

The Governor's Council for Judicial Appointments

State of Tennessee

Application for Nomination to Judicial Office

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INTRODUCTION

The State of Tennessee Executive Order No. 54 (May 19, 2016) hereby charges the Governor's Council for Judicial Appointments with assisting the Governor and the people of Tennessee in finding and appointing the best and most qualified candidates for judicial offices in this State. Please consider the Council's responsibility in answering the questions in this application. For example, when a question asks you to "describe" certain things, please provide a description that contains relevant information about the subject of the question, and, especially, that contains detailed information that demonstrates that you are qualified for the judicial office you seek. In order to properly evaluate your application, the Council needs information about the range of your experience, the depth and breadth of your legal knowledge, and your personal traits such as integrity, fairness, and work habits.

This document is available in Microsoft Word format from the Administrative Office of the Courts (telephone 800.448.7970 or 615.741.2687; website www.tncourts.gov). The Council requests that applicants obtain the Microsoft Word form and respond directly on the form using the boxes provided below each question. (The boxes will expand as you type in the document.) Please read the separate instruction sheet prior to completing this document. Please submit your original, hard copy (unbound), completed application (*with ink signature*) and any attachments to the Administrative Office of the Courts. In addition, submit a digital copy with your electronic or scanned signature. The digital copy may be submitted on a storage device such as a flash drive that is included with your hard-copy application, or the digital copy may be submitted via email to ceesha.lofton@tncourts.gov. See section 2(g) of the application instructions for additional information related to hand-delivery of application packages due to COVID-19 health and safety measures

THIS APPLICATION IS OPEN TO PUBLIC INSPECTION AFTER YOU SUBMIT IT.

PROFESSIONAL BACKGROUND AND WORK EXPERIENCE

1. State your present employment.

Circuit Court Judge, Division II for the 26th Judicial District (Madison, Chester, Henderson Counties, Tennessee) since August 20th, 1999.

2. State the year you were licensed to practice law in Tennessee and give your Tennessee Board of Professional Responsibility number.

Licensed to practice law in Tennessee since October 18th, 1985. BPR#011385

3. List all states in which you have been licensed to practice law and include your bar number or identifying number for each state of admission. Indicate the date of licensure and whether the license is currently active. If not active, explain.

Tennessee BPR#011385. Licensed since October 18th, 1985, currently active. Also admitted to practice law before the U.S. District Courts in Tennessee since November, 1985.

4. Have you ever been denied admission to, suspended or placed on inactive status by the Bar of any state? If so, explain. (This applies even if the denial was temporary).

No

5. List your professional or business employment/experience since the completion of your legal education. Also include here a description of any occupation, business, or profession other than the practice of law in which you have ever been engaged (excluding military service, which is covered by a separate question).

I served as a Judicial Law Clerk for approximately 2 years in 1984 and 1985 for the Court of Criminal Appeals Judge Lloyd Tatum (Western Division), in Jackson, Tennessee. I assisted Judge Tatum in writing and issuing legal opinions and performing legal research for the Court. I served as an Assistant District Attorney General for the 26th Judicial District for District Attorney Jerry Woodall from October, 1983 through May, 1984 and then again from January, 1986 through August, 1999. I prosecuted criminal cases in all Madison County, Tennessee lower level courts, including the Municipal Court for the City of Jackson, Tennessee, and both divisions of General Sessions Courts for Madison County, Tennessee (including Juvenile Court) from 1986 through 1990. Beginning in 1990 through August 1999, I was assigned to prosecute

criminal cases (felonies and misdemeanors) in the three Circuit Courts of Madison, Chester and Henderson Counties, Tennessee. In July 1999, I was appointed by Governor Don Sundquist to serve as the presiding Circuit Court Judge for Division II of the 26th Judicial District, which includes Madison, Chester and Henderson Counties. I have continuously served in that position for the past approximately 22 years, through the present time.

6. If you have not been employed continuously since completion of your legal education, describe what you did during periods of unemployment in excess of six months.

Not applicable. I have been employed continuously since completion of my legal education.

7. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

I do not currently practice law. If this question is intended to include my current position as Circuit Court Judge, see my response to #8, #9 and #10 below.

8. Describe generally your experience (over your entire time as a licensed attorney) in trial courts, appellate courts, administrative bodies, legislative or regulatory bodies, other forums, and/or transactional matters. In making your description, include information about the types of matters in which you have represented clients (e.g., information about whether you have handled criminal matters, civil matters, transactional matters, regulatory matters, etc.) and your own personal involvement and activities in the matters where you have been involved. In responding to this question, please be guided by the fact that in order to properly evaluate your application, the Council needs information about your range of experience, your own personal work and work habits, and your work background, as your legal experience is a very important component of the evaluation required of the Council. Please provide detailed information that will allow the Council to evaluate your qualification for the judicial office for which you have applied. The failure to provide detailed information, especially in this question, will hamper the evaluation of your application.

As Circuit Court Judge, I hear both criminal and civil cases filed within the three counties that I serve. I have tried criminal cases of all types over my twenty-two years on the bench. From First Degree Murder cases (Death penalty and Life without the possibility of Parole and Life Imprisonment) and also Second Degree Murder cases and Lesser Homicide cases. I have tried as a Judge, numerous violent offenses such as Aggravated Robbery cases, Felony Drug cases, Aggravated Kidnapping cases, Aggravated Assault cases, Aggravated Burglary cases and Convicted Felon in Possession of a Firearm cases, and every type of lesser Felony offenses including Thefts of Property and Burglary and other non-violent offenses. I believe I have presided over almost every type of felony offenses during my career. I have also tried as Judge almost every type of misdemeanor cases, including DUI's, Domestic Assault, and all types of

Drug related offenses, and driving related offenses.

I estimate that about 85% of my work load is currently criminally related matters including Jury trials, Bench trials, Motions to Suppress Evidence, Petitions for Post Conviction Relief, Probation violation Hearings, Sentencing Hearings and Motions for New Trial Hearings. I also hear petitions for Expungement, petitions for Restoration of Citizenship rights, and other type of criminal matters.

I also maintain a Drug Treatment/Recovery Court Program which I created and established for the 26th Judicial District. We currently have approximately 35 participants in the program.

I also hear and try all types of Civil matters. I have tried several complex Medical Malpractice (Health care liability) cases, a few Wrongful Death cases, Breach of Contract cases, and many Tort related matters involving negligence in automobile collision cases. I estimate that my current work load in terms of time spent on my civil docket is 15%. I do hear various civil motions each month which involve Motions for Summary Judgment, Motions to Compel Discovery, and other related civil motions, I also preside over Civil Jury and Non-Jury trials.

I would estimate that I hear about 10 to 12 times as many criminal Jury and Non-Jury trials as to every one civil Jury trial. Mediation of our large number of Civil cases filed has really helped to eliminate the need for Civil Jury trials in our district, and across the State as a whole. We as trial judges are very thankful for the valuable services provided by mediators across the State.

My experience before the Trial Court is very extensive and varied. As a former prosecutor with the District Attorney General's office for approximately 14 years (1986-1999), I have tried, before a Jury, over 300 criminal cases in my career. Those cases included all types of Murder/Homicide cases (1st and 2nd degree) and all types of violent and non-violent criminal offenses. I tried primarily felony cases of all types during my career as an Assistant District Attorney, along with the occasional misdemeanor cases (DUI's, Assaults, Simple Possession of Drug charges, etc.) I was always the lead prosecuting attorney in the 26th Judicial District beginning in 1990, and had the honor and privilege of trying cases before Judge Whit LaFon (Division I), Judge Franklin Murchison (Division II), and Judge Roger Page (Division III, now Chief Justice Roger Page). I tried criminal cases in the Circuit Courts of Madison, Chester and Henderson counties while serving as an Assistant District Attorney. During the years between 1986 and 1989, I was the District Attorney's Chief Lower Court prosecutor in Madison County. I tried all types of misdemeanor cases and handled all types of felony cases on a preliminary hearing bases. I worked 5 days a week in Court. I would appear before the General Sessions Criminal Court, 2 days each week, before the Municipal Court of Jackson (which had General Sessions Court jurisdiction) 2 days each week, and also before the Madison County General Sessions, Juvenile Court, 1 day each week. I was attending Court sessions and prosecuting various criminal cases everyday of every week during those approximately 4 years. I handled several thousand criminal cases during that time period, and negotiated plea bargain agreements, conducted preliminary hearings, and tried hundreds of misdemeanor cases (DUI's, Assaults, Trespassing, etc.) before the lower Court Judges (Bench Trials), including Juvenile Court delinquency hearings. I was involved directly as a prosecutor with almost every criminal cases filed by the Jackson Police Department, Madison County Sheriff's Department, Tennessee Highway Patrol and Tennessee Wildlife Resource Agency during that 4 year time period. It was during that time that I developed a very strong personal work habit due to the large volume of

cases that I was assigned.

In 1990, I was promoted to Circuit Court, Division I, when Assistant District Attorney Roger Moore moved to Nashville. Between 1990 and 1999, I tried as lead prosecutor over 300 criminal cases, both felonies and serious misdemeanors, before a Jury. My role as lead prosecutor involved reviewing law enforcement case files, interviewing witnesses, formulating plea bargain offers, checking criminal histories of defendants, negotiating settlement agreements with defense counsel, preparing cases for trial, conducting motion hearings and attending Court sessions at least 4 days each week, either in Madison, Chester and Henderson counties.

