



Tennessee Supreme Court  
**DISCRETIONARY APPEALS**  
Grants & Denials List  
October 12, 2015 - October 16, 2015

**GRANTS**

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Appellate Judge/Judgment	Nature Of Appeal	Action
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**Nashville**

CLARK DERRICK FRAZIER v. STATE OF TENNESSEE M2014-02374-SC-R11-ECN	Robertson County Circuit Court John H. Gasaway, III 060350	Holloway Jr., Robert L.: Affirmed	TRAP 11	Granted: Application of Clark Derrick Frazier  Order filed 10-15-15 (See Attached Order)
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**Knoxville**

DONALD M. CLARK ET AL. v. AIMEE L. CAIN ET AL. E2015-00949-SC-R11-CV	Hamilton County Circuit Court W. Neil Thomas, III 12C1147CV	McClarty, John W., Susano Jr., Charles D., Swiney, D. Michael: Case Dispositional Decision	TRAP 11	Granted: Application of Aimee L. Cain et al. ;judgment of the trial court is vacated, remanded to trial court for proceedings consistent with this Order (See Attached
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**DENIALS**

**Style/Appeal Number**

**County/Trial Judge/  
Trial Court No.**

**Appellate Judge/Judgment**

**Nature Of Appeal**

**Action**

**Nashville**

STATE OF TENNESSEE v. OLBIN EUCEDA  
M2013-01572-SC-R11-CD

Davidson County Criminal Court  
Mark J. Fishburn  
2012A472

Woodall, Thomas T.: Affirmed

TRAP 11

Denied: Application  
of Olbin Euceda is  
untimely; Court  
denies to waive  
time limit in the  
interest of justice.  
Application is  
dismissed

Order filed 10-16-15

IN RE JUSTIN H.  
M2013-02517-SC-R11-JV

Bedford County Circuit Court  
Franklin L. Russell  
12062

Gibson, Brandon O.: Affirmed

TRAP 11

Denied: Application  
of Torry Hansen

Order filed 10-14-15

STATE OF TENNESSEE v. WINDIE L. PERRY M2014-00029-SC-R11-CD	Montgomery County Circuit Court John H. Gasaway, III 41100485	Holloway Jr., Robert L.: Affirmed in Part, Reversed in Part	TRAP 11	Denied: Application of Windie L. Perry  Order filed 10-15-15
DAVID H. MCCORD v. HCA HEALTH SERVICES OF TENNESSEE, INC. M2014-00142-SC-R11-CV	Davidson County Circuit Court Carol Soloman 13C291	Dinkins, Richard H.: Affirmed in Part, Reversed in Part, Dismissed	TRAP 11	Denied: Application of David H. McCord, M.D.  Order filed 10-15-15
STATE OF TENNESSEE v. KATHERINE LOUISE HOLMES M2014-00420-SC-R11-CD	Davidson County Criminal Court Mark J. Fishburn 2012A90	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Katherine Louise Holmes  Order filed 10-15-15
STATE OF TENNESSEE v. JAMES E. KENNER M2014-00613-SC-R11-CD	Davidson County Criminal Court J. Randall Wyatt, Jr. 1994B694	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of James E. Kenner  Order filed 10-15-15

STATE OF TENNESSEE v. JOSHUA L. CARTER AND ADONIS LASHAWN MCLEMORE M2014-00767-SC-R11-CD	Davidson County Criminal Court Mark J. Fishburn 2011B1648, 2011D3013	Page, Roger A.: Affirmed Williams, John Everett: Concur	TRAP 11	Denied: Application of Joshua L. Carter and Adonis LaShawn McClemore  Order filed 10-15-15
DANIEL DAVID EDEN v. STATE OF TENNESSEE M2014-00862-SC-R11-PC	Robertson County Circuit Court John H. Gasaway, III 74CC22010CR461	McMullen, Camille R.: Affirmed	TRAP 11	Denied: Application of Daniel Eden  Order filed 10-15-15
STATE OF TENNESSEE v. RODERICK DEWAYNE CROSBY M2014-00914-SC-R11-CD	Davidson County Criminal Court Mark J. Fishburn 2011B1911	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Roderick Dewayne Crosby  Order filed 10-15-15
STEVEN D. HILL v. STATE OF TENNESSEE M2014-00999-SC-R11-PC	Maury County Circuit Court Robert L. Jones 20740	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of Steven D. Hill  Order filed 10-16-15

