

Supreme Court Appeals
Pending Cases
11-18-2020

1. Style State of Tennessee v. Robert Jason Allison
 2. Docket Number M2017-02367-SC-R11-CD
 3. Lower Court Decision Links http://www.tsc.state.tn.us/sites/default/files/allison.robert.opn_.pdf
 4. Lower Court Summary Defendant, Robert Jason Allison, was indicted for two counts of delivery of marijuana; possession with intent to distribute over ten pounds of marijuana in a drug-free school zone; possession of a firearm during the commission of a dangerous felony; and two counts of money laundering. Following a jury trial, at which Defendant represented himself, he was convicted as charged. Following a sentencing hearing, the trial court imposed partial consecutive sentencing resulting in an effective 25-year sentence. In his appeal as of right, Defendant argued that: 1) the evidence was insufficient to support his convictions for money laundering; 2) the indictment conflated two subsections of the money laundering statute; 3) the trial court failed to instruct the jury on all of the elements of money laundering; 4) Defendant's convictions for money laundering violate double jeopardy; 5) the money laundering statute is unconstitutionally vague; 6) Defendant was deprived his right to a speedy trial; 7) the trial court erred by denying Defendant's motion to suppress evidence seized as a result of his warrantless arrest; 8) the trial court erred by denying Defendant's motion to suppress evidence seized as a result of a search warrant; 9) the trial court erred in finding that Defendant waived his right to the assistance of counsel at trial; 10) the trial court abused its discretion in ordering consecutive sentencing; and 11) Defendant's fines are excessive. The Court of Criminal Appeals found no error and affirmed the judgments of the trial court.
 5. Status Heard May 28, 2020, in Nashville (by video).
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1. Style Clarissa Bidwell ex rel James Bidwell et al. v. Timothy A Strait, MD, et al.
2. Docket Number E2018-02211-SC-R11-CV
3. Lower Court Decision Links http://www.tsc.state.tn.us/sites/default/files/bidwell_v._strait_opinion.pdf
4. Lower Court Summary Plaintiff, James Bidwell, took his wife, Clarissa Bidwell, to Starr Regional Medical Center for treatment. She was transferred to Chattanooga-Hamilton County Hospital Authority dba Erlanger Health System, a governmental hospital authority, where she was treated, but later died. Plaintiff provided statutorily compliant pre-suit notice of his intent to file a health care liability action against each health care provider that was named as a defendant in the complaint. Plaintiff did not provide pre-suit notice to Erlanger. However, Dr. Jeffery Colburn and Dr. Timothy A. Strait failed to identify Erlanger as their employer, i.e. a known and necessary party to the suit. Plaintiff timely filed his complaint within the 120-day extension of the statute of limitations provided by Tenn. Code Ann. § 29-26-121. Defendants answered plaintiff's complaint, each raising the affirmative defense of comparative fault. Dr. Colburn and Dr. Strait then moved for summary judgment arguing that, pursuant to the Governmental Tort Liability Act, without Erlanger as a party defendant no judgment could be rendered against them. In response, plaintiff filed two motions to

amend his complaint to add Erlanger as a defendant, in reliance upon the extension to the statute of limitations provided in Tenn. Code Ann. § 20-1-119(a). After a hearing, the trial court held that plaintiff's failure to provide pre-suit notice to Erlanger prevents him from adding them to his complaint. It granted Dr. Colburn and Dr. Strait's motions for summary judgment. Plaintiff appealed. We hold that Tenn. Code Ann. § 29-26-121(a)(5) required Dr. Colburn and Dr. Strait to identify Erlanger as a known and necessary party within thirty days after receiving pre-suit notice; they failed to comply with § 29-26-121(a)(5). We hold that, pursuant to Tenn. Code Ann. § 20-1-119, their subsequent declaration of the necessity of the nonparty to the suit, after the complaint was filed, granted plaintiff an additional ninety days following the filing of the first answer to amend his complaint in order to add the nonparty as a defendant. In addition, we hold that, pursuant to Tenn. Code Ann. § 29-26-121(c), plaintiff's addition of the nonparty is not barred for failure to provide pre-suit notice. Therefore, we vacate the trial court's award of summary judgment to defendants Dr. Colburn and Dr. Strait. We remand this matter for further proceedings, pursuant to applicable law, and consistent with this opinion.

