upon consideration of the application for permission to appeal of Pervis Tyrone Payne and the record before us, the application is granted.

In addition to the other issues raised in Mr. Payne's application for permission to appeal, the Court is particularly interested in briefing and argument on the questions of

(1) the appropriate remedy for an intellectual disability claim under these circumstances if coram nobis relief is not available; and

(2) the relevance, if any, of the holding in Van Tran v. Colson, 764 F.3d 594 (6th Cir. 2014), regarding retroactive application of this Court's decision in Coleman v. State, 341 S.W.3d 221 (Tenn. 2011).

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. WILLIE DUNCAN

**Criminal Court for Shelby County
No. 1202348**

No. W2013-02554-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal filed by Willie Duncan on November 7, 2014, and the record before us, the application is denied. The “Motion Asking Court to Waive Requirement that Appellant Furnish this Court and Opposing Counsel with Copies of Unpublished Decisions Cited in his Application for Permission to Appeal” filed by Mr. Duncan is hereby granted.

Upon consideration of the application for permission to appeal filed by the State of Tennessee on December 26, 2014, 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. CARY ARNAZ HARBIN, III

**Criminal Court for Sumner County
No. 4922013**

No. M2013-02742-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Cary Arnaz Harbin, III and the record before us, the application is denied.

The opinion of the Court of Criminal Appeals is designated “Not For Citation” in accordance with Supreme Court Rule 4, section E.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

STATE OF TENNESSEE v. RACRIS THOMAS

**Criminal Court for Shelby County
No. 1107851**

No. W2013-00851-SC-R11-CD

ORDER

Upon consideration of the pro se application for permission to appeal of Racris Thomas, and the record before us, the application is denied.

The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4(E).

PER CURIAM