STATE OF TENNESSEE v. ADAM DANSBY FRAZIER M2014-01027-SC-R11-CD	Hickman County Circuit Court Timothy L. Easter 125132CRA	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Adam Dansby Frazier  Order filed 10-15-15
IN RE MAKENZIE L. M2014-01081-SC-R11-PT	Davidson County Juvenile Court Ben H Cantrell PT172865	Bennett, Andy D.: Affirmed in Part, Reversed in Part	TRAP 11	Denied: Application of Adam E. and Ashley E.  Order filed 10-15-15
STATE OF TENNESSEE v. DARREL HOCHHALTER M2014-01106-SC-R11-CD	Davidson County Criminal Court Steve R. Dozier 2012B1816	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Darrel Hochhalter  Order filed 10-15-15
JAMES T. PATTERSON v. LINCOLN MEDICAL CENTER M2014-01145-SC-R11-CV	Lincoln County Circuit Court Franklin L. Russell 13CV132	Dinkins, Richard H.: Affirmed	TRAP 11	Denied: Application of James T. Patterson  Order filed 10-16-15

STATE OF TENNESSEE v. ROY ALLEN SMITH M2014-01172-SC-R11-CD	Rutherford County Circuit Court Mitchell Keith Siskin F69010	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Roy Allen Smith  Order filed 10-15-15
JIMMY DILL v. CITY OF CLARKSVILLE M2014-01392-SC-R11-CV	Montgomery County Circuit Court Michael R. Jones MCCHCVDT10005	Goldin, Arnold B.: Affirmed	TRAP 11	Denied: Application of Jimmy Dill  Order filed 10-15-15
LAWRENCE FREEZE v. STATE OF TENNESSEE M2014-01396-SC-R11-PC	Fentress County Circuit Court E. Shayne Sexton 13PCR6	Williams, John Everett: Affirmed	TRAP 11	Denied: Application of Lawrence Freeze  Order filed 10-16-15
STATE OF TENNESSEE v. CHAD M. NICOL M2014-01474-SC-R11-CD	Wilson County Criminal Court David Earl Durham 13CR615	Wedemeyer, Robert W.: Affirmed	TRAP 11	Denied: Application of Chad M. Nicol  Order filed 10-16-15

SPYDELL DAVIDSON v. NADER BAYDOUN, ET AL. M2014-01486-SC-R11-CV	Davidson County Circuit Court Ben H Cantrell 11C2810	Clement Jr., Frank G.: Affirmed	TRAP 11	Denied: Application of Spydell Davidson  Order filed 10-16-15
STATE OF TENNESSEE v. KATHY L. BARTLETT M2014-01530-SC-R11-CD	Williamson County Circuit Court Michael Binkley ICR106759	Page, Roger A.: Reversed	TRAP 11	Denied: Application of the State of Tennessee  Order filed 10-15-15
MARTEZ D. MATTHEWS v. STATE OF TENNESSEE M2014-01663-SC-R11-ECN	Davidson County Criminal Court Mark J. Fishburn 2009D3252	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Martez D. Matthews  Order filed 10-15-15
STATE OF TENNESSEE v. MARIKA LYN FOSTER M2014-01923-SC-R11-CD	Putnam County Criminal Court Leon C. Burns, Jr. 080307A, 080554A, 080605A	Williams, John Everett: Affirmed & Dismissed	TRAP 11	Denied: Application of Marika Lyn Foster  Order filed 10-15-15