5. Status Heard May 19, 2020, in Knoxville (by video).

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 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 Apprendi v. New Jersey, 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.

5. Status Application granted 9/16/20; Second Motion by Appellant for extension to file brief granted 11/16/20; Appellant's brief due 11/19/20.

1.	Style	Carolyn Coffman et al. v. Armstrong International, Inc. et al.
2.	Docket Number	E2017-01985-SC-R11-CV
3.	Lower Court Decision Links	http://www.tsc.state.tn.us/sites/default/files/coffman_corrected_majority_opinion.pdf
4.	Lower Court Summary	This consolidated appeal arises from a product liability action brought by Donald Coffman and his wife, Carolyn Coffman, after Mr. Coffman was diagnosed with mesothelioma. Plaintiffs asserted several claims against multiple defendants for their alleged involvement in Mr. Coffman’s exposure to asbestos at his workplace. The trial court dismissed their claims against some of the original defendants. The court granted summary judgment to the remaining defendants. Specifically, the court found that: (1) plaintiffs’ claims against one defendant were time-barred by the four-year construction statute of repose set forth in Tenn. Code Ann. § 28-3-202 (2017); (2) plaintiffs’ claims against three defendants were time-barred by the ten-year statute of repose set forth in Tenn. Code Ann. § 29-28-103 (2012); (3) ten defendants affirmatively negated their alleged duty to warn; and (4) plaintiffs presented insufficient evidence of causation with respect to seven defendants. The court denied plaintiffs’ motion to alter or amend certain summary judgment orders. Plaintiffs filed separate notices of appeal for each final judgment entered by the trial court. These cases were consolidated for the purpose of oral argument before the Court of Appeals. For the reasons stated in this opinion, we vacate all of the final judgments entered by the trial court.
5.	Status	Heard May 19, 2020, in Knoxville (by video); Notice of bankruptcy filing and stay of proceedings filed 7/1/20 (Ingersoll-Rand).

1.	Style	Jared Effler, et al. v. Purdue Pharma L.P., et al.
2.	Docket Number	E2018-01994-SC-R11-CV
3.	Lower Court Decision Links	http://www.tsc.state.tn.us/sites/default/files/effler_v._purdue_e2018-01994.pdf
4.	Lower Court Summary	This appeal concerns the interpretation of the Drug Dealer Liability Act, Tenn. Code Ann. § 29-38-101, -116 (“DDLA”). A number of Tennessee district attorneys (“the District Attorney Plaintiffs”), as well as two minor children through their guardian ad litem (“Plaintiffs,” all together), sued certain drug manufacturers (“Manufacturer Defendants”) and others in the Circuit Court for Campbell County (“the Trial Court”) alleging the diversion of opioids. ¹ Manufacturer Defendants filed a motion to dismiss. The Trial Court, in granting the motion to dismiss, held that the DDLA does not apply to manufacturers who lawfully produce drugs and that Plaintiffs had failed to state a claim upon which relief can be granted. Plaintiffs appeal, arguing that their complaint contained allegations sufficient to withstand the motion to dismiss. Manufacturer Defendants contend that the DDLA applies to “street dealers,” not regulated entities such as themselves. In addition, Manufacturer Defendants argue that the District Attorney Plaintiffs lack standing. We hold, first, that the DDLA allows district attorneys to pursue DDLA claims on behalf of the political subdivisions within their respective judicial districts. Thus, the District Attorney Plaintiffs have standing. We hold further that, taking as true Plaintiffs’ detailed allegations that Manufacturer Defendants knowingly participated in the

diversion of opioids, Plaintiffs have stated claims upon which relief can be granted. We reverse the judgment of the Trial Court and remand for this case to proceed.

5. Status Heard 9/2/20 in Knoxville (by video); Notice of bankruptcy filing and stay of proceedings filed 10/12/20 (Mallinckrodt, LLC).