I would average about 30 to 35 Jury trials or Bench trials each year, and achieved a very high conviction rate. Of course, after a conviction, I would then be responsible for preparing for the sentencing hearings, any motion for New Trial hearings and any Post Conviction or Probation violation hearings as well. The State Attorney General's Office (Criminal Division) in Nashville would handle any appeals filed in those cases. But I was still involved with communicating directly with the State's Attorney General counsel on appealed cases, and assisting when necessary. My success rate on appealed cases I had tried was very high. I believe my range of legal experience with criminal matters and my own personal work and work habits over the past 36 years proves to be very strong.

Additionally, my experience as working as a Judicial Law Clerk for the Court of Criminal Appeals Judge Lloyd Tatum gives me a strong insight into the Appellate Court's decision making process. My experience in doing legal research, drafting opinions for the Judge's review, and assisting in any way I could to help formalize the final opinion to be issued and published was instrumental in developing my passion to serve as a Court of Criminal Appeals Judge.

9. Also separately describe any matters of special note in trial courts, appellate courts, and administrative bodies.

In describing my experience as a Circuit Court Judge who hears both Criminal and Civil, I found the following information which I believe reflects directly upon my experience, work ethic, and competency as a Trial Court Judge. According to the Administrative Office of the Courts (AOC) website, the following are my "Trial Judge case statistics" from July 1, 2008 through June 30th, 2021 (**See attachment exhibit A**). Please note that there are no Trial Judge case statistics available prior to July 1st, 2008. I began serving as a Trial Court Judge on August 20th, 1999, some 9 years prior.

After reviewing the attachment (**Exhibit A**) which is the information provided by the AOC office, the statistics show that I have disposed of 9,802 total Circuit Court cases filed during that 13 year period. Of that total number, 7,793 were criminal cases and 2,009 were civil cases.

Out of the total 9,802 number of cases that I disposed of, only 409 cases were appealed during that 13 year time period. These statistics show that I have disposed of on average 754 cases a year since 2008, with only an average of 31 cases being appealed per year. These number indicate that only 4% of the cases I dispose of each year are ever appealed.

10. If you have served as a mediator, an arbitrator or a judicial officer, describe your experience (including dates and details of the position, the courts or agencies involved, whether elected or appointed, and a description of your duties). Include here detailed description(s) of any noteworthy cases over which you presided or which you heard as a judge, mediator or arbitrator. Please state, as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) a summary of the substance of each case; and (4) a statement of the significance of the case.

I have served continuously as Circuit Court Judge, Division II, for Madison, Chester, and Henderson counties for the past 22 years. I took my first oath of office on August 20th, 1999, after being appointed to serve by Governor Don Sundquist. I was elected, without opposition, in August 2000 to the remainder of the eight-year term. I was again re-elected as Circuit Court Judge, Division II in August 2006, and again re-elected in August 2014, to serve another full 8 year term.

I plan on running for re-election for my current position in August, 2022.

As Judge, I have had the opportunity to preside over criminal cases before a Jury in Madison, Chester, Henderson Counties (26th Judicial District) and Gibson, Crockett and Haywood Counties (28th Judicial District).

In order to fully describe my experience as a presiding Trial Court Judge, I researched the Tennessee Administrative Office of the Courts (AOC) website to see how many cases I had tried. The statistics only went back to July 2008. Since July 2008, I have tried 489 criminal cases and have tried 84 civil cases, for a total of 573 trials (Jury and Non Jury) since year 2008, according to the AOC trial statistics.

By typing in my name as the “originating (Trial Court) Judge”, I located 434 criminal cases that had been appealed out of my Court dating back to the year 2000. Of that number, 380 criminal cases were fully AFFIRMED on appeal, 24 criminal cases were AFFIRMED in part, but remanded for a sentencing issue.

In 9 cases, the Court of Criminal Appeals dismissed the parties appeal, which allowed my decision to stand.

In 14 cases that were appealed to the Court of Criminal Appeals, the Court “reversed in part” my ruling, but remanded the case for a new hearing.

Only one time to my knowledge was a conviction overturned due to my failure to give a defendant’s requested Jury Instruction on the defense of necessity and that case was remanded for a new trial. The defendant later pled guilty to the same charge of which he had been convicted, which was “Being a Convicted Felon in Possession of a Firearm.”

In only 7 criminal cases appealed out of my trial court over the last 22 years, did the Court of Criminal Appeals reverse and dismiss the conviction or dismiss the case. These dismissals were mostly dealing with my denial of a defendant’s Motion to Suppress Evidence issue which I had ruled upon pre-trial or pre-guilty plea.

As far as Civil cases appealed out of my Circuit Court over the last 22 years, the Judgments in 20 cases that I ruled upon were “Affirmed” or “Affirmed in part” by the Court of Appeals. In only 5 cases, did the Court of Appeals reverse my ruling, and remand the case back for a new

hearing.

The following cases which I have presided over as Circuit Court Judge are just a few of the most noteworthy cases:

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON January 7, 2020
Session STATE OF TENNESSEE v. URSHAWN ERIC MILLER Appeal from the Circuit
Court for Madison County No. 16-435 Donald H. Allen, Judge

No. W2019-00197-CCA-R3-DD - Filed September 18, 2020

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. Tenn. R. App. P. 3 Appeal as of right; Judgments of the Circuit Court Affirmed- *Significance of this case is that it was a Death Penalty case, with a Sequestered Jury for 7 days.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON October 6, 2020
Session STATE OF TENNESSEE v. MADARYL DEWAYNE HAMPTON Appeal from the
Circuit Court for Madison County No. 18-739 Donald H. Allen, Judge

No. W2019-01551-CCA-R3-CD – Filed July 12, 2021

The Defendant-Appellant, Madaryl Hampton, was indicted by the Madison County Grand Jury with multiple counts of drug and weapon related offenses, all stemming from a single encounter with the Jackson Police Department (JPD). These counts were severed into two trials, one dealing with the drug related offenses and the other the weapon related offenses. In the first trial, the Defendant was convicted of two counts of simple possession of marijuana. In his second trial, the Defendant was convicted of four counts of being a felon in possession of a weapon. The trial court merged each of these counts and sentenced the Defendant as a Range II offender to twenty years' imprisonment for the weapon offenses to be served consecutively to eleven months and twenty-nine days' imprisonment for the possession of marijuana convictions. While the issues presented in this appeal as of right involve facts from the Defendant's first trial, the Defendant challenges only the felon in possession of a weapon convictions in arguing that: (1) the trial court committed plain error in allowing the State to admit evidence that the Defendant was in possession of marijuana, digital scales, and cash; (2) the trial court committed plain error

in allowing the State to comment on the credibility of the Defendant and the witnesses during closing arguments; and (3) the evidence is insufficient to sustain the Defendant's convictions. Following our review, we affirm the judgments of the trial court. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed-*Significance of this case is that this case involved severance of offenses, for two separate Jury trials.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON March 3, 2021
Session STATE OF TENNESSEE v. BRAXTON LEVAR TAYLOR Appeal from the Circuit
Court for Madison County No. 18-758 Donald H. Allen, Judge

No. W2020-00437-CCA-R3-CD Filed – April 20, 2021

A Madison County jury convicted the defendant, Braxton Levar Taylor, of second-degree murder and unlawful possession of a firearm for which he received an effective sentence of twenty-five years' incarceration. On appeal, the defendant argues the trial court erred in denying two, pre-trial motions to suppress the victim's dying declaration, wherein the victim named the defendant as his shooter, and a photographic lineup which contained his picture and resulted in two witness identifications. The defendant also argues the trial court erred by failing to provide a jury instruction concerning the victim's dying declaration and in sentencing. Following our review of the briefs, the record, and the applicable law, we affirm the judgments of the trial court. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed-*Significance of this case is that it involved a victim's dying declaration.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON January 6, 2015
Session STATE OF TENNESSEE v. TRAVIS LAMONTE STEED Appeal from the Criminal
Court for Madison County No. 12-523 Donald H. Allen, Judge

No. W2014-00146-CCA-R3-CD - Filed May 14, 2015

The defendant, Travis Lamonte Steed, was convicted by a Madison County Criminal Court jury of first degree felony murder; second degree murder, a Class A felony; felony reckless endangerment, a Class E felony; convicted felon in possession of a handgun, a Class E felony; and attempted second degree murder, a Class B felony. The court sentenced the defendant as a Range I, violent offender to concurrent sentences of life for the felony murder conviction and twenty-five years for the second degree murder conviction. The court sentenced the defendant as a Range II, multiple offender to twenty years for the attempted second degree murder conviction and four years each for the felon in possession of a handgun and felony reckless endangerment convictions. The court ordered that the defendant serve the four-year sentences for felony reckless endangerment and felon in possession of a handgun concurrently to each other but consecutively to the twenty-year sentence for attempted second degree murder. The court also ordered that the defendant serve the twenty-year sentence for attempted second degree murder consecutively to the life sentence, for a total effective sentence of life plus twenty-four years in the Department of Correction. The defendant raises three issues on appeal: (1) whether the evidence is sufficient to sustain his murder and attempted murder convictions; (2) whether the jury's verdicts finding him guilty of first degree felony murder and attempted second degree murder are mutually exclusive; and (3) whether the trial court erred in ordering consecutive sentencing. Following our review, we affirm the judgments of the trial court but remand for

entry of corrected judgments to reflect that the defendant's second degree murder conviction is merged into his felony murder conviction. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed and Remanded for Entry of Corrected Judgments-*Significance of this case is that it involved a mass shooting in a crowded Night Club, with multiple victims.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON July 8, 2014
Session STATE OF TENNESSEE V. BRANDON JONES Direct Appeal from the Circuit Court
for Madison County No. 12-34 Donald H. Allen, Judge