STATE OF TENNESSEE v. ADAM TODD TUCKER M2014-01931-SC-R11-CD	Lawrence County Circuit Court Jim T. Hamilton 30857, 31527, 31539, 31540	Montgomery Jr., Robert H.: Affirmed	TRAP 11	Denied: Application of Adam Todd Tucker  Order filed 10-16-15
RUSLAN EDWARD WOODBRIDGE v. STATE OF TENNESSEE M2014-02033-SC-R11-PC	Montgomery County Circuit Court John H. Gasaway, III 41200834	McMullen, Camille R.: Affirmed	TRAP 11	Denied: Application of Ruslan Edward Woodbridge  Order filed 10-16-15
JOANN LUNA v. WHITE COUNTY, TENNESSEE, ET AL. M2014-02111-SC-R11-CV	White County Circuit Court John J. Maddux, Jr. CC2434	Dinkins, Richard H.: Affirmed	TRAP 11	Denied: Application of Joann Luna  Order filed 10-15-15
MARCUS TERRELL CHURCH v. STATE OF TENNESSEE M2014-02342-SC-R11-PC	Davidson County Criminal Court J. Randall Wyatt, Jr. 2009A583	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Marcus Terrell Church  Order filed 10-15-15

STATE OF TENNESSEE v. KENTELL L. PEBBLES M2015-00071-SC-R11-CD	Rutherford County Circuit Court David M. Bragg F70133	Holloway Jr., Robert L., Wedemeyer, Robert W., Woodall, Thomas T.: Case Dispositional Decision	TRAP 11	Denied: Application of Kentell L. Peebles  Order filed 10-15-15
STATE OF TENNESSEE v. DERRICK CAREY M2015-00185-SC-R11-CD	Davidson County Criminal Court Seth W. Norman 93B762	McMullen, Camille R.: Affirmed	TRAP 11	Denied: Application of Derrick Carey  Order filed 10-15-15
DAVID SCOTT KRUSE v. STATE OF TENNESSEE M2015-00360-SC-R11-PC	Trousdale County Criminal Court Brody N. Kane 541A23	Page, Roger A.: Affirmed	TRAP 11	Denied: Application of David Scott Kruse  Order filed 10-16-15
THEAUDRY HALL ET AL v. USF HOLLAND, INC, ET AL M2015-01051-SC-R23-CV	U.S. District Court, Western District (West. Div.)  14cv2494SHLdkv		SCT Rule 23	Denied: Hall's Rule 23 Certified Question Of Law; USF's motion is denied as moot.; TDLA's and TAJ's motions are denied as moot.  Order filed 10-15-15

<p>THE METROPOLITAN GOVERNMENT v. ALBERT M. BENDER, ET AL. M2015-01500-SC-R10-CV</p>	<p>Davidson County Chancery Court Carol L. McCoy 13299II</p>	<p>Per Curiam: Case Dispositional Decision</p>	<p>TRAP 10 (from Interm. Court)</p>	<p>Denied: Application of Albert M. Bender; costs are taxed to Mr. Bender and his surety, for which execution may issue  Order filed 10-16-15</p>
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<p>DANA PUGH v. HCA HEALTH SERVICES OF TENNESSEE, INC. D/B/A CENTENNIAL MEDICAL CENTER AND ACE AMERICAN INSURANCE COMPANY M2015-01550-SC-R9-WC</p>	<p>Wilson County Chancery Court Charles K. Smith 2015CV203</p>		<p>TRAP 9</p>	<p>Denied: Application of HCA Health Services of Tennessee, Inc. d/b/a Centennial Medical Center and Ace American Insurance Company Order filed 10-15-15</p>
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**Knoxville**

<p>BASIL MARCEAUX v. CITY OF CHATTANOOGA E2014-00106-SC-R11-CV</p>	<p>Hamilton County Circuit Court Jacqueline Schulten Bolton 13C778</p>	<p>McClarty, John W.: Affirmed</p>	<p>TRAP 11</p>	<p>Denied: Application of Basil J. Marceaux, Sr.  Order filed 10-15-15</p>
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BRANDON MOBLEY v. STATE OF TENNESSEE E2014-00481-SC-R11-PC	Knox County Criminal Court Bobby R. McGee 89072	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Brandon Mobley  Order filed 10-15-15
CARRIE COGGINS ET AL. v. HOLSTON VALLEY MEDICAL CENTER E2014-00594-SC-R11-CV	Sullivan County Circuit Court John S. McLellan, III C39965M	Susano Jr., Charles D.: Vacated	TRAP 11	Denied: Application of Holston Valley Medical Center  Order filed 10-15-15
STATE OF TENNESSEE v. MALIK D. HARDIN E2014-00873-SC-R11-CD	Knox County Criminal Court Bobby R. McGee 101617	Witt Jr., James Curwood: Affirmed Thomas Jr., D. Kelly: Dissent	TRAP 11	Denied: Application of Malik D. Hardin; The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4 (e).  Order filed 10-15-15