1. Style Elvis Presley Enterprises Inc, et al. v. City of Memphis et al.

2. Docket Number W2019-00299-SC-R11-CV

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/elvispresleyenterprisesopn_0.pdf - Majority
<https://www.tncourts.gov/sites/default/files/elvispresleyenterprisesdis.pdf> - Dissenting

4. Lower Court Summary Appellants appeal the trial court's grant of Appellees' Tennessee Rule of Civil Procedure 12.02 motions in this declaratory judgment action. The trial court dismissed Appellants' complaint on the ground that Appellants had no standing to seek a declaratory judgment interpreting a contract, to which Appellants were neither parties nor third-party beneficiaries. We affirm the dismissal of Appellants' complaint for declaratory judgment on the ground that the complaint is barred as res judicata.

5. Status Heard 11/4/20 in Jackson (by video).

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.

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 Notice of Appeal filed 8/17/20; Appellate Record filed 9/16/20; Appellant's Motion to Supplement Record filed 9/25/20; Appellee's response to motion filed 10/6/20; Order denying Motion to Supplement Record filed 10/7/20; Appellant's brief due

11/20/20 (by order filed 10/14/20).

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1. Style In re Mattie L.
 2. Docket Number W2018-02287-SC-R11-PT
 3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/mattielopn.pdf>
 4. Lower Court Summary Mother and Father had been divorced for less than two years when Mother and her new husband petitioned to terminate Father's parental rights. A few weeks before trial, Father was arrested, and he did not appear for the trial. In Father's absence, the chancery court concluded that two statutory grounds for termination had been proven by clear and convincing evidence: abandonment by willful failure to visit and abandonment by willful failure to support. The court also concluded that the evidence was clear and convincing that termination of Father's parental rights was in the child's best interest. As part of its analysis, the court applied the missing witness rule based on Father's failure to testify at trial. And the court applied the doctrine of unclean hands to "repel[] [Father] at the courthouse steps from receiving any relief that he has requested in this cause." We conclude that neither the missing witness rule nor the doctrine of unclean hands was applicable and that their application was fundamentally unfair to Father. We further conclude that the evidence of the two grounds for terminating Father's parental rights was less than clear and convincing. So we reverse.
 5. Status Heard 11/5/20 in Jackson (by video).

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1. Style Melanie Lemon v. Williamson County Schools, et al.
 2. Docket Number M2018-01878-SC-R11-CV
 3. Lower Court Decision Links http://www.tsc.state.tn.us/sites/default/files/lemon.melanie.opn_.pdf
 4. Lower Court Summary The plaintiff, a former tenured schoolteacher, sued the Williamson County Board of Education and three administrators alleging that she was forced to resign after the defendants "bullied, stalked, intimidated, and defamed" her during the 2015–2016 school year. She asserted claims for wrongful termination, breach of contract, negligence, intentional infliction of emotional distress, and negligent infliction of emotional distress. The trial court dismissed all of the claims asserted in the original complaint pursuant to Tenn. R. Civ. P. 12.02(6) for failure to state a claim upon which relief could be granted but permitted the plaintiff to file an amended complaint to revise and restate her claims for breach of contract and intentional infliction of emotional distress. Following discovery, the court summarily dismissed the two remaining claims as asserted in the amended complaint. On appeal, the plaintiff challenges the Tenn. R. Civ. P. 12.02(6) dismissal of her wrongful termination and negligence claims, and the summary dismissal of her claims for breach of contract and intentional infliction of emotional distress. We affirm the trial court's determination the plaintiff's negligence and intentional infliction of emotional distress claims are barred by the Governmental Tort Liability Act and Teachers' Tenure Act, respectively. We have also determined that the plaintiff failed to produce evidence of a compensable injury in her claim for breach of contract. As for the plaintiff's claim of wrongful termination, we respectfully disagree with the

trial court's determination that the doctrine of constructive discharge is inapplicable to wrongful termination claims under the Teachers' Tenure Act. Therefore, we reverse the dismissal of the plaintiff's wrongful termination claim and remand this claim for further proceedings. We affirm the trial court in all other respects

5. Status Heard May 28, 2020, in Nashville (by video).

1. Style In re Neveah M.

2. Docket Number M2019-00313-SC-R11-PT

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

4. Lower Court Summary Foster parents brought a petition to terminate the parental rights of a biological mother on three grounds, and the trial court granted the petition on all three grounds. Because the foster parents failed to prove any of the grounds by clear and convincing evidence, we reverse the decision of the trial court.

5. Status Heard 9/30/20 in Nashville (by video).

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 Heard 11/4/20 in Jackson (by video).