No. W2013-00333-CCA-R3-CD - Filed November 26, 2014

The defendant, Brandon Jones, was convicted of possession of marijuana with intent to sell, a Class E felony, and possession of a deadly weapon with intent to employ it in the commission of a dangerous felony, a Class D felony. He was sentenced to mandatory consecutive sentences of two years and four years for the respective convictions. On appeal, the defendant contends that: (1) the trial court erred by allowing evidence regarding the defendant's custodial statements; (2) the trial court erred by allowing hearsay testimony regarding statements made by the passenger in the defendant's car; (3) the trial court erred in allowing a police officer to testify as an expert and offer opinion testimony; and (4) the evidence is insufficient to support the two convictions. Following review of the record, we affirm the judgments of the trial court. Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed-*Significance of this case is that the Court ruled that a police officer was qualified to testify as an expert witness.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON Assigned on
Briefs August 6, 2013 SAMUEL WINKFIELD v. STATE OF TENNESSEE Appeal from the
Circuit Court for Madison County No. C-11-216 Donald H. Allen, Judge

No. W2012-02413-CCA-R3-PC - Filed November 8, 2013

The petitioner, Samuel Winkfield, was indicted for first degree (premeditated) murder, first degree (felony) murder, especially aggravated kidnapping, tampering with evidence, and conspiracy to tamper with evidence. During his July 2007 trial, the petitioner was acquitted of the felony murder and conspiracy to tamper with evidence charges. Because the jury was unable to reach a decision regarding the remaining charges, he was retried in January 2008 and convicted of second degree murder, a Class A felony, and tampering with evidence, a Class C felony. The jury was again unable to reach a decision on the kidnapping charge, and this charge was eventually dismissed. On the direct appeal of his convictions, the petitioner challenged the admission into evidence of his testimony from the first trial, the exclusion from evidence of the MySpace page of the State's chief witness, the sufficiency of the evidence, and his sentence. His convictions and sentences were affirmed. The petitioner then filed a timely post-conviction petition, asserting ineffective assistance of counsel. The petitioner asserted his trial counsel's performance was deficient in failing to investigate and produce witnesses; in failing to obtain expert testimony; in failing to adequately cross-examine witnesses; and in failing to explore alternative defense strategies. After a hearing, the post-conviction court denied the petition, and the petitioner appeals. Having reviewed the record, we discern no error and affirm the judgment of the post-conviction court. Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed-*Significance of this case is that the Court allowed defendant's testimony from*

his first trial to be used by the State in his retrial.

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON Assigned on Briefs September 7, 2011 STATE OF TENNESSEE v. ERIC RICARDO MIDDLETON Direct Appeal from the Circuit Court for Madison County No. 08-442 Donald H. Allen, Judge

No. W2010-01427-CCA-R3-CD - Filed November 14, 2011

The defendant, Eric Ricardo Middleton, was convicted by a Madison County Circuit Court jury of first degree premeditated murder; second degree murder, a Class A felony; and tampering with the evidence, a Class C felony. He was sentenced to an effective term of life imprisonment plus twenty-five years. On appeal, the defendant argues that: (1) the trial court erred in allowing the doctor who performed the autopsies on the victims to testify as an expert; (2) the trial court erred in denying his request for a jury instruction that Mary Thompson, the co-defendant, was an accomplice as a matter of law; (3) the evidence was insufficient to sustain his convictions; and (4) the trial court erred in imposing partial consecutive sentences. After review, we affirm the judgments of the trial court. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed-*Significance of this case is that it involved several Court's rulings on admissibility of expert's testimony and co-defendant's testimony at trial.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON Assigned on Briefs August 5, 2008 STATE OF TENNESSEE v. REGGIE CARNELL JAMES Appeal from the Circuit Court for Madison County No. 06-568 Donald H. Allen, Judge

No. W2007-00775-CCA-R3-CD - Filed March 10, 2009

A Madison County jury convicted the defendant, Reggie Carnell James, of one count of first degree murder and one count of tampering with evidence. The trial court sentenced the defendant to life in prison for the murder conviction and ten years as a Range II, multiple offender, for the evidence tampering conviction. On appeal, the defendant argues that the evidence produced at trial was insufficient to sustain his convictions. After reviewing the record, we affirm the judgments of the trial court. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed-*Significance of this case is that the deceased victim's body was never recovered.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON Assigned on Briefs September 11, 2007 STATE OF TENNESSEE v. DANA KEITH WOODS Appeal from the Circuit Court for Madison County No. 04-892 Donald H. Allen, Judge

No. W2006-00657-CCA-R3-CD - Filed December 26, 2007

The Defendant, Dana Keith Woods, was convicted of first degree premeditated murder, felony murder, attempted first degree murder, aggravated assault, aggravated burglary, and especially aggravated kidnapping. The trial court merged the convictions for first degree premeditated murder and felony murder and also merged the convictions for attempted first degree murder and aggravated assault. For these convictions, the Defendant received an effective sentence of life imprisonment without the possibility of parole plus fifty years. In this direct appeal, the

Defendant raises the following issues for our review: (1) whether the trial court abused its discretion by admitting photographs of the victim; (2) whether the evidence was sufficient to support his convictions; (3) whether the trial court erred in failing to instruct on voluntary intoxication; and (4) whether the trial court erred by imposing consecutive sentences. Following a review of the record and the applicable 1 authorities, we affirm the Defendant's convictions and sentences. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed-*Significance of this case is that the Court merged certain felony convictions, and declined the defendant's request for instruction on voluntary intoxication.*

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE AT JACKSON Assigned on Briefs January 7, 2003 STATE OF TENNESSEE v. TOMMY LEE MIDGETT Direct Appeal from the Circuit Court for Madison County No. 00-225 Donald H. Allen, Judge

No. W2002-00295-CCA-R3-CD - Filed July 24, 2003

The defendant was tried on two counts of first degree premeditated murder and convicted of two counts of facilitation of first degree murder for which he received consecutive twenty-four-year sentences. In his appeal, he presents the following claims: (1) the evidence was insufficient to support his convictions; (2) the trial court erred in excluding evidence of others having motives to kill the victims; (3) the State made an improper statement during its closing argument that constituted plain error; and (4) the trial court erred in sentencing. Following our review, we affirm the judgments of the trial court. Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed-*Significance of this case is that the Court's ruling on multiple evidentiary issues at trial.*

IN THE SUPREME COURT OF TENNESSEE AT JACKSON January 8, 2015 Session Heard at Knoxville LEA ANN TATHAM V. BRIDGESTONE AMERICAS HOLDING, INC., ET AL. Appeal by Permission from the Court of Appeals Circuit Court for Madison County No. C-09133 Donald H. Allen, Judge

No. W2013-02604-SC-R11-CV – Filed October 30, 2015

This products liability case arises out of an accident which resulted from the failure of a tire purchased less than three months before the accident. As a result of the accident, the plaintiff's vehicle was totaled. Subsequently, the entire vehicle, including the tire, was destroyed. This case presents the following issues for review: (1) whether the trial court abused its discretion by refusing to dismiss this case as a sanction for spoliation of evidence; (2) whether the trial court erred in denying summary judgment to the Defendants on the issues of causation and whether the tire was defective or unreasonably dangerous; and (3) whether the trial court erred in denying summary judgment on the issue of the application of the apparent manufacturer doctrine. Upon a thorough review of the record and the applicable law, we conclude that the trial court did not err with respect to any of these issues. Accordingly, we affirm the judgment of the trial court. Tenn. R. App. P. 11 Appeal by Permission from Denial of Rule 9 Application; Judgment of the Trial Court Affirmed-*Significance of this case is that the case involved an issue of "alleged" spoliation of evidence.*

11. Describe generally any experience you have serving in a fiduciary capacity, such as guardian ad litem, conservator, or trustee other than as a lawyer representing clients.

I served on the Board of Trustees for the University School of Jackson for approximately 6 years. I currently serve on the Board of Trustees for my church, Englewood Baptist Church, in Jackson, Tennessee.

12. Describe any other legal experience, not stated above, that you would like to bring to the attention of the Council.

In the summer of 1981: I served as a Law Clerk for Rainey, Kizer, Butler, Reviere & Bell Law Firm in Jackson, TN.

In the fall of 1981: I served as a Law Clerk for Luck, Yawn and Smith Law Firm in Memphis, TN.

In 1982: I served as a Law Clerk for Shelby County, Tennessee Criminal Court Judges.

In January 1983 through May, 1983: I served a Legislative Law Clerk for the Tennessee State Legislature (93rd General Assembly) Office of Legal Services, in Nashville, TN.

13. List all prior occasions on which you have submitted an application for judgeship to the Governor's Council for Judicial Appointments or any predecessor or similar commission or body. Include the specific position applied for, the date of the meeting at which the body considered your application, and whether or not the body submitted your name to the Governor as a nominee.