FREDRICO A. DIXON, III v. PATRICIA GRISSOM E2014-00947-SC-R11-CV	Knox County Chancery Court Michael W. Moyers 1835833	Frierson II, Thomas R.: Reversed	TRAP 11	Denied: Application of Fredrico A. Dixon, III  Order filed 10-16-15
STATE OF TENNESSEE v. DEANTY MONTGOMERY E2014-01014-SC-R11-CD	Knox County Criminal Court Steven Wayne Sword 100682	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of Deanty Montgomery  Order filed 10-15-15
JOHN E. CARTER v SHARON TAYLOR, WARDEN E2014-01065-SC-R11-HC	Johnson County Criminal Court Robert E. Cupp CC14CV15	Thomas Jr., D. Kelly: Affirmed	TRAP 11	Denied: Application of John E. Carter; further the Motion to Recuse, the Motion to Hold in Abeyance, and the Motion for Appointment of Counsel filed by Mr. Carter is denied.  Order filed 10-15-15

ROBERT McALLISTER v. TIMOTHY RASH ET AL. E2014-01283-SC-R11-CV	Knox County Circuit Court Dale C. Workman 166812	Stafford, J. Steven: Other	TRAP 11	Denied: Application of Robert McAllister; Request for attorney fees in defendant Farmers Insurance Co. answer to application denied Order filed 10-16-15
SOUTHERN TRUST INSURANCE COMPANY v. MATTHEW PHILLIPS E2014-01581-SC-R11-CV	Anderson County Circuit Court Donald Ray Elledge B3LA0206	Gibson, Brandon O.: Affirmed	TRAP 11	Denied: Application of Southern Trust Insurance Company  Order filed 10-15-15
DEERIC MCAFEE V. STATE OF TENNESSEE E2014-01829-SC-R11-PC	Knox County Criminal Court Mary B. Leibowitz 101445	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of Deeric McAfee  Order filed 10-15-15
ERICA HARRIS v. STATE OF TENNESSEE E2014-01893-SC-R11-PC	Knox County Criminal Court Bobby R. McGee 102607	Easter, Timothy L.: Affirmed	TRAP 11	Denied: Application of Erica Harris  Order filed 10-15-15

STATE OF TENNESSEE v. DAVID WAYNE HEARING E2014-01908-SC-R11-CD	Greene County Criminal Court Thomas J. Wright 05CR193	Ogle, Norma McGee: Affirmed	TRAP 11	Denied: Application of David Wayne Hearing; the opinion of the Court of Criminal Appeals is designated "Not For Citation" in accordance with Supreme Court Rule 4(e). Order filed 10-16-15
STATE OF TENNESSEE v. PLAISE EDWARD SPANGLER E2014-01958-SC-R11-CD	McMinn County Criminal Court Andrew M. Freiberg 12CR165, 12CR325	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Plaise Edward Spangler  Order filed 10-15-15
STATE OF TENNESSEE EX REL LANDLE BYRGE ET AL v. NICHOLAS JAY YEAGER E2014-01996-SC-R11-CV	Anderson County Chancery Court Don R. Ash 14CH6354	Gibson, Brandon O.: Affirmed	TRAP 11	Denied: Application of Landle Byrge et al.  Order filed 10-16-15