1. Style State of Tennessee v. Urshawn Eric Miller

2. Docket Number W2019-00197-SC-DDT-DD

3. Lower Court https://www.tncourts.gov/sites/default/files/miller_urshawn_eric_opn.pdf

Decision Links

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 Direct Death Penalty Transfer 9/3/20; Appellant's brief filed 10/30/20; Appellant's Motion to Supplement Record Denied 11/3/20; Appellant's Motion to Exceed Page Limitation Granted 11/3/20; Appellee's brief due 11/30/20.

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1. Style In re Larry E. Parrish
2. Docket Number W2020-00907-SC-R3-BP
3. Lower Court Decision Links N/A
4. Lower Court Summary N/A
5. Status Notice of Appeal filed 6/24/20; Appellate record filed 9/25/20; Appellant's brief filed 10/23/20; Appellee's brief due 11/23/20.

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1. Style Talat Parveen et al. v. ACG South Insurance Agency LLC et al.
2. Docket Number E2018-01759-SC-R11-CV
3. Lower Court Decision Links http://www.tsc.state.tn.us/sites/default/files/parveen_v._acg_ins._e2018-1759.pdf
4. Lower Court Summary This appeal arises from an action commenced by two insured parties against their insurance agent and the insurance agency where he was employed after the insureds' insurance carrier refused to provide excess uninsured motorist coverage because it was not included in the insureds' policy. The insureds alleged that their insurance agent failed to procure the requested insurance on their behalf and that they consequently had suffered monetary losses. The Trial Court applied a statutory rebuttable presumption that the insureds had accepted the provided coverage by paying their insurance premiums, pursuant to Tennessee Code Annotated § 56-7-

135(b). Upon its finding that the insureds had not rebutted that presumption, the Trial Court dismissed the insureds' action. The insureds have appealed. Upon our determination that Tennessee Code Annotated § 56-7-135(b) does not apply to actions against an insurance agent for failure to procure insurance coverage as directed, we reverse the Trial Court's grant of summary judgment and remand for the action to proceed.

5. Status Heard 9/2/20 in Nashville (by video).

1. Style Ritchie Phillips et al. v. Mark Hatfield

2. Docket Number E2019-00628-SC-R11-CV

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/phillips_v._hatfield_e2019-00628.pdf

4. Lower Court Summary In this declaratory judgment action involving neighboring landowners in a residential development, the trial court determined that the restrictive covenants applicable to the development would prevent the defendant from constructing a commercial business on his property. The trial court accordingly entered an injunction preventing the defendant from constructing a business on his real property. The defendant has appealed. Discerning no reversible error, we affirm.

5. Status Heard 11/4/20 in Jackson (by video).

1. Style Regions Bank v. Nathan I. Pager

2. Docket Number W2019-00782-SC-R11-CV

3. Lower Court Decision Links Majority - <https://www.tncourts.gov/sites/default/files/pragernathanopn.pdf>
Dissent - <https://www.tncourts.gov/sites/default/files/pragernathandis.pdf>

4. Lower Court Summary This appeal arose from a dispute involving an unpaid promissory note. In May 2014, Plaintiff filed its first suit for breach of contract. The trial court dismissed the case under Rule 41.02 for failure to prosecute. Opposing the dismissal, Plaintiff filed a Motion to Reconsider. The trial court denied Plaintiff's motion and stated the dismissal was neither "with nor without prejudice" and that Plaintiff was "welcome to refile." Relying on the trial court's statements, Plaintiff declined to appeal and filed a second action. Defendant filed a Motion to Dismiss the second suit, arguing it is barred by res judicata. The trial court granted Defendant's motion and denied Plaintiff's subsequent Motion to Reconsider. The majority of the Court of Appeals agreed with the trial court's dismissal of this suit and subsequent denial of Plaintiff's Motion to Reconsider. The majority therefore affirmed the circuit court's decision and remand. The dissenting opinion determined that the Defendant had not met its burden to show all the elements of res judicata.

5. Status Application granted 9/18/20; Appellant's brief filed 10/16/20; Appellee's Motion to Accept Late-Filed Brief filed 11/12/20; TBH 1/6/20 in Knoxville (by video).

