

Supreme Court Appeals
Pending Cases
10-22-21

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 <i>Apprendi v. New Jersey</i> , 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	Heard 2/24/21 in Nashville (by video); Court ordered supplemental briefing due 7/10/21; Appellee's supplemental brief filed 7/10/21; Appellant's supplemental brief filed 7/12/21.

1.	Style	Brittany Borngne ex rel. Miyona Hyter v. Chattanooga-Hamilton County Hospital Authority et al.
2.	Docket Number	E2020-00158-SC-R11-CV
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/e2020-158_borngne_v._chattanooga.pdf https://www.tncourts.gov/sites/default/files/e2020-158_borngne_v._chattanooga_sep_opin.pdf
4.	Lower Court Summary	This health care liability action arises from injuries suffered by a minor, Miyona Hyter, during her birth. Miyona Hyter, a minor by and through her next friend and mother, Brittany Borngne ("Plaintiff") sued, among others, Dr. Michael Seeber who delivered the child via cesarean section and certified nurse midwife Jennifer Mercer who assisted with the birthing process. Plaintiff alleged that Nurse Mercer was

negligent by failing to recognize concerning signs on the fetal monitoring strip and by failing to call Dr. Seeber for assistance sooner than she did. The Circuit Court for Hamilton County (“the Trial Court”), by agreed order, granted Dr. Seeber partial summary judgment on all claims of direct negligence against him; he remained in the case as a defendant only upon Plaintiff’s theory that he was vicariously liable for Nurse Mercer’s actions as her supervising physician. During his deposition, Dr. Seeber declined to answer questions that he argued required him to render an expert opinion regarding Nurse Mercer’s care during times that Dr. Seeber was not present and had no involvement in Plaintiff’s care. The Trial Court declined to require Dr. Seeber to answer questions that “call[] for an opinion by Dr. Seeber that asks him to comment on the actions of other healthcare providers and does not involve his own actions, as required by *Lewis v. Brooks*,” 66 S.W.3d 883, 887-88 (Tenn. Ct. App. 2001). After Nurse Mercer’s deposition, she submitted an errata sheet that substantively altered her answers to some of the questions. Plaintiff moved to suppress the errata sheet, arguing that Tenn. R. Civ. P. 30.05 does not allow a witness to make substantive changes to her deposition testimony. The Trial Court denied the motion but allowed Plaintiff the opportunity to reopen Nurse Mercer’s deposition and to fully cross-examine her at trial about the changes. The case proceeded to trial before a jury, which returned a verdict in Defendants’ favor. We hold that the Trial Court erred by refusing to order Dr. Seeber to answer the questions at issue in his deposition. Deeming this case distinguishable from *Lewis v. Brooks*, we reverse the Trial Court in its declining to compel Dr. Seeber to testify concerning the conduct of his supervisee, Nurse Mercer, and remand for a new trial. We also reverse the Trial Court in its decision to exclude proof of Miyona Hyter’s pre-majority medical expenses. We affirm the Trial Court as to the remaining issues.

5. Status Application granted 10/13/21; Appellants’ briefs due 11/12/21.

1. Style Donna Cooper, et al. v. Dr. Mason Wesley Mandy, et al.

2. Docket Number M2019-01748-SC-R11-CD

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

4. Lower Court Summary The principal issue in this interlocutory appeal is whether intentional misrepresentations made by health care providers to induce a prospective patient to engage the health care providers’ services are within the purview of the Tennessee Health Care Liability Act (“the Act”), Tenn. Code Ann. § 29-26-101 to -122. The complaint filed by the patient, Donna Cooper (“Mrs. Cooper”), and her husband alleges that Dr. Mason Wesley Mandy (“Dr. Mandy”) and Rachelle Norris (“Ms. Norris”) with NuBody Concepts, LLC, intentionally misrepresented that Dr. Mandy was a board-certified plastic surgeon and, based on their misrepresentation, Mrs. Cooper gave Dr. Mandy her consent to perform the surgery. Following “painful, disastrous results,” the plaintiffs asserted four claims: (1) intentional misrepresentation; (2) medical battery; (3) civil conspiracy; and (4) loss of consortium. Defendants filed a Tenn. R. Civ. P. 12 motion to dismiss for failure to comply with the presuit notice and filing requirements of the Act, specifically Tenn. Code Ann. §§ 29-26-121 and -122. The trial court denied the motion to dismiss, finding the Act did not apply. This interlocutory appeal followed. We hold that Mrs. Cooper is entitled to proceed on her claims of intentional misrepresentation and civil conspiracy because the alleged misrepresentations were inducements made prior to the existence of a patient-physician relationship; thus, the claims were not related to “the provision of . . . health care services.” See Tenn. Code Ann. § 29-26-101(a)(1).