KYLE BEVERLY, ET AL. v. HARDEE'S FOOD SYSTEMS, LLC E2014-02155-SC-R11-CV	Roane County Circuit Court Michael S. Pemberton 13CV60	McClarty, John W.: Affirmed in Part, Reversed in Part	TRAP 11	Denied: Application of Hardee's Food Systems, LLC  Order filed 10-16-15
STATE OF TENNESSEE v. WILLIAM BRIAN BROWN E2014-02361-SC-R11-CD	Campbell County Criminal Court E. Shayne Sexton 16202	Wedemeyer, Robert W.: Affirmed	TRAP 11	Denied: Application of William Brian Brown  Order filed 10-16-15
STATE OF TENNESSEE v. DANIEL H. JONES E2014-02463-SC-R11-CD	Sullivan County Criminal Court James F. Goodwin S52468, S53124, S53126, S53127	Easter, Timothy L.: Affirmed	TRAP 11	Denied: Application of Daniel H. Jones  Order filed 10-16-15
STATE OF TENNESSEE v. LUKE REPASS, ET AL. E2015-00336-SC-R11-CD	Hamilton County Criminal Court Barry A. Steelman 284246, 284506, 284525, 285239, 286862, 287842, 287934, 288251, 288460, 288461, 288733, 288770, 288996, 289827, 289849, 289862, 289981, 290128, 290144, 291012, 291492, 291591	Ogle, Norma McGee, Thomas Jr., D. Kelly, Witt Jr., James Curwood: Case Dispositional Decision	TRAP 11	Denied: Application of Lucas K. Repass et al.  Order filed 10-16-15

ASHLEY BURNETTE JUSTICE v. CHARLES SCOTT  
JUSTICE  
E2015-01457-SC-R10-CV

Jefferson County Circuit Court  
Thomas J. Wright  
24015II

McClarty, John W., Susano Jr., Charles  
D., Swiney, D. Michael: Case  
Dispositional Decision

TRAP 10 (from  
Interm. Court)

Denied: Application  
of Charles Scott  
Justice

Order filed 10-15-15

**Jackson**

BETTY GOFF C. CARTWRIGHT ET AL. v. JACKSON  
CAPITAL PARTNERS, LIMITED PARTNERSHIP ET AL.  
W2013-01865-SC-R11-CV

Shelby County Chancery Court  
Arnold B. Goldin  
CH0412662

Gibson, Brandon O.: Affirmed

TRAP 11

Denied: Application  
of Alan C.  
Cartwright

Order filed 10-16-15

STATE OF TENNESSEE v. JERALD JEFFERSON  
W2014-00784-SC-R11-CD

Shelby County Criminal Court  
Lee V. Coffee  
1105625

Glenn, Alan E.: Affirmed

TRAP 11

Denied: Application  
of Jerald Jefferson.  
The Opinion of the  
Court of Criminal  
Appeals is  
designated "Not For  
Citation" in  
accordance with  
Supreme Court  
Rule 4, (e).  
Order filed 10-15-15

JEFFERY G. DOUGLAS v. STATE OF TENNESSEE, ET AL. W2014-00831-SC-R11-CV	Madison County Circuit Court Paul G. Summers C12278	Gibson, Brandon O.: Dismissed	TRAP 11	Denied: Application of Jeffery G. Douglas; Applicant's motion for Appointment of counsel denied  Order filed 10-15-15
STATE OF TENNESSEE v. MICHAEL BLAND W2014-00991-SC-R11-CD	Shelby County Criminal Court James M. Lammey 1205597	Glenn, Alan E.: Affirmed	TRAP 11	Denied: Application of Michael Bland  Order filed 10-15-15
STATE OF TENNESSEE v. SHELTON POPE W2014-01057-SC-R11-CD	Shelby County Criminal Court J. Robert Carter, Jr. 1304615	Witt Jr., James Curwood: Affirmed	TRAP 11	Denied: Application of Shelton Pope  Order filed 10-16-15
SOUMYA PANDEY v. MANISH SHRIVASTAVA W2014-01071-SC-R11-CV	Shelby County Chancery Court Walter L. Evans CH0812591	Gibson, Brandon O.: Affirmed	TRAP 11	Denied: Application of Manish Shrivastava  Order filed 10-16-15