1. Style State of Tennessee v. Terrell Lamont Reid

2. Docket Number W2019-00636-SC-R11-CD

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/reid_terrell_lamont_opn.pdf
 4. Lower Court Summary
The Defendant, Terrell Lamont Reid, pursuant to a plea agreement, pleaded guilty to possession of cocaine with intent to sell and to possession of a firearm by a convicted felon and received an effective seventeen-year sentence. He filed a motion pursuant to Tennessee Rule of Criminal Procedure 36.1 alleging that his sentence was illegal because his firearm offense sentence was enhanced under the criminal gang enhancement statute. The trial court summarily dismissed the motion after determining that the sentence was not illegal. On appeal, he contends that the trial court erred by denying relief because the enhanced sentence for his firearm conviction was unconstitutional and illegal. We reverse the judgment of the trial court.
 5. Status Heard 11/5/20 in Jackson (on briefs).
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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 Application granted 11/16/20; Appellant's brief due 12/16/20.
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1. Style State of Tennessee v. Michael Rimmer
2. Docket Number W2017-00504-SC-DDT-DD
3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/rimmer_michael_opn.pdf
4. Lower Court Summary
The Defendant, Michael Rimmer, was convicted by a Shelby County jury of first-degree premeditated murder, first degree felony murder, and aggravated robbery. T.C.A. §39- 13-202(1), (2) (Supp. 1998) (first degree murder), §39-13-402 (1997) (aggravated robbery). The trial court merged the felony murder conviction into the

premeditated murder conviction. The jury sentenced the Defendant to death for the first-degree murder conviction, and the trial court sentenced him to eighteen years for the aggravated robbery conviction and ordered it to be served consecutively to the sentence for the murder conviction. On appeal, the Defendant contends that: (1) the evidence is insufficient to support his convictions for first degree murder and aggravated robbery; (2) the trial court erred in denying his motion to dismiss the felony murder charge; (3) the trial court erred in denying his motion to suppress DNA evidence; (4) the trial court erred in not striking the State’s opening statement or declaring a mistrial based on a comment made by the State; (5) the trial court erred in admitting evidence of the Defendant’s prior convictions; (6) the trial court erred in limiting the testimony of William Baldwin; (7) the trial court erred in admitting a drawing of the backseat of the Honda the Defendant was driving when he was arrested; (8) the trial court erred in finding James Allard was unavailable and allowing his testimony from the previous trial to be entered into evidence; (9) the trial court erred in admitting hearsay testimony through witness Rhonda Bell; (10) the trial court erred in allowing Chris Ellsworth to display his scars to the jury; (11) the trial court erred in allowing hearsay testimony through witness Tim Helldorfer; (12) the trial court erred in limiting the testimony of Tim Helldorfer regarding a photograph identification and the release of the Honda from police custody; (13) the trial court erred in allowing Joyce Carmichael to testify about Tommy Voyles; (14) the trial court erred in admitting previous testimony of deceased or otherwise unavailable witnesses; (15) the trial court erred in admitting Richard Rimmer’s prior statement and related exhibits as substantive evidence; (16) the trial court erred in limiting the testimony of Kenneth Falk; (17) the trial court erred in limiting the testimony of Marilyn Miller; (18) the trial court erred in excluding documents relating to a lawsuit involving the Shelby County Jail; and 05/21/2019 - 2 - (19) the trial court erred in applying an aggravating factor and imposing a consecutive sentence for the aggravated robbery conviction. Following our review, we affirm the judgments of the trial court.

5. Status Heard 11/4/20 in Jackson (by video).

1. Style State of Tennessee v. Samantha Grissom Scott

2. Docket Number M2018-01852-SC-R11-CD

3. Lower Court Decision Links http://tncourts.gov/sites/default/files/scott.samantha.opn_.pdf - Majority
<http://tncourts.gov/sites/default/files/scott.samantha.sepopn.pdf> - Dissenting

4. Lower Court Summary A subcontractor sought statutory penalties against a prime contractor based on the contractor’s failure to comply with the Prompt Pay Act’s requirement that any retainage withheld be deposited into an interest-bearing escrow account as set forth in Tenn. Code Ann. § 66-34-104(a). The prime contractor moved to dismiss the complaint, asserting that the claim was barred by the one-year statute of limitations applicable to statutory penalties, Tenn. Code Ann. § 28-3-104(a)(1)(C). The trial court granted the prime contractor’s motion and dismissed the complaint. On appeal, we hold that the discovery rule applies to this type of claim for statutory penalties under the Prompt Pay Act and remand for further proceedings.