We also affirm its ruling on the medical battery claim because a physician’s misrepresentation of a material fact, if proven, may vitiate consent, and, without consent, the very act of touching Mrs. Cooper may constitute an unlawful and offensive act that is not related to the provision of health care services. See *Holt v. Alexander*, No. W2003-02541-COA-R3-CV, 2005 WL 94370, at *6 (Tenn. Ct. App. Jan. 13, 2005). Further, we affirm the trial court’s ruling on Mr. Cooper’s claim for loss of consortium because, as the trial court held, his claims relate to Dr. Mandy’s and Ms. Norris’s false representations of Dr. Mandy’s credentials, not to a provision of, or a failure to provide, a health care service. Accordingly, we affirm the trial court in all respects and remand for further proceedings consistent with this opinion.

5. Status Heard 10/6/21 in Nashville (by video).

1. Style State of Tennessee v. Craig Dagnan
 2. Docket Number M2020-00152-SC-R11-CD
 3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/dagnan.craig_opn.pdf
https://www.tncourts.gov/sites/default/files/dagnan.craig_opnseparate-judge_easter-concur.pdf
 4. Lower Court Summary Craig Dagnan, Defendant, violated the conditions of probation, and the trial court revoked his probation but ordered his probation reinstated after eleven months and twenty-nine days’ incarceration. Defendant was granted a furlough from jail to attend an inpatient drug and alcohol program. After being dismissed from the inpatient program, Defendant failed to report back to jail and absconded. He was charged with escape, and a revocation warrant was issued. He was apprehended in Georgia and returned to Tennessee. Following a hearing, the trial court revoked Defendant’s probation and ordered Defendant to serve the balance of his six-year sentence. Discerning no error, we affirm.
 5. Status Application granted 4/7/21; Appellant brief filed 5/7/21; Appellee brief filed 6/7/21; Appellant’s reply brief filed 6/21/21; TBH 12/1/21.
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1. Style State of Tennessee v. Marvin Maurice Deberry
2. Docket Number W2019-01666-SC-R11-CD
3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/deberrymarvinopn.pdf>
4. Lower Court Summary A jury convicted the Defendant, Marvin Maurice DeBerry, of driving after having been declared a motor vehicle habitual offender (“MVHO”) and of three misdemeanor offenses not presented for appellate review. After his conviction but prior to his sentencing, an amendment to the statute that was the basis of his MVHO conviction went into effect, so that the Defendant’s conduct was no longer criminalized and, concomitantly, triggered no penalty. The trial court, after initially sentencing the Defendant to serve five years, modified the Defendant’s judgment to reflect that he was to be subjected to no penalty. On appeal, we are called to determine whether the Defendant may benefit from the savings statute in Tennessee Code Annotated section 39- 11-112. We hold that the savings statute applies because Legislature’s act of removing punishment for the offense constitutes a lesser penalty. Accordingly, we affirm the trial court’s judgment reducing the Defendant’s sentence.

5.	Status	Application granted 9/23/21; Appellant's brief due 10/22/21.
1.	Style	Mindy Donovan v. Joshua R. Hastings
2.	Docket Number	M2019-01396-SC-R11-CV
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/donovan.mindy_opn.pdf https://www.tncourts.gov/sites/default/files/donovan.mindy_sep_opn.pdf
4.	Lower Court Summary	The trial court dismissed a contractor's amended countercomplaint against a homeowner for failure to state a claim upon which relief could be granted. The court then awarded the homeowner her attorney fees in the amount of \$3,600 pursuant to Tenn. Code Ann. § 20-12-119(c). The homeowner appealed arguing that, in limiting her recovery to \$3,600, the trial court interpreted the statute too narrowly. Because the trial court properly interpreted the statute, we affirm the trial court's decision.
5.	Status	Application granted 4/7/21; Appellant brief filed 5/5/21; Appellee brief filed 6/4/21; TBH 12/1/21.
1.	Style	State of Tennessee v. Corey Forest
2.	Docket Number	M2020-00329-SC-R11-CD
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/forest.corey_opn.pdf
4.	Lower Court Summary	Following a bench trial, the trial court judge convicted the Defendant, Corey Forest, of possession of over .5 grams of cocaine with intent to sell and possession of a firearm during the commission of a dangerous felony and imposed an effective sentence of eleven years in the Tennessee Department of Correction. On appeal, the Defendant asserts that the trial court erred when it denied his motion to suppress evidence found during a search of his vehicle. After review, we affirm the trial court's judgments.
5.	Status	Application granted 10/15/21; Appellant brief due 11/15/21.
1.	Style	State of Tennessee v. Tyler Ward Enix
2.	Docket Number	E2020-00231-SC-R11-CD
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/tyler_ward_enix_cca_majority_opinion.pdf
4.	Lower Court Summary	Tyler Ward Enix, Defendant, was indicted for three counts of first degree felony murder, one count of premeditated first degree murder, one count of especially aggravated robbery, one count of especially aggravated kidnapping, and one count of carjacking. The trial court dismissed the kidnapping and carjacking counts at the State's request. After a jury trial, Defendant was found not guilty of felony murder. The jury found Defendant guilty of first degree premeditated murder and especially aggravated robbery. After the jury deadlocked on a sentence for first degree murder, the trial court imposed a life sentence. After a separate sentencing hearing, the trial court ordered Defendant to serve a consecutive twenty-five-year sentence for especially aggravated robbery. The