NAJO EQUIPMENT LEASING, INC. v. COMMISSIONER OF REVENUE W2014-01096-SC-R11-CV	Shelby County Chancery Court Arnold B. Goldin CH102125	Stafford, J. Steven: Affirmed	TRAP 11	Denied: Application of Najo Equipment Leasing, Inc.  Order filed 10-16-15
STATE OF TENNESSEE v. WAYNE SANDERS W2014-01455-SC-R11-CD	Shelby County Criminal Court W. Mark Ward 1200669	Holloway Jr., Robert L.: Affirmed	TRAP 11	Denied: Application of Wayne Sanders  Order filed 10-15-15
JOSHUA FAULKNER v. STATE OF TENNESSEE W2014-01572-SC-R11-PC	Shelby County Criminal Court James C. Beasley, Jr. 1107186	Wedemeyer, Robert W.: Affirmed	TRAP 11	Dismissed : Application of Joshua Faulkner  Order filed 10-15-15
JEFFERY G. DOUGLAS v. FRANCINE C. SCHREIBER, ET AL. W2014-02075-SC-R11-CV	Madison County Circuit Court Don R. Ash C148	Stafford, J. Steven: Dismissed	TRAP 11	Denied: Application of Jeffery G. Douglas; Motion for appointment of counsel denied; request to proceed in forma pauperis

granted.

Order filed 10-15-15

JEFFERY G. DOUGLAS v. JACKSON POLICE  
DEPARTMENT  
W2014-02076-SC-R11-CV

Madison County Circuit Court  
Nathan B. Pride  
C1475

Goldin, Arnold B.: Dismissed

TRAP 11

Denied: Application  
of Jeffery G.  
Douglas; Motion for  
appointment of  
counsel denied;  
Motion to proceed  
in forma pauperis is  
granted

Order filed 10-16-15

DWIGHT MILLER v. STATE OF TENNESSEE  
W2014-02093-SC-R11-PC

Haywood County Circuit Court  
J. Weber McCraw  
2401

Page, Roger A.: Affirmed

TRAP 11

Denied: Application  
of Dwight Miller;  
the separate  
application filed pro  
se by Mr. Miller is  
dismissed

Order filed 10-16-15

FORD MOTOR CREDIT COMPANY LLC v. ALICE MCCORMICK-JACKSON W2014-02485-SC-R11-CV	Shelby County Chancery Court Oscar C. Carr, III CH1405693	Gibson, Brandon O.: Affirmed	TRAP 11	Denied: Application of Alice McCormick-Jackson  Order filed 10-15-15
GABRIEL ANTONIO CLARK v. STATE OF TENNESSEE W2015-00705-SC-R11-PC	Madison County Circuit Court Roy B. Morgan, Jr. C0322	Glenn, Alan E., McMullen, Camille R., Williams, John Everett: Case Dispositional Decision	TRAP 11	Denied: Application of Gabriel Antonio Clark  Order filed 10-15-15
KELVIN J. DOWELL v. STATE OF TENNESSEE W2015-00742-SC-R11-PC	Tipton County Circuit Court Joe H. Walker, III 4910	Glenn, Alan E., Page, Roger A., Williams, John Everett: Case Dispositional Decision	TRAP 11	Denied: Application of Kelvin Jermaine Dowell  Order filed 10-15-15

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE

**DONALD M. CLARK ET AL. v. AIMEE L. CAIN ET AL.**

**Circuit Court for Hamilton County  
No. 12C1147CV**

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**No. E2015-00949-SC-R11-CV**

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**ORDER**

Plaintiffs filed a negligence claim against defendants Aimee L. Cain, AT&T Corp., AT&T Mobility, LLC, and AT&T Mobility Services, LLC (collectively “Defendants”) for personal injuries resulting from a motor vehicle collision. Plaintiffs sought non-economic damages in excess of the statutory cap under Tennessee Code Annotated section 29-39-102, and also requested that the trial court declare the statutory cap unconstitutional. Defendants moved for partial summary judgment, seeking to limit any award of non-economic damages to the amount permitted under the statute. Plaintiffs responded that the statutory cap was unconstitutional. The State, named as a party solely to defend the constitutionality of the statute, responded that the issue was not yet ripe because Plaintiffs had not yet been, and might never be, awarded a judgment in excess of the cap. The trial court disagreed, denied Defendants’ motions for partial summary judgment, and held the statute unconstitutional. The trial court granted Defendants an interlocutory appeal and stayed proceedings pending resolution of an appeal. The Court of Appeals denied Defendants’ application for permission to appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure.

Defendants and the State filed applications for permission to appeal pursuant to Rule 11 of the Tennessee Rules of Appellate Procedure. In their answer, Plaintiffs concurred that this Court should resolve the issue of the constitutionality of the statutory cap on non-economic damages. We disagree.