I applied for the vacant position of Circuit Court Judge for Division II of the 26th Judicial District (Madison, Chester, Henderson Counties, TN.) upon the retirement of my predecessor, Judge Franklin Murchison in 1999. I was appointed to serve as the Circuit Court Judge by Governor Don Sundquist in July 1999, after my name was submitted by the Judicial Selection Committee in April or May of 1999.

EDUCATION

14. List each college, law school, and other graduate school that you have attended, including dates of attendance, degree awarded, major, any form of recognition or other aspects of your education you believe are relevant, and your reason for leaving each school if no degree was awarded.

I attended the University of Mississippi from August 1976 through August 1980, and received a Bachelor of Public Administration degree, with Honors. Upon my college graduation, I attended Memphis State University School of Law (now University of Memphis School of Law) from August 1980 until completion in August 1983. I received my "Juris Doctor" degree from

the Cecil C. Humphreys School of Law at Memphis State University in August 1983, and soon thereafter began my legal career, which as been predominately criminal law. In August of 2000, I completed the Tennessee Judicial Academy and was awarded a Certificate of Achievement by the Tennessee Supreme Court. In April 2002, I attended a "General Jurisdiction" 2 week study program at the National Judicial College in Reno, Nevada, and successfully and faithfully completed the Judicial training program.

PERSONAL INFORMATION

15. State your age and date of birth.

My age is 63 years old. My date of birth is [REDACTED] 1958.

16. How long have you lived continuously in the State of Tennessee?

My entire life (63 years), other than when I was attending College at the University of Mississippi from August 1976 through May 1980.

17. How long have you lived continuously in the county where you are now living?

I have lived continuously in Madison County for my entire life, other than time spent in College in Oxford, Mississippi between 1976 through 1980, and then Law School at Memphis State University (now University of Memphis) in Shelby County, Tennessee from 1980 through 1983. I also lived briefly in Davidson County, Tennessee in early 1983 (5 months) when I worked for the Office of Legal Services for the Tennessee General Assembly.

18. State the county in which you are registered to vote.

Madison County, Tennessee

19. Describe your military service, if applicable, including branch of service, dates of active duty, rank at separation, and decorations, honors, or achievements. Please also state whether you received an honorable discharge and, if not, describe why not.

Not applicable

20. Have you ever pled guilty or been convicted or placed on diversion for violation of any law, regulation or ordinance other than minor traffic offenses? If so, state the approximate

date, charge and disposition of the case.

No

21. To your knowledge, are you now under federal, state or local investigation for possible violation of a criminal statute or disciplinary rule? If so, give details.

No

22. Please identify the number of formal complaints you have responded to that were filed against you with any supervisory authority, including but not limited to a court, a board of professional responsibility, or a board of judicial conduct, alleging any breach of ethics or unprofessional conduct by you. Please provide any relevant details on any such complaint if the complaint was not dismissed by the court or board receiving the complaint.

According to the Board of Judicial Conduct, during my 22 year Judicial career, there have only been five formal complaints filed against me which I was asked to respond to. All five of these complaints were filed by incarcerated defendants who had been tried and convicted and sentenced by me. All five were summarily dismissed, except one.

In that one complaint filed in 2010, the Investigative panel dismissed the complaint, but did issue a warning that I should be more careful to instruct the Court Clerk to immediately bring pleadings requiring action by the Court to my attention. The panel also advised me to closely monitor the Clerk's compliance to prevent technical violations of the Statute regarding expungements as had happened in this case. The panel determined that my conduct did not rise to the level of any sanctionable misconduct.

According to the Bond of Professional Responsibility, I had one complaint filed against me on June 7th, 1993, by a defendant who I was prosecuting while serving as an Assistant District Attorney at the time. The complaint was dismissed.

23. Has a tax lien or other collection procedure been instituted against you by federal, state, or local authorities or creditors within the last five (5) years? If so, give details.

No

24. Have you ever filed bankruptcy (including personally or as part of any partnership, LLC, corporation, or other business organization)?

No

25. Have you ever been a party in any legal proceedings (including divorces, domestic proceedings, and other types of proceedings)? If so, give details including the date, court and docket number and disposition. Provide a brief description of the case. This question does not seek, and you may exclude from your response, any matter where you were involved only as a nominal party, such as if you were the trustee under a deed of trust in a foreclosure proceeding.

As to the best of my knowledge, there have been two individuals who have filed lawsuits against me as a Judge or as an Assistant District Attorney. In each case the incarcerated defendants not only sued me, but they also sued various other related public officials, such as the former Judge, the District Attorney, the Circuit Court Clerk and any and all officers that have an interest in the case.

In Madison County Circuit Court number C17-180, filed June 27th, 2017, Montez Adams, who is currently serving a life sentence for first degree felony murder, especially aggravated burglary and other related convictions, sued me for my actions in prosecuting his criminal case and successfully obtaining his convictions back in 1996. The lawsuit is entitled "Ex Parte Petition for a Writ of Error Quo Warranto." I never had to appear in Court on this matter, and the State's Attorney General office represented me in this matter. An order of dismissal was entered on August 14th, 2017 due to the petitioner's failure to state a claim upon which relief could be granted.

In Madison County Circuit Court number C12-278, another incarcerated individual, Jeffery Douglas, filed a lawsuit against me as a Judge, and also sued the 13 "Jane/John Doe" jurors who convicted him of rape and sexual battery of a minor at his trial in 2011. He also sued the District Attorney General, the Assistant District Attorney General, the Public Defender, the Investigating officer, the victim, the victim's mother, and the medical doctor who testified for the State that the child victim had been sexually abused and penetrated. He asserted various claims in his petition, but failed to state any single facts to support any of his claims. The case was removed to U.S. District Court for the Western District of Tennessee briefly, and was then remanded back to Madison County Circuit Court on or about September 5th, 2013. The case was ultimately dismissed by the Circuit Court of Madison County, on defendant's Motion for Summary Judgment. The Court of Appeals thereafter ruled that the case that Mr. Douglas had filed and appealed was to be dismissed as "frivolous."

26. List all organizations other than professional associations to which you have belonged within the last five (5) years, including civic, charitable, religious, educational, social and fraternal organizations. Give the titles and dates of any offices that you have held in such organizations.

Member of Englewood Baptist Church, currently serving on the Board of Trustees.

Board Member of the Jackson Madison County Sports Hall of Fame.

Leadership Jackson Graduate in 1988, and currently an Alumni Association Member.

University of Mississippi Alumni Association since 1980. Serving as Jackson/West Tennessee

Ole Miss Rebel Club President from 2016-2020.

Member of Jackson County Club, Jackson, TN.

TSSAA High School Football Official, from 1984-1998, and from 2004 to 2017 was a registered football official with the TSSAA and was a member of the Southwest Football Officials Association until my retirement in 2017, following my officiating a State High School Football Championship in December, 2017.

American Heart Association's "Red Tie Society" Charitable Member.

27. Have you ever belonged to any organization, association, club or society that limits its membership to those of any particular race, religion, or gender? Do not include in your answer those organizations specifically formed for a religious purpose, such as churches or synagogues.
- If so, list such organizations and describe the basis of the membership limitation.
 - If it is not your intention to resign from such organization(s) and withdraw from any participation in their activities should you be nominated and selected for the position for which you are applying, state your reasons.

No, I have never been a member or belonged to any such organizations.

ACHIEVEMENTS

28. List all bar associations and professional societies of which you have been a member within the last ten years, including dates. Give the titles and dates of any offices that you have held in such groups. List memberships and responsibilities on any committee of professional associations that you consider significant.

"Master Class" Member of the Howell Edmunds Jackson Chapter, American Inns of Court from 2013 to Present.

Tennessee Judicial Conference, Executive Committee, 2012-2013

Tennessee Judicial Conference, Member, 1999-Present. Currently serving on the Problem Solving Courts Committee and the Public Trust and Confidence in the Courts Committee.

Presiding Judge of the 26th Judicial District "Recovery Court/Drug Treatment Program," from 2003 to Present.

Director of "SCALES" Project (Supreme Court Advancing Legal Education for Students) in year 2000.

Tennessee Trial Judges Association, 1999-Present.

Tennessee Bar Foundation- "Fellows" member Class of 2013

Tennessee Bar Foundation- "Fellows" member of Young Lawyer Division

Tennessee Bar Association- Member

Jackson/Madison County Bar Association, Member from 1985 to Present.

President, Jackson/Madison County Bar Association, 1993-1994

President, West Tennessee Young Lawyers Association, 1989-1990

State Supreme Court Board of Law Examiners-Character Investigatory Committee, 1989-2012

Madison Court Juvenile Court Advisory Board, 1989-1992

Member of the Tennessee Association of Drug Court/Recovery Court Professionals in the State of Tennessee since 2006. I established the 26th Judicial Drug Court/Recovery Court program in approximately 2003, and have continuously served as Presiding Judge over the program since its inception. Over the last approximately 19 years, the Court monitored Treatment Program which was certified and recertified through the State of Tennessee (Office of Criminal Justice Programs) since 2008.

29. List honors, prizes, awards or other forms of recognition which you have received since your graduation from law school that are directly related to professional accomplishments.

Received the Grace Public Broadcasting “Angel Award” in 2014, for my work with assisting Men and Women struggling with Drug Addiction within our community.

Received the Jackson Madison County Community Anti-Drug Coalition Recognition Award in 2012, for my efforts in promoting Anti-Drug Behavior and Recovery efforts.