trial court denied a motion for new trial and this appeal followed. On appeal, Defendant raises the following issues: (1) the evidence was insufficient to support the convictions for first degree murder and especially aggravated robbery; (2) the State made improper statements during closing argument; (3) the State made improper statements during opening statements; (4) the trial court improperly admitted hearsay evidence; (5) the trial court abused its discretion in admitting multiple photographs of the victim's body; (6) the trial court erred by denying a motion for change of venue; (7) the trial court erred in refusing to give a definition of passion to the jury; and (8) cumulative errors. After a thorough review of the record and applicable authorities, we affirm Defendant's convictions and sentences.

5.	Status	Application granted 10/13/21; Appellants brief due 11/12/21.
1.	Style	Beverly Gardner v. Saint Thomas Midtown Hospital
2.	Docket Number	M2019-02237-SC-R11-CV
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/gardner.beverly.opn_.pdf
4.	Lower Court Summary	A patient filed a health care liability claim against a hospital, asserting the hospital was vicariously liable for injuries she suffered as a result of the anesthesia providers' conduct. The hospital moved for summary judgment, arguing that the anesthesia providers were not employed by the hospital and the hospital was, therefore, not liable for the anesthetists' actions as a matter of law because the statute of limitations had run on the plaintiff's direct claims against the anesthesia providers by the time the plaintiff filed her complaint against the hospital. The trial court granted the hospital's motion and dismissed the plaintiff's complaint, relying on the common law set forth in <i>Abshire v. Methodist Healthcare Memphis Hospitals</i> , 325 S.W.3d 98 (Tenn. 2010). Acknowledging the conflict between provisions of the Tennessee Health Care Liability Act and the common law, we hold that the statute prevails. Accordingly, we reverse the trial court's judgment and remand the case for further proceedings.
5.	Status	Application granted 9/22/21; Appellant's brief due 10/22/21.
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; Appellate record received 12/3/20; Appellate record filed 3/3/21; Appellant brief filed 5/3/21 (by Court Order 3/19/21); Appellee's brief filed 7/1/21 (by Court Order 5/19/21); Appellant's reply brief filed 7/28/21 (by Court order 7/1/21); Case submitted on briefs by Court 10/6/21; order filed 8/9/21.