This Court recently addressed the related doctrines of justiciability and ripeness at length in West v. Schofield, 2015 WL 4035399 (Tenn. July 2, 2015). In West, we noted that Tennessee courts have long recognized that “the province of a court is to decide, not advise, and to settle rights, not to give abstract opinions.” Id. at \*5 (internal quotation

marks omitted). Tennessee courts, therefore, decide only “legal controversies,” which exist “when the disputed issue is real and existing, and not theoretical or abstract, and when the dispute is between parties with real and adverse interests.” Id. (internal quotation marks omitted). With respect to the ripeness doctrine in particular, we explained:

Ripeness . . . requires a court to answer the question of whether the dispute has matured to the point that it warrants a judicial decision. [R]ipeness is peculiarly a question of timing. [I]ts basic rationale is to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements. . . . The central concern of the ripeness doctrine is whether the case involves uncertain or contingent future events that may or may not occur as anticipated or, indeed, may not occur at all.

In determining whether a particular case is ripe, courts typically engage in a two-part analysis, evaluating (1) the fitness of the issues for judicial decision and (2) the hardship to the parties of withholding court consideration.

Id. at \*6 (citations and internal quotation marks omitted). We ultimately concluded that the electrocution claims at issue in West “depend entirely on future and contingent events that have not occurred and may never occur, and as a result, are unripe and nonjusticiable.” Id. at \*8.

The same may be said with respect to the issue of the constitutionality of the statutory cap on non-economic damages in this case. The statutory cap on non-economic damages will have no relevance in this case unless and until Plaintiffs obtain a verdict in excess of that cap. Under the terms of the statute, the limitation on the amount of non-economic damages is not disclosed to the jury; the cap is only applied by the trial court after a plaintiff’s verdict and an award of damages subject to and in excess of the cap. Tenn. Code Ann. § 29-39-102(g); see also Monypeny v. Kheiv, No. W2014-00656-COA-R3-CV, 2015 WL 1541333, at \*24 (Tenn. Ct. App. Apr. 1, 2015) (“[T]he jury should make its award as if the statutory cap does not exist, and the jury’s award should be based only on its determination of the allocation of fault in the case and its determination of the type and amount of damages.”). Whether the cap is implicated in this case thus remains an open question, and the issue of the constitutionality of that cap is not ripe for determination at this time. See Gummo v. Ward, No. 2:12-00060, 2013 WL 5446074 at \*1-2 (M.D. Tenn. Sept. 30, 2013) (finding that plaintiff’s claim that

caps on non-economic and punitive damages are unconstitutional was not ripe for consideration). The trial court, therefore, acted prematurely in considering Defendants' motion for partial summary judgment and Plaintiffs' constitutional challenge at this stage of the proceedings. Such consideration properly should await a verdict in favor of Plaintiffs in excess of the statutory cap, should the same occur.

Accordingly, upon consideration of the applications for permission to appeal of Defendants and of the State, the answer of Plaintiffs, and the record before us, the applications are granted, the judgment of the trial court is vacated, and the case is remanded to the trial court for proceedings consistent with this Order.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**STATE OF TENNESSEE v. ADAM DANSBY FRAZIER**

**Circuit Court for Hickman County  
No. 125132CRA**

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**No. M2014-01027-SC-R11-CD**

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**ORDER**

Upon consideration of the application for permission to appeal of Adam Dansby Frazier and the record before us, the application is denied.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE

**DONALD M. CLARK ET AL. v. AIMEE L. CAIN ET AL.**

**Circuit Court for Hamilton County  
No. 12C1147CV**

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**No. E2015-00949-SC-R11-CV**

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**ORDER**

Plaintiffs filed a negligence claim against defendants Aimee L. Cain, AT&T Corp., AT&T Mobility, LLC, and AT&T Mobility Services, LLC (collectively “Defendants”) for personal injuries resulting from a motor vehicle collision. Plaintiffs sought non-economic damages in excess of the statutory cap under Tennessee Code Annotated section 29-39-102, and also requested that the trial court declare the statutory cap unconstitutional. Defendants moved for partial summary judgment, seeking to limit any award of non-economic damages to the amount permitted under the statute. Plaintiffs responded that the statutory cap was unconstitutional. The State, named as a party solely to defend the constitutionality of the statute, responded that the issue was not yet ripe because Plaintiffs had not yet been, and might never be, awarded a judgment in excess of the cap. The trial court disagreed, denied Defendants’ motions for partial summary judgment, and held the statute unconstitutional. The trial court granted Defendants an interlocutory appeal and stayed proceedings pending resolution of an appeal. The Court of Appeals denied Defendants’ application for permission to appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure.