Received the “Women of Hope” Recovery Treatment Award of Excellence in 2010. The Women of Hope is a Faith based Recovery Program assisting Women in having a clean and sober environment in which to live.

30. List the citations of any legal articles or books you have published.

I have not published any legal articles or books.

31. List law school courses, CLE seminars, or other law related courses for which credit is given that you have taught within the last five (5) years.

I have participated as a panelist in at least three law related educational teaching programs for High School Students within the last 5 years, although none were CLE accredited. I did teach a 1 hour CLE Program to Local Attorneys entitled “Tips from the Bench” but I do not remember the year.

32. List any public office you have held or for which you have been candidate or applicant.

Include the date, the position, and whether the position was elective or appointive.

I have held the public office of Circuit Court Judge, Division II for the 26th Judicial District (Madison, Chester, Henderson Counties) for the State of Tennessee since August 20th, 1999. I was appointed by Governor Don Sundquist in July 1999, and was sworn in on August 20th, 1999. I was elected to the same Circuit Court Judge position in August, 2020, was re-elected in August 2006, for an 8 year term and again re-elected in August 2014, for an 8 year term, which I'm still currently serving. In August 1998, I was a candidate for the position of General Sessions Judge, Division I, for Madison County, TN. I was unsuccessful in that election.

33. Have you ever been a registered lobbyist? If yes, please describe your service fully.

No

34. Attach to this application at least two examples of legal articles, books, briefs, or other legal writings that reflect your personal work. Indicate the degree to which each example reflects your own personal effort.

My practice as a Trial Court Judge has been that I normally issue a written letter to counsel for both parties, and will state in detail my "findings of facts" and "conclusions of law" following a Court hearing. In that letter, I will state in much detail what testimony and what proof I find credible, and what my ruling is as to the specific issues involved. In most "Motions to Suppress Evidence" and in most "Petitions for Post Conviction Relief", which I hear both on a regular basis, I am required to carefully review and consider the specific exhibits entered into evidence, the pleadings filed, the transcripts submitted, the briefs and memorandums of law submitted and argued, and the relevant case law. In order to properly rule upon the matter, I will normally take the matter under advisement in order to review and to properly consider the applicable law before I make a decision. Attachment Exhibit B are 4 examples of my legal writings which I am 100% responsible for. The orders filed are prepared at my direction by counsel, but will incorporate by reference my specific findings of facts and conclusions of law. I also do similar type letters and orders in civil cases which involve primarily Motions for Summary Judgments.

See attachment Exhibit B1, B2, B3 and B4

ESSAYS/PERSONAL STATEMENTS

35. What are your reasons for seeking this position? (150 words or less)

I am seeking the Judicial position on the Court of Criminal Appeals because I believe I have the most appropriate and extensive experience and qualifications that one could have to serve in this very important position. My entire legal career has been centered around a working knowledge of the criminal laws and statutes of our State. From serving 2 years as a Judicial Law Clerk to a long time and outstanding Court of Criminal Appeals Judge, doing legal research and opinion drafting, to working as an Assistant District Attorney General prosecuting all types of criminal cases, and at all levels of General Sessions and Circuit (Criminal) Court in multiple counties, to

finally serving as Circuit Court Judge for a multi-county district for the past 22 years. I feel that I have the right amount of Judicial experience and legal knowledge, work ethic and integrity, to serve in this position. I have always tried to conduct myself both inside and outside the courtroom in a manner that promotes trust and confidence in our Judiciary. Our citizens believe in fair and honest government, they believe in the Rule of Law, they believe that all people deserve to be treated with fairness and equal opportunity under the Law. Our citizens expect their elected officials to be men and women who serve the public's best interest at all times, and who demonstrate the utmost integrity and fairness and work ethic. The citizens of our State deserve Judges who have proven to show a great knowledge of the law, and who have served their communities well. If selected to serve in this position, I pledge that I will continue to work hard, and to issue opinions and decisions in a timely, precise and just manner. I pledge to interpret the law in each case in a reasonable and fair manner. I will continue to try to educate our Communities about our Justice system, so that they can have a clear and correct understanding of the Judicial process, both at the Trial Court level and at the Appellate Court level.

36. State any achievements or activities in which you have been involved that demonstrate your commitment to equal justice under the law; include here a discussion of your pro bono service throughout your time as a licensed attorney. *(150 words or less)*

Over the last 22 years that I've served as Circuit Court Judge, I have spoken to numerous Civic Groups (Lions Club, Rotary Club, Boy Scout Groups, Explorer's Program, etc.) about "Access to Our Courts" and "Understanding our Court System." These programs were to educate our community members about our local court system, and to explain the efforts, that we make as "Problem Solving" Courts. I've explained the reasoning behind our Drug Treatment/Recovery court program, and why I feel that it is so vital to our community.

Additionally, I served as an Inaugural Board Member of "Leadership University" from 1998 to 2007, which is a Leadership program for the High School Students (both public and private schools) in Madison County, Tennessee. In helping to develop this leadership program in 1998, which is sponsored by the Jackson/Madison County Chamber of Commerce, I have continued each year to spend a full day with the Leadership University Class (approximately 40 to 45 students) educating them about their responsibility of good citizenship to their community. I help to educate and develop their Understanding of the Court system in Tennessee, and how "good decision making" is important to their success in life.

I have also help to develop our "Life's Healing Choices Program" for our Madison County Jail inmates. With volunteers from our local church and recovery communities, these volunteers come to my courtroom weekly to meet with a group of local inmates (separate female and male classes) to learn how to make better decisions in the future upon their release from incarceration. As part of an eight-week small group recovery program, they learn how to "discover and face" their hurts, hang-ups, and habits which have caused problems in their lives for many years. The program, which is part of "Celebrate Recovery" ministry, provides step-by-step help through biblically based teaching by offering real answers, real hope, and a real future, one choice at a time. As a result of this local jail inmate's rehabilitative program, we have helped to save lives and restore families from destructive behavior and poor decision making. It definitely seems to

work, according to their testimonies at their Graduation ceremony.

37. Describe the judgeship you seek (i.e. geographic area, types of cases, number of judges, etc. and explain how your selection would impact the court. *(150 words or less)*)

I am seeking the Judgeship position for the Court of Criminal Appeals for the Western Division of the State of Tennessee. The Court hears exclusively criminal appeal cases, including post conviction matters. There are 12 Judges who serve as the Statewide Court of Criminal Appeals, with four selected from each Grand Division. My selection to this Court would give rural West Tennessee at least one Judge who would be sitting full time in Jackson to handle the criminal appeals and emergency orders and request on a daily basis. I believe that my selection would benefit the Court greatly since my daily office duties would be in Jackson where the Appellate Court and Clerk's office building is located. Plus, with my extensive criminal law background and training and education, I would be able to assist the Court very quickly in issuing opinions and scheduling cases to be heard and argued by the attorneys and/or parties for the Western Grand Division located in Jackson, which is where this Court regularly meets.

38. Describe your participation in community services or organizations, and what community involvement you intend to have if you are appointed judge? *(250 words or less)*

I do community service work through my local church (Englewood Baptist Church) and through our Jackson/Madison County Sports Hall of Fame. I serve on the Board of Trustees for my Church and also serve as a "Greeter". With the local Sports Hall of Fame, I have served as a board member since approximately 2006. This Board recognizes 5 local individuals each year who have demonstrated outstanding sporting accomplishments during their lifetime. The Hall of Fame, which has been in existence since 1986, has approximately 175 members as to date. I have served in various roles and committees on this Board.

I have previously served on the Board of Directors for the Boys & Girls Club of Jackson, and have previously served as President of the Jackson Downtown Lions Club in 1994-1995. I have also served as President of the Jackson/West Tennessee Ole Miss Rebel Club through the University of Mississippi Alumni Association from 2016 through 2020. I hope to continue serving in my church, my Alma Mater, and the local Sports Hall of Fame.

39. Describe life experiences, personal involvements, or talents that you have that you feel will be of assistance to the Council in evaluating and understanding your candidacy for this judicial position. *(250 words or less)*

Since graduating Law School in August 1983, my entire legal career has been somehow related to the criminal laws in Tennessee. From studying and researching the laws as a Judicial Law Clerk for the Court of Criminal Appeals in 1984 and 1985, to prosecuting criminal cases as an Assistant District Attorney from 1986 till 1999, and then as Circuit Court Judge who handles

both a criminal and civil dockets for the past 22 years over a three county Judicial District, I feel that my extensive education, training and experience has well equipped me to serve on the Court of Criminal Appeals. I know what it takes to serve as a competent Trial Court Judge in criminal cases based upon the large number of criminal cases and post conviction cases that I have been directly involved in.

As a trial court Judge, I have always prepared myself in such a way that I know and understand that my rulings and my decisions are subject to review by the Appellate Court. I do my very best and work hard everyday to make sure that my decisions are based upon the laws and evidence in each case. I understand that I must correctly and accurately apply the law in each case in a just and fair and impartial manner.

As a Trial Court Judge for 22 years, I study the law ahead of time. I'm prepared for any unusual evidentiary rulings that may arise during the course of the trial. I then take whatever time is necessary to make the appropriate rulings. I feel that my high success rate for "affirmation on appeal," shows that I am consciously, meticulously, and thoughtfully ruling on each case.

