



Tennessee Supreme Court
DISCRETIONARY APPEALS
Grants & Denials List
August 9, 2021 - August 13, 2021

GRANTS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Intermediate Court	Supreme Court Action
<u>Nashville</u>			
JULIE C. W. v. FRANK MITCHELL W. JR. M2019-01243-SC-R11-CV	Davidson County Circuit Court Philip E. Smith 13D-1587	Swiney, D. Michael: Affirm in Part Davis, Kristi M.: Concur	Granted and Remanded: Application of Frank Mitchell, W. Jr. Order filed 8-11-21 (See attached order)
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. M2021-00438-SC-R11-CV	Davidson County Chancery Court Ellen Hobbs Lyle 20-967-III	Per Curiam: Case Dispositional Decision	Granted: Application of Recipient of Final Expunction Order in McNairy County Circuit Court Case No. 3279 Order filed 8-9-21 (See attached order)

DENIALS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Intermediate Court	Supreme Court Action
<u>Nashville</u>			
CITY OF FRANKLIN, TENNESSEE v. W. L. HAILEY & CO., INC. ET AL. M2018-01535-SC-R11-CV	Williamson County Chancery Court Joseph A. Woodruff 46766	Stafford, J. Steven: Affirm	Denied: Application of City of Franklin, Tennessee, and Smith Seckman Reid, Inc. Order filed 8-13-21
STATE OF TENNESSEE v. PAUL STEVEN MURPHY M2019-01786-SC-R11-CD	Montgomery County Circuit Court William R. Goodman, III CC-2018-CR-343	Ogle, Norma McGee: Affirm	Denied: Application of Paul Steven Murphy Order filed 8-9-21
<u>Knoxville</u>			
IN RE BRAYLEE B. E2020-01408-SC-R11-PT	Scott County Chancery Court Elizabeth C. Asbury 11106	Swiney, D. Michael: Affirm	Denied: Application of John B. Order filed 8-11-21
<u>Jackson</u>			
STATE OF TENNESSEE v. CARLOS DEWATHERDO FERGUSON, JR. W2019-02199-SC-R11-CD	Hardin County Circuit Court Charles C. McGinley 16-CR-206	Witt Jr., James Curwood: Affirm	Denied: Application of Carlos Dewatherdo Ferguson, Jr. Order filed 8-9-21

LARRY MICHAEL BERKLEY v. STATE OF
TENNESSEE
W2019-02215-SC-R11-PC

Lauderdale County Circuit Court
Joe H. Walker, III
9714

Witt Jr., James Curwood: Affirm

Denied: Application of Larry
Michael Berkley
Order filed 8-9-21

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED 08/11/2021 Clerk of the Appellate Courts
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JULIE C. W. v. FRANK MITCHELL W. JR.

**Circuit Court for Davidson County
No. 13D-1587**

No. M2019-01243-SC-R11-CV

ORDER

Wife filed for divorce in 2013. The case was tried over eleven (11) days spread over several months in 2018. Wife and Husband were in substantial agreement over the value of the marital estate. The appropriate division of the estate, and particularly Husband’s retirement account and the parties’ other accounts, was disputed and the subject of extensive testimony by the parties and their respective expert witnesses, however. The trial court awarded Wife approximately forty-one percent (41%) and Husband approximately fifty-nine percent (59%) of the marital estate. Wife appealed and, relevant here, contended that the trial court had placed inordinate weight on the parties’ relative ages as opposed to their relative earning capacities and opportunities for wealth accumulation. The Court of Appeals agreed with Wife and reversed and vacated the trial court’s judgment with respect to the division of the marital estate. The Court of Appeals remanded to the trial court with instructions “to arrive at a division that is as close to 50/50 as possible.”

Husband filed an application for permission to appeal pursuant to Rule 11 of the Tennessee Rules of Appellate Procedure. Husband contends that the Court of Appeals’ holding with respect to the division of the marital estate improperly substituted its own judgment for that of the trial court. We agree.

This Court has repeatedly instructed the appellate courts to give great weight to the trial court’s division of marital property and cautioned that they should be disinclined to disturb the trial court’s decision unless the distribution lacks proper evidentiary support or results in some error of law or misapplication of statutory requirements and procedures. See Larsen-Ball v. Ball, 301 S.W.3d 228, 234 (Tenn. 2010); Keyt v. Keyt, 244 S.W.3d 321, 327 (Tenn. 2007). We find that in its review in this case, the Court of Appeals failed to accord the trial court’s decision regarding the division of the marital estate appropriate weight.

Accordingly, upon consideration of the application for permission to appeal of

Husband and the record before us, the application is granted, the judgment of the Court of Appeals is vacated solely with respect to the division of the marital estate, and the case is remanded to the Court of Appeals for further review consistent with this Order.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED 08/09/2021 Clerk of the Appellate Courts
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**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.**

**Chancery Court for Davidson County
No. 20-967-III**

No. M2021-00438-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal from the Court of Appeals' denial of the Tenn. R. App. P. 9 application of Recipient of Final Expunction Order in McNairy County Circuit Court Case No. 3279, and the answer of the defendants, David B. Rausch, Director of the Tennessee Bureau of Investigation, and the Tennessee Bureau of Investigation, the application is GRANTED.

The single issue presented in this appeal is: "Under what circumstances, if any, may the Tennessee Bureau of Investigation refuse to comply with a final expungement order issued by a court of record."

The trial court clerk shall file the record on appeal within thirty days from the date of entry of this order. See Tenn. R. App. P. 11(f); Tenn. R. App. P. 9(e). The appellant's brief, or notice that no supplemental brief will be filed, shall be filed within thirty days after the record is filed. Tenn. R. App. P. 11(f). Briefing shall otherwise proceed in accordance with Tennessee Rule of Appellate Procedure 11(f).

This matter shall be placed on the docket for oral argument upon the completion of briefing.

It is so ORDERED.

PER CURIAM