Defendants and the State filed applications for permission to appeal pursuant to Rule 11 of the Tennessee Rules of Appellate Procedure. In their answer, Plaintiffs concurred that this Court should resolve the issue of the constitutionality of the statutory cap on non-economic damages. We disagree.

This Court recently addressed the related doctrines of justiciability and ripeness at length in West v. Schofield, 2015 WL 4035399 (Tenn. July 2, 2015). In West, we noted that Tennessee courts have long recognized that “the province of a court is to decide, not advise, and to settle rights, not to give abstract opinions.” Id. at \*5 (internal quotation

marks omitted). Tennessee courts, therefore, decide only “legal controversies,” which exist “when the disputed issue is real and existing, and not theoretical or abstract, and when the dispute is between parties with real and adverse interests.” Id. (internal quotation marks omitted). With respect to the ripeness doctrine in particular, we explained:

Ripeness . . . requires a court to answer the question of whether the dispute has matured to the point that it warrants a judicial decision. [R]ipeness is peculiarly a question of timing. [I]ts basic rationale is to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements. . . . The central concern of the ripeness doctrine is whether the case involves uncertain or contingent future events that may or may not occur as anticipated or, indeed, may not occur at all.

In determining whether a particular case is ripe, courts typically engage in a two-part analysis, evaluating (1) the fitness of the issues for judicial decision and (2) the hardship to the parties of withholding court consideration.

Id. at \*6 (citations and internal quotation marks omitted). We ultimately concluded that the electrocution claims at issue in West “depend entirely on future and contingent events that have not occurred and may never occur, and as a result, are unripe and nonjusticiable.” Id. at \*8.

The same may be said with respect to the issue of the constitutionality of the statutory cap on non-economic damages in this case. The statutory cap on non-economic damages will have no relevance in this case unless and until Plaintiffs obtain a verdict in excess of that cap. Under the terms of the statute, the limitation on the amount of non-economic damages is not disclosed to the jury; the cap is only applied by the trial court after a plaintiff’s verdict and an award of damages subject to and in excess of the cap. Tenn. Code Ann. § 29-39-102(g); see also Monypeny v. Kheiv, No. W2014-00656-COA-R3-CV, 2015 WL 1541333, at \*24 (Tenn. Ct. App. Apr. 1, 2015) (“[T]he jury should make its award as if the statutory cap does not exist, and the jury’s award should be based only on its determination of the allocation of fault in the case and its determination of the type and amount of damages.”). Whether the cap is implicated in this case thus remains an open question, and the issue of the constitutionality of that cap is not ripe for determination at this time. See Gummo v. Ward, No. 2:12-00060, 2013 WL 5446074 at \*1-2 (M.D. Tenn. Sept. 30, 2013) (finding that plaintiff’s claim that

caps on non-economic and punitive damages are unconstitutional was not ripe for consideration). The trial court, therefore, acted prematurely in considering Defendants' motion for partial summary judgment and Plaintiffs' constitutional challenge at this stage of the proceedings. Such consideration properly should await a verdict in favor of Plaintiffs in excess of the statutory cap, should the same occur.

Accordingly, upon consideration of the applications for permission to appeal of Defendants and of the State, the answer of Plaintiffs, and the record before us, the applications are granted, the judgment of the trial court is vacated, and the case is remanded to the trial court for proceedings consistent with this Order.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**STATE OF TENNESSEE v. ADAM DANSBY FRAZIER**

**Circuit Court for Hickman County  
No. 125132CRA**

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**No. M2014-01027-SC-R11-CD**

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**ORDER**

Upon consideration of the application for permission to appeal of Adam Dansby Frazier and the record before us, the application is denied.

PER CURIAM