I feel that my work ethic is excellent, which is of utmost importance as a Judge. I strive to keep my heavy criminal dockets and my civil dockets on track so that cases are heard and disposed of in a reasonable time frame. I feel that "Justice delayed" is often times "Justice Denied." Even during the Covid-19 pandemic in 2020 and 2021, I have tried my very best to hear cases, especially criminal matters, in a just and speedy manner. The public's interest and the parties' interest in a timely resolution of a case is of critical importance. The constitutional rights of individuals must be protected.

40. Will you uphold the law even if you disagree with the substance of the law (e.g., statute or rule) at issue? Give an example from your experience as a licensed attorney that supports your response to this question. *(250 words or less)*

Yes, I will in all instances.

Every case that I have ever decided as a Trial Court Judge, that is appealed for whatever reason to the Appellate Court, when the Appellate decision is made, I take the time to carefully read and study the Appellate Court's decision. Their words and their specific rulings are of critical importance to the betterment of Trial Court Judges. I respect the Appellate Court's rulings and I try to use their guidance and their opinions to make myself a better Trial Court Judge. I try to learn from their decisions and if I've ruled improperly, then I can correct that error in the future. If they affirm my decision, then I can rest easily and comfortably that I correctly made appropriate rulings within my discretion. Appellate Court Judges can teach and educate Trial Court Judges when necessary, through their opinions. Trial Court Judges sometimes have to make quick decisions during the course of a trial, but is never appropriate to let my personal opinions guide the legal decisions that I must make. There have been many occasions when I've had to dismiss a very serious criminal charge against a defendant due to an improper or unconstitutional search or seizure by law enforcement officers. If that's what the law requires, then that's what I will follow.

REFERENCES

41. List five (5) persons, and their current positions and contact information, who would recommend you for the judicial position for which you are applying. Please list at least two persons who are not lawyers. Please note that the Council or someone on its behalf may contact these persons regarding your application.

A. State Senator Ed Jackson, [REDACTED] Jackson TN 38305, [REDACTED] [REDACTED]
B. State Representative Chris Todd, [REDACTED] Jackson, TN 38308, [REDACTED]
C. Attorney Bradford Box, The Law Firm of Rainey, Kizer, Reviere & Bell, [REDACTED] [REDACTED] Jackson, TN 38301, [REDACTED]
D. Kyle Spurgeon, President/CEO of the Jackson Chamber of Commerce, [REDACTED] [REDACTED] Jackson, TN 38301, [REDACTED]
E. Tyreece Miller, United States Marshall, Western District of Tennessee, [REDACTED] [REDACTED] Jackson, TN 38301, [REDACTED] or work cell phone number [REDACTED]

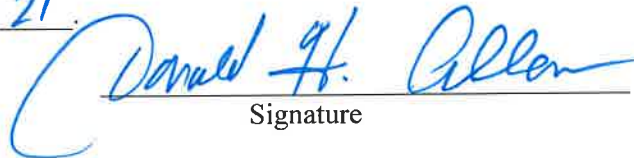
AFFIRMATION CONCERNING APPLICATION

Read, and if you agree to the provisions, sign the following:

I have read the foregoing questions and have answered them in good faith and as completely as my records and recollections permit. I hereby agree to be considered for nomination to the Governor for the office of Judge of the [Court] **Court of Criminal Appeals in Western Grand Division** of Tennessee, and if appointed by the Governor and confirmed, if applicable, under Article VI, Section 3 of the Tennessee Constitution, agree to serve that office. In the event any changes occur between the time this application is filed and the public hearing, I hereby agree to file an amended application with the Administrative Office of the Courts for distribution to the Council members.

I understand that the information provided in this application shall be open to public inspection upon filing with the Administrative Office of the Courts and that the Council may publicize the names of persons who apply for nomination and the names of those persons the Council nominates to the Governor for the judicial vacancy in question.

Dated: October 8th, 20 21.


Signature

When completed, return this application to Ceesha Lofton, Administrative Office of the Courts, 511 Union Street, Suite 600, Nashville, TN 37219.



**THE GOVERNOR'S COUNCIL FOR JUDICIAL APPOINTMENTS
ADMINISTRATIVE OFFICE OF THE COURTS**

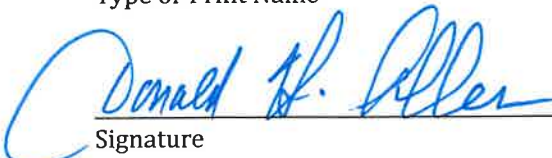
511 UNION STREET, SUITE 600
NASHVILLE CITY CENTER
NASHVILLE, TN 37219

**TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY
TENNESSEE BOARD OF JUDICIAL CONDUCT
AND OTHER LICENSING BOARDS**

WAIVER OF CONFIDENTIALITY

I hereby waive the privilege of confidentiality with respect to any information that concerns me, including public discipline, private discipline, deferred discipline agreements, diversions, dismissed complaints and any complaints erased by law, and is known to, recorded with, on file with the Board of Professional Responsibility of the Supreme Court of Tennessee, the Tennessee Board of Judicial Conduct (previously known as the Court of the Judiciary) and any other licensing board, whether within or outside the State of Tennessee, from which I have been issued a license that is currently active, inactive or other status. I hereby authorize a representative of the Governor's Council for Judicial Appointments to request and receive any such information and distribute it to the membership of the Governor's Council for Judicial Appointments and to the Office of the Governor.

___Donald H. Allen___
Type or Print Name


Signature

___October 8th, 2021___
Date

___011385___
BPR #

Please identify other licensing boards that have issued you a license, including the state issuing the license and the license number.



Criminal and Civil Court Cases disposed by:
JUDGE DONALD H. ALLEN

Fiscal Year	Number of Criminal Cases	Number of Civil Cases
FY 2008-2009	523	190
FY 2009-2010	592	230
FY 2010-2011	547	173
FY 2011-2012	550	179
FY 2012-2013	726	217
FY 2013-2014	565	147
FY 2014-2015	519	151
FY 2015-2016	531	166
FY 2016-2017	575	115
FY 2017-2018	613	129
FY 2018-2019	721	100
FY 2019-2020	671	100
FY 2020-2021	660	112
Total	7,793	2,009



IN THE CIRCUIT COURT OF CHESTER COUNTY, TENNESSEE
DIVISION II

STATE OF TENNESSEE

vs.

NO. 21-CR-17

TIMOCHIEO S. PUGH

FILED
TIME: 10:00 AM PM.

OCT 07 2021

[Signature]
Circuit Court Clerk

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS

This matter came on to be heard on the 10TH day of September, 2021, before the Honorable Donald H. Allen, Judge of the Circuit Court for Chester County, Tennessee, at Henderson, Division II, upon Defendant's Motion to Suppress, testimony of witnesses, argument of counsel, and the record as a whole.

Based on the "totality of the circumstances" involved, and based on the information provided to law enforcement officers (specifically as to Police Officer Bradley Ross) and the rational inferences that can be drawn from such facts and circumstances, known to Officer Ross at the time he "attempted" to stop the Defendant's vehicle, the Court finds as follows:

1. Ms. Yarnell Burton called "911" and stated, "I need an officer over here at my house at 200 (North) Carolina." She told the



dispatch officer that "somebody just called her and said that somebody is on Franklin Street bearing on doors looking for me and my brother, and I don't know why. I'm just kind of scared right now." This call occurred at approximately 1:13 a.m.

2. Ms. Burton requested assistance from law enforcement and the dispatcher said, "I'll send them that way", to which Ms. Burton responded "All right. Thank you". Ms. Burton then hung up from the 911 call she had placed.
3. It appears from the proof that just a few minutes later, Ms. Yarnell Burton again called 911 and asked, "Is the officer on his way?" The dispatcher replied, "Yes ma'am. I've got them on the way," to which Ms. Burton replied, "Okay, because I just seen a car turn around."
4. Although Ms. Burton never stated to the dispatcher that threats were being made towards her or her brother, she did indicate that she was scared due to the fact that somebody (who she didn't know) was beating on doors looking for her and her brother.
5. Ms. Burton was clearly requesting police officers' assistance to investigate what was taking place, and that she was scared.
6. The fact that she called 911 twice within a few minutes indicated that she believed that she needed help from police officers.
7. At approximately 1:18 a.m., Officer Bradley Ross with the Henderson Police Department talked to a nearby neighbor of Ms. Burton, being Mr. Frederick Wilson, and asked Mr. Wilson, "Have you seen any suspicious activity?" Mr. Wilson advised Officer Ross "that the car drove up behind the house. It was a cream-colored Cadillac. A black male with dreads got out and started banging on the (back) door". He (the driver) then got back in the car and left just several seconds prior to the officer's arrival.

8. Mr. Wilson also reported that the same black male subject had approached several different residences prior to the officer's arrival.
9. Officer Ross testified "that officers were not able to get Ms. Yarnell Burton to the door," so he then left the residence and patrolled the area (due to the reported suspicious activity) in an attempt to locate the vehicle.
10. Officer Ross then located the vehicle shortly thereafter "exiting behind the Bull Market and that he attempted to stop the vehicle".
11. Officer Ross testified he activated his emergency equipment in an attempt to stop the vehicle, at which time the vehicle fled.
12. Officer Ross testified that while he was behind the defendant's vehicle with his blue lights activated, that the vehicle left the roadway, traveled behind the fire department building and another building, and became stuck in the mud.
13. The Court credits the officer's testimony that the defendant attempted to evade the investigatory stop by leaving the roadway and driving between the two buildings, and then eventually becoming stuck in the mud. Officer Ross testified that after he pulled in behind the defendant's vehicle, that Mr. Pugh exited the vehicle and walked towards the officer. The officer also testified that after he came into contact with Mr. Pugh, he learned from the dispatcher that Mr. Pugh's driver's license status was revoked. He also observed what he believed to be suspicious activity from Mr. Pugh, when Mr. Pugh removed something from his waistband and put it in his mouth and attempted to swallow. The officer believed it to be narcotics, and also testified that he smelled the odor of marijuana coming from Mr. Pugh's person.

14. Officer Ross testified that it was only “after” he had attempted to make the investigatory stop on Mr. Pugh’s vehicle, that he learned another police officer had finally gotten Ms. Burton to open her door and had spoke to Ms. Burton at her residence.

The Court credits the testimony of Officer Bradley Ross and finds that based upon the specific and articulable facts as stated above there was a reasonable suspicion to believe that the driver of the vehicle had been the same person observed by Mr. Wilson beating on Ms. Burton’s back door “just seconds” before the officers arrived at the scene of the disturbance call. Again, the fact that Ms. Burton called 911 twice and stated she was scared just minutes before the officer’s arrival at her residence, indicated that she suspected that someone might be seeking to cause her harm. Certainly, it is reasonable to believe that Ms. Burton felt threatened, enough that she called 911 twice within minutes in order to request officers’ assistance at her residence.

The Court finds that Officer Ross’ decision to attempt to stop the Defendant’s vehicle was justified, given the suspicious activity reported to law enforcement officers, individually by both Ms. Burton and Mr. Wilson. Clearly, there had been a disturbance caused at or very near to Ms. Burton’s residence.

The fact that Ms. Burton failed to answer her door when officers arrived justifies the belief that something may have happened to Ms. Burton.

The Court also finds, in fact, that the officer never actually stopped the Defendant's vehicle, even though he was justified in attempting to do so, based upon the recent suspicious activity.

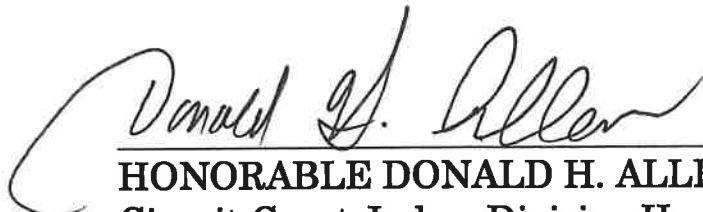
The facts show that the only reason the Defendant stopped his vehicle was because "it got stuck in the mud" after the Defendant intentionally left the roadway when he observed the officer's blue lights behind his vehicle. Additionally, the officer never asked the Defendant to step out of his vehicle. It appears the Defendant exited his vehicle and began approaching the officer, who later arrested him for driving on a revoked driver's license, which was committed in the officer's presence. Additionally, the driver was charged with felony evading arrest due to his driving behavior.

Further, the Court credits Officer Ross' testimony that he smelled the odor of marijuana coming from the Defendant's person when he was speaking to the Defendant after he had voluntarily gotten out of his vehicle, and when the officer observed the Defendant place what the


officer believed to be narcotics in his mouth and attempted to swallow them. These actions by the Defendant occurred while the officer was in the process of arresting the Defendant for driving on a revoked license and for attempting to evade arrest by fleeing in a motor vehicle from law enforcement (a felony offense), which eventually led to the search of the Defendant's person and his vehicle.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED
that Defendant's Motion to Suppress is hereby denied and dismissed.

ENTERED: This the 7th day of October, 2021.


HONORABLE DONALD H. ALLEN
Circuit Court Judge, Division II
26th Judicial District

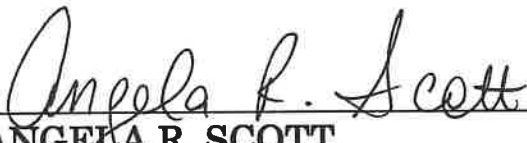
APPROVED FOR ENTRY:


ANGELA R. SCOTT, BPR #018882
Assistant District Attorney
26th Judicial District
514 S. Broad Street, Suite B
Lexington, TN 38351

(731) 967-1181
(731) 967-0811 (FAX)
arscott@tndagc.org

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been mailed, first class postage prepaid, to Mr. Lloyd Tatum, Attorney at Law, 124 East Main Street, Henderson, TN 38340 and Mr. Joe Byrd, Jr., Attorney at Law, 116 North Church Street, Jackson, TN 38301, this the 6th day of October, 2021.



ANGELA R. SCOTT
Assistant District Attorney General
26th Judicial District



CIRCUIT COURT
STATE OF TENNESSEE
TWENTY-SIXTH JUDICIAL DISTRICT
CHESTER, HENDERSON AND MADISON COUNTIES

DONALD H. ALLEN
CIRCUIT JUDGE
DIVISION II

MARY TAYLOR
ADMINISTRATIVE ASSISTANT

MADISON COUNTY CRIMINAL JUSTICE COMPLEX
515 SOUTH LIBERTY STREET, SUITE 210
JACKSON, TENNESSEE 38301
(731) 423-6086
Fax (731) 988-3048

September 29th, 2021

Mr. Joe Byrd
116 North Church Street
Jackson, TN 38301

Mr. Lloyd Tatum
124 East Main Street
Henderson, TN 38340

Ms. Angela Scott
Mr. Chad Wood
514 South Broad Street
Suite B
Lexington, TN 38351

Re: State of TN vs Timochieo S. Pugh
Chester County Circuit Court Docket # 21-CR-17

Dear Counselors,

After hearing all of the evidence submitted at the defendant's "Motion to Suppress Evidence" hearing held in this matter on September 10th, 2021, and after carefully considering the arguments for all counsel and the relevant law and memorandums of law submitted in this case, the Court makes the following findings of fact and conclusions of law based upon the proof presented.

Based upon the "totality of the circumstances" involved, and based upon the information provided to the law enforcement officers (specifically as to Police Officer Bradley Ross) and the rational inferences that can be drawn from such facts and circumstances, known to Officer Ross at the time he "attempted" to stop the defendant's vehicle, the Court finds as follows:

The specific and articulable facts that led Officer Ross to attempt to stop the defendant's vehicle at approximately 1:18 a.m. on December 23rd, 2019, are as follows:

- 1) Ms. Yarnell Burton called "911" and stated "I need an officer over here at my house at 200 (North) Carolina. She told the dispatch officer that "somebody just called her and said that somebody is on Franklin Street beating on doors looking for me and my brother, and I don't know why. I'm just kind of scared right now." This call occurred at approximately 1:13 a.m.
- 2) Ms. Burton requested assistance from law enforcement and the dispatcher said "I'll send them that way", to which Ms. Burton responded "All right. Thank you," and then she hung up from the 911 call she had placed.

- 3) It appears from the proof that just a few minutes later, Ms. Yarnell Burton again called 911 and asked "Is the officer on his way?" The dispatcher replied, "Yes ma'am. I've got them on the way", to which Ms. Burton replied, "Okay, because I just seen a car turn around."
- 4) Although Ms. Burton never stated to the dispatcher that threats were being made towards her or her brother, she did indicate that she was scared due to the fact that somebody (who she didn't know) was beating on doors looking for her and her brother.
- 5) Ms. Burton was clearly requesting police officers' assistance to investigate what was taking place, and that she was scared.
- 6) The fact that she called 911 twice within a few minutes indicated that she believed that she needed help from police officers.
- 7) At approximately 1:18 a.m., Officer Bradley Ross with the Henderson Police Department talked to a nearby neighbor of Ms. Burton, being Mr. Frederick Wilson, and asked Mr. Wilson, "Have you seen any suspicious activity?". Mr. Wilson advised Officer Ross "that the car drove up behind the house. It was a cream-colored Cadillac. A black male with dreads got out and started banging on the (back) door. He then got back in the car and left just several seconds prior to officer's arrival.
- 8) Mr. Wilson also reported that the same black male subject had approached several different residences prior to the officer's arrival.
- 9) Officer Ross testified "that officers were not able to get Ms. Yarnell Burton to the door," so he then left the residence and patrolled the area (due to the reported suspicious activity) in an attempt to locate the vehicle.
- 10) Officer Ross then located the vehicle shortly thereafter "exiting behind the Bull Market and that he attempted to stop the vehicle."
- 11) Officer Ross testified he activated his emergency equipment in an attempt to stop the vehicle, at which time the vehicle fled.
- 12) Officer Ross testified that while he was behind the defendant's vehicle with his blue lights activated, that the vehicle left the roadway, traveled behind the fire department building and another building, and became stuck in the mud.
- 13) The Court credits the officer's testimony that the defendant attempted to evade the investigatory stop by leaving the roadway and driving between the two buildings, and then eventually becoming stuck in the mud. Officer Ross testified that after he pulled in behind the defendant's vehicle, that Mr. Pugh exited the vehicle and walked towards the officer. The officer also testified that after he came into contact with Mr. Pugh, he learned from the dispatcher that Mr. Pugh's driver's license status was revoked. He also observed what he believed to be suspicious activity from Mr. Pugh, when Mr. Pugh removed something from his waistband and put it in his mouth, and attempted to swallow. The officer believed it to be narcotics, and also testified that he smelled the odor of marijuana coming from Mr. Pugh person.

14) Officer Ross testified that it was only "after" he had attempted to make the investigatory stop on Mr. Pugh's vehicle, that he learned that another police officer had finally gotten Ms. Burton to answer her door and had spoken to Ms. Burton at her residence.

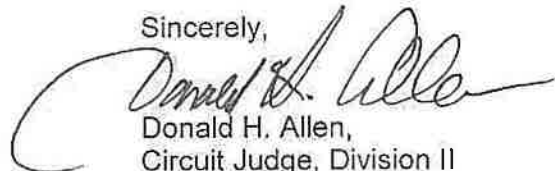
The Court credits the testimony of Officer Bradley Ross and finds that based upon the specific and articulable facts as stated above that there was a reasonable suspicion to believe that the driver of the vehicle had been the same person observed by Mr. Wilson beating on Ms. Burton's back door "Just seconds" before the officers arrived at the scene of the disturbance call. Again, the fact that Ms. Burton called 911 twice and stated she was scared just minutes before the officer's arrived at her residence, indicated that she suspected that someone might be seeking to cause her harm. Certainly, its reasonable to believe that Ms. Burton felt threatened enough that she called 911 twice within minutes in order to request officer's assistance at her residence.

The Court finds that officer Ross' decision to attempt to stop the defendant's vehicle was justified, given the suspicious activity reported to law enforcement officers individually by both Ms. Burton and Mr. Wilson. Clearly, there had been a disturbance caused at or very near to Ms. Burton's residence. The fact that Ms. Burton failed to answer her door when officers arrived justifies the belief that something may have happened to her. The Court also finds in fact that the officer never actually stopped the defendant's vehicle, even though he was justified in attempting to do so, based upon the recent suspicious activity. The facts show that the only reason the defendant stopped his vehicle was because "it got stuck in the mud" after the defendant intentionally left the roadway when he observed the officer's blue lights behind his vehicle. Additionally, the officer never asked the defendant to step out of his vehicle. It appears that the defendant exited his vehicle and began approaching the officer, who later arrested him for driving on a revoked driver's license, which was committed in the officer's presence. Additionally, the defendant was arrested and charged with felony evading arrest due to his driving behavior.

Additionally, the court credits Officer Ross' testimony the he smelled the odor of marijuana coming from the defendant's person when he was speaking to him after the defendant had voluntarily gotten out of his vehicle, and when he observed Mr. Pugh place what he believed to be narcotics in his mouth, and then attempted to swallow them. These actions by the defendant occurred while the officer was in the process of arresting him for Driving on a Revoked Driver's license, and for attempting to evade arrest by fleeing in a motor vehicle from law enforcement officers (a felony offense), which eventually led to the search of the defendant's person and his vehicle.

The defendant's Motion to Suppress the evidence in this case is denied. General Scott and/or General Wood, please prepare the appropriate order.

Sincerely,



Donald H. Allen,
Circuit Judge, Division II
26th Judicial District

DHA/mst
cc: court file

RECEIVED JUL 05 2018

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
DIVISION II

JAKEIL MALIK WALLER)

VS.)

STATE OF TENNESSEE)

C-17-150
Criminal Case No. 15-41

FILED
JUN 04 2018
KATHY BLUMBERG, CIRCUIT COURT CLERK
DEPUTY CLERK
A.M. P.M.

**ORDER DENYING PETITIONER'S
PETITION FOR POST-CONVICTION RELIEF**

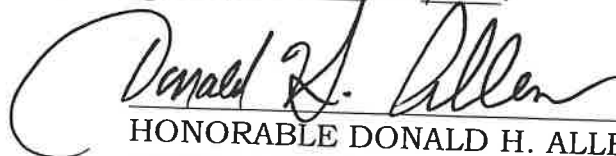
This cause came to be heard on April 2nd, 2018, before the Honorable Donald H. Allen, Circuit Court Judge, upon the Petitioner's Petition for Post-Conviction Relief. The Court having reviewed and considered the Petition, all of the Petitioner's grounds for relief, the pleadings, the transcript from the trial, the testimony and arguments at the post-conviction hearing, all of the evidence in this case, and it being shown to the Court:

1. That the Petitioner failed to prove the allegations in his Petition by clear and convincing evidence,
2. That the advice given and the services rendered by trial counsel were certainly within the range of competence demanded of attorneys representing defendants in criminal cases, and that the Petitioner failed to show that his attorney's performance was deficient or that any alleged deficient performance somehow prejudiced the Petitioner,
3. That there are no other grounds shown by the Petitioner upon which post-conviction relief can be granted,
4. That the Court's full findings with regard to each specific claim of the Petitioner are set out in the attached letter, which is hereby incorporated into this Order by reference, and
5. That since the Petitioner has failed to meet his burden of proof in this matter, the Petition should be denied.

Blumberg No. 5138
EXHIBIT
B 2

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Petitioner's Petition for Post-Conviction Relief be denied. The Court's letter dated May 21, 2018, outlining the Court's ruling is hereby attached and incorporated in this Order.

Enter this the 4th day of June, 2018.



HONORABLE DONALD H. ALLEN, JUDGE
26TH JUDICIAL DISTRICT, DIVISION II

Approved for Entry:



Al Earls
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT
P. O. BOX 2825
JACKSON, TN 38302
(731) 423-5800

CERTIFICATE OF SERVICE

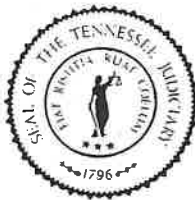
I hereby certify that a true and exact copy of the foregoing has been hand-delivered and/or mailed *via* U. S. Mail, postage paid, to:

Mr. Colin Morris
Attorney at Law
204 West Baltimore, St.
Jackson, TN 38301

This the 29 day of May, 2018.



Al Earls
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT



CIRCUIT COURT

STATE OF TENNESSEE
TWENTY-SIXTH JUDICIAL DISTRICT
CHESTER, HENDERSON AND MADISON COUNTIES

DONALD H. ALLEN

CIRCUIT JUDGE
DIVISION II

MARY TAYLOR
ADMINISTRATIVE ASSISTANT

MADISON COUNTY CRIMINAL JUSTICE COMPLEX

515 SOUTH LIBERTY STREET, SUITE 210

JACKSON, TENNESSEE 38301

(731) 423-6066

Fax (731) 988-3048

May 21st, 2018

Mr. Colin Morris
Attorney at Law
204 West Baltimore St.
Jackson, TN 38301

Mr. Al Earls, Assistant DA
225 Martin Luther King Blvd.
P.O. Box 2825
Jackson, TN 38302

Re: Jakeil Malik Waller vs. State of Tennessee
Post Conviction Case No. C-17-150
Madison County Criminal Case No. 15-41

Dear Counselors:

The Court has carefully reviewed and considered Mr. Jakeil Waller's Petition for Post-Conviction Relief which was filed Pro Se on May 31st, 2017. Likewise, the Court has reviewed and considered the State's response filed on June 12th, 2017 by General Earls. The Court record also reflects that the petitioner did not file an amended petition.

The Court, after hearing all of the proof and arguments in this matter on April 2nd, 2018, took this matter under advisement so that I could carefully review and consider all of the pleadings, transcripts from the jury trial, and all the evidence presented at the post conviction hearing.

The Petitioner alleges that he received "ineffective counsel," and thus was denied the effective assistance of trial counsel, by his Public Defender Gregory Gookin.

The Court credits Attorney Gookin's testimony that he has practiced exclusively criminal defense law since 2005 and has effectively tried approximately 150 criminal cases as an assistant Public Defender, many of which involved murder charges. He met with his client Mr. Waller on at least 5 or 6 occasions prior to the jury trial in this case. The defendant was in State custody serving another sentence in the Tennessee Department of Corrections while this Second degree murder case was pending. Attorney Gookin testified that he did full discovery of the District Attorney's file, received and reviewed the transcript of the defendant's preliminary hearing and filed the appropriate motions in the case. He, with the assistance of his client, developed a trial strategy, and he personally interviewed several potential defense witnesses, including Ms. Savage, Mr. Majors, and Mr. House. He found that these potential defense witnesses were "very inconsistent" with what they said they saw and with what the State's proof (the video and pictures) showed. Furthermore, their statements were also "inconsistent" with what his own client, Jakeil Waller, had told him.

Mr. Gookin felt that the best trial strategy was to show how "unreliable" the State's witnesses were in their testimony and that his client was not the person who fired the deadly shot that killed Mr. Peterson. By trying to show that during all the mass "chaos" that was taking place among the large number of people who were watching the physical fist fight between two other individuals, that no one was really sure or certain about who had been shooting a gun into the large crowd of people (at least 50 people) who had gathered around to watch the fight.

Mr. Gookin also testified that his client chose not to testify at the trial because Mr. Waller had originally told police that he was not present at the scene of the shooting, even though there was a "cell phone video recording" and still photographs taken from the video which clearly showed that Mr. Jakeil Waller, along with his brother Jernigal Blackwell, were both present at the time Mr. Shomari Peterson and Mr. Thomas Reid, Jr. were both shot.

The Court also notes that at least 5 other eyewitnesses for the State identified Mr. Waller as the gunman who shot and killed Mr. Peterson and was firing a handgun at Mr. Reid as well. The Court credits Attorney Gregory Gookin's testimony that he did everything he could to properly represent Mr. Waller at the trial, and that there is not anything else he could have done differently that would have changed the outcome of the Jury's verdict.

The petitioner also called Shaquanta Brown, the defendant's