1. Style Stephen Kampmeyer et al. v. State of Tennessee
 2. Docket Number W2019-01196-SC-R11-CV
 3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/kampmeyer.steven.opn_.pdf
 4. Lower Court Summary Appellants, Husband and Wife, filed a complaint for damages, including Wife's loss of consortium claim, with the Tennessee Claims Commission. The State filed a Tennessee Rule of Civil Procedure 12.02(6) motion to dismiss Wife's loss of consortium claim because she did not file notice of her claim with the Division of Claims Administration within the applicable statute of limitations. The Claims Commission dismissed Wife's claim for failure to comply with the notice requirement. See Tenn. Code Ann. § 9-8- 402(b). Discerning no error, we affirm.
 5. Status Heard 4/28/21 in Knoxville (by video).
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1. Style State of Tennessee v. Douglas E. Linville
 2. Docket Number W2019-02180-SC-R11-CD
 3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/linvilledouglasopn.pdf>
 4. Lower Court Summary A jury convicted the Defendant, Douglas E. Linville, of possession of 0.5 grams or less of methamphetamine with intent to deliver in a drug-free zone, possession of Oxycodone with intent to deliver in a drug-free zone, possession of Xanax with intent to deliver in a drug free zone, simple possession of marijuana, and possession of drug paraphernalia. He received an effective twelve-year sentence. The Defendant appeals his conviction, arguing that the evidence was insufficient to support his convictions and that the trial court committed plain error by allowing a witness to testify about information the trial court previously ruled inadmissible. We affirm the trial court's judgments, and we remand to the trial court for correction of the judgment form in count three in accordance with this opinion.
 5. Status Application granted 8/5/21; Appellant's brief filed 9/7/21; Appellee's brief filed 10/7/21; TBH 11/3/21.
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1. Style State of Tennessee v. Ronald Lyons, James Michael Usinger, Lee Harold Cromwell, Austin Gary Cooper, and Christopher Alan Hauser
2. Docket Number M2019-01946-SC-R11-CD
3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/lyonsusingercromwellcooperandhauser.opn_.pdf
4. Lower Court Summary Ronald Lyons, James Michael Usinger, Lee Harold Cromwell, Austin Gary Cooper, and Christopher Alan Hauser, Defendants, were named in a 302-count indictment by the Davidson County Grand Jury for multiple counts of forgery and fraudulently filing a lien for their role in filing a total of 102 liens against 42 different individuals with the office of the Tennessee Secretary of State. Defendant Cooper was also named in a second indictment for five additional counts of forgery and five additional counts of

fraudulently filing a lien. Prior to trial, Defendant Hauser filed a motion to dismiss for improper venue. Defendants Cromwell and Cooper joined in the motion. The trial court denied the motion after a hearing. After a jury trial, each defendant was convicted as charged in the indictment. The trial court sentenced Defendant Cromwell to an effective sentence of twenty-five years; Defendant Cooper to an effective sentence of fifty years; Defendant Lyons to an effective sentence of twenty-two years; Defendant Usinger to an effective sentence of twenty-one years; and Defendant Hauser to an effective sentence of twenty years. After motions for new trial and several amended motions for new trial were filed, the trial court held a hearing. The trial court denied the motions in a lengthy and thorough written order. Each defendant appealed, raising various issues challenging their convictions and sentences. After deep review, we affirm the all judgments and all sentences.

5. Status Application granted 8/5/21; Appellant Ronald Lyons' brief filed 9/2/21; Appellant Lee Harold Cromwell's brief filed 10/5/21 (by Court order 8/24/21); Appellant Austin Gary Cooper's brief filed 10/5/21 (by Court order 8/24/21); Appellant Christopher Alan Hauser's second motion for extension to file brief granted (by Court order 10/8/21); Appellant James Michael Usinger's second motion for extension to file brief granted (by Court order 10/8/21); Remaining Appellants' briefs due 11/8/21.

1. Style Metropolitan Government of Nashville and Davidson County et al. v. Tennessee Department of Education, et al.

2. Docket Number M2020-00683-SC-R11-CV

3. Lower Court Decision Links <https://www.tncourts.gov/sites/default/files/metropolitangov.ofnash.v.tndepart.ofedu.opn.pdf>

4. Lower Court Summary Davidson and Shelby counties sued the State of Tennessee to challenge the constitutionality of the Tennessee Education Savings Account Pilot Program. The trial court found that both counties had standing and that the act was unconstitutional under paragraph 2 of article XI, section 9 of the Tennessee Constitution. The State and intervening defendants appealed. We affirm.

5. Status Heard 6/3/21 in Nashville (by video); Appellants' brief with supplemental authority filed 7/2/21; Appellees' response to Appellant's brief with supplemental authority filed 7/12/21.

1. Style State of Tennessee v. Urshawn Eric Miller

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

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

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 Heard 6/3/21 in Nashville (by video).

1. Style State of Tennessee v. William Eugene Moon

2. Docket Number M2019-01865-SC-R11-CD

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

4. Lower Court Summary A Coffee County jury convicted William Eugene Moon, Defendant, of attempted second degree murder and unlawful employment of a firearm during the commission of or attempt to commit a dangerous felony. On appeal, Defendant argues that the trial court erred by allowing the improper impeachment of a defense witness, that there was insufficient evidence to support his convictions, and that he was denied the right to a speedy trial. After a thorough review of the record and applicable case law, the judgments of the circuit court are affirmed

5. Status Heard 10/6/21 in Nashville (by video).

1. Style Tommie Phillips v. State of Tennessee

2. Docket Number W2019-01927-SC-R11-PC

3. Lower Court Decision Links https://www.tncourts.gov/sites/default/files/00130_-_phillips_tommie_majority_opinion.pdf

4. Lower Court Summary The petitioner, Tommie Phillips, appeals the denial of his petition for post-conviction relief, which petition challenged his 2011 Shelby County Criminal Court jury convictions of felony murder, reckless homicide, attempted first degree murder, aggravated rape, aggravated sexual battery, especially aggravated kidnapping, and aggravated burglary. He argues that he was deprived of the effective assistance of counsel. Discerning no error, we affirm.