5. Status Heard 9/30/20 in Nashville (by video).

1. Style In re: Winston Bradshaw Sitton, BPR #018440

2. Docket Number M2020-00401-SC-BAR-BP
 3. Lower Court Decision Links N/A
 4. Lower Court Summary N/A
 5. Status Heard May 28, 2020, in Nashville (on briefs).
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1. Style Snake Steel, Inc. v. Holladay Construction Group, LLC.
 2. Docket Number M2019-00322-SC-R11-CV
 3. Lower Court Decision Links http://tncourts.gov/sites/default/files/snakesteel.opn_.pdf
 4. Lower Court Summary A subcontractor sought statutory penalties against a prime contractor based on the contractor's failure to comply with the Prompt Pay Act's requirement that any retainage withheld be deposited into an interest-bearing escrow account as set forth in Tenn. Code Ann. § 66-34-104(a). The prime contractor moved to dismiss the complaint, asserting that the claim was barred by the one-year statute of limitations applicable to statutory penalties, Tenn. Code Ann. § 28-3-104(a)(1)(C). The trial court granted the prime contractor's motion and dismissed the complaint. On appeal, we hold that the discovery rule applies to this type of claim for statutory penalties under the Prompt Pay Act and remand for further proceedings.
 5. Status Heard 9/30/20 in Nashville (by video).
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1. Style State of Tennessee v. Shalonda Weems
 2. Docket Number M2018-02288-SC-R11-CD
 3. Lower Court Decision Links http://tncourts.gov/sites/default/files/weems.shalonda.opn_.pdf
 4. Lower Court Summary Shalonda Weems, Defendant, was indicted in a two-count indictment for aggravated child neglect and felony murder in connection with the starvation death of her six-month old child. The jury found Defendant guilty of aggravated child neglect and reckless homicide. Defendant filed a Tennessee Rule of Criminal Procedure 29(e) Motion for Judgment of Acquittal ("the Motion") as to both counts. Following a hearing, the trial court granted the Motion in part, set aside the guilty verdict for aggravated child neglect, and entered a judgment of acquittal. The court denied the Motion as to the reckless homicide verdict and entered a judgment of conviction. The State appeals claiming that the trial court erred in granting the Motion. After a thorough review of the record and applicable law, we affirm the trial court's judgment of acquittal for aggravated child neglect.
 5. Status Heard 9/30/20 in Nashville (by video).
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1. Style Cynthia E. Yebuah et al. v. Center for Urological Treatment, PLC
2. Docket Number M2018-01652-SC-R11-CV

3. Lower Court Decision Links http://www.tncourts.gov/sites/default/files/yebuah.maj_.opn_0.pdf
4. Lower Court Summary

Following surgery to remove a cancerous kidney, part of a gelport device was left inside the patient. The patient and her husband brought this health care liability action against multiple defendants, including the surgeon who removed the kidney and the radiologist who initially failed to detect the foreign object. The defendants admitted fault, so the trial focused solely on causation and damages. The jury returned a verdict in favor of the plaintiffs and awarded \$4 million in noneconomic damages to the patient for pain and suffering and loss of enjoyment of life and \$500,000 in noneconomic damages to her husband for loss of consortium. The trial court initially applied the statutory cap on noneconomic damages to the total damages award and entered a judgment of \$750,000 in favor of both plaintiffs. In response to the plaintiffs' motion to alter or amend, the trial court issued a revised judgment of \$750,000 in favor of the patient and \$500,000 in favor of the husband. But the court refused to address the plaintiffs' arguments premised on the constitutionality of the statutory cap, ruling that the issue had been waived. The court also denied the defendant's motion for a new trial or for a remittitur. Upon review, we conclude that the trial court erred in refusing to consider the plaintiffs' constitutional issue. But because we also conclude that the statutory cap on noneconomic damages is constitutional and was applied properly and that the defendant is not entitled to a new trial or a remittitur, we affirm.
5. Status

Application granted 10/8/20; Appellant's brief filed 11/5/20; Appellees' briefs due 12/7/20; TBH 1/6/20 in Knoxville (by video).