5. Status Application granted 6/17/21; Appellant's brief filed 8/18/21 (by Court order 7/19/21); Appellee's brief filed 9/17/21; Appellee's reply brief filed 10/11/21 (by Court order 9/30/21); TBH 11/3/21.

1. Style Candes Vonniest Prewitt v. Board of Professional Responsibility of the Supreme Court of Tennessee

2. Docket Number M2021-01141-SC-R3-BP

3.	Lower Court Decision Links	N/A
4.	Lower Court Summary	N/A
5.	Status	Notice of Appeal filed 9/27/21.

1.	Style	Priority Partnership v. AMT Properties, LLC et al.
2.	Docket Number	E2020-00511-SC-R11-CV
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/e2020-00511_priority_v. amt.pdf
4.	Summary	In this action involving a commercial lease, the trial court granted judgment in favor of the lessee, determining that the lessor had materially breached the lease. The court further determined that the lessor was liable for negligent misrepresentation, due to its misrepresentations concerning the condition of the roof on the leased building and its intent to repair the roof, and constructive eviction, due to its failure to timely repair the building and render it tenantable. The court awarded compensatory damages to the lessee in the amount of \$193,006.35 as well as attorney's fees in the amount of \$69,002.68. The lessor has appealed. Discerning no reversible error, we affirm.
5.	Status	Application granted 8/6/2021; Appellant's brief filed 10/6/21 (by Court order 8/26/21); Appellee's motion for extension to file brief granted (by Court order 10/19/21); Appellee's brief due 12/8/21.

1.	Style	Recipient of Final Expunction Order in McNairy County Circuit Court Case No. 3279 v. David B. Rausch, Director of the Tennessee Bureau of Investigation, et al.
2.	Docket Number	M2021-00438-SC-R11-CV
3.	Lower Court Decision Links	N/A
4.	Summary	N/A
5.	Status	Application granted 8/9/2021; Appellant's brief filed 9/24/21; Appellees' briefs due 10/25/21.

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 Heard 3/31/21 in Jackson (by video).

1. Style Elijah “LIJ” Shaw, et al. v. Metropolitan Nashville Government of Nashville and Davidson County

2. Docket Number M2019-01926-SC-R11-CV

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

4. Lower Court Summary Two homeowners filed suit against a metropolitan government challenging a metropolitan code provision that prevented them from serving customers at their home-based businesses. The trial court granted summary judgment to the metropolitan government. After the homeowners filed this appeal, the metropolitan council repealed the challenged code provision and enacted a new provision allowing certain home-based businesses to serve up to six clients a day. We have determined that, in light of the metropolitan government’s enactment of the new ordinance, this appeal is moot.

5. Status Application granted 7/12/21; Appellants’ brief filed 9/10/21 (by Court order 7/20/21); Appellee’s brief due 11/9/21; Appellants’ reply brief due 12/3/21.

1. Style Dennis Harold Ultsch v. HTI Memorial Hospital Corporation

2. Docket Number M2020-00341-SC-R11-CV

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

4. Lower Court Summary This appeal concerns the interplay between the Tennessee Health Care Liability Act (“HCLA”) and the common law on vicarious liability with respect to pre-suit notice in a health care liability claim against the principal only. We have determined that the provisions of the HCLA take precedence over the common law and that the plaintiff’s claims in this case were timely filed. Therefore, we reverse the decision of the trial court.

5. Status Application granted 9/22/21; Appellant’s brief due 10/22/21.

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| 1. | Style | Board of Professional Responsibility of the Supreme Court of Tennessee v. Charles Edward Walker |
| 2. | Docket Number | M2021-00099-SC-R3-BP |
| 3. | Lower Court Decision Links | N/A |
| 4. | Lower Court Summary | N/A |
| 5. | Status | Notice of Appeal filed in Court of Appeals 1/27/21; Case transferred to Supreme Court 4/1/21; Appellate record filed 4/29/21; Appellant brief filed 6/1/21; Appellee brief filed 8/2/21 (by Court order 6/30/21); Reply brief filed 8/16/21; Case submitted on brief on 10/6/21 (by Court order filed 8/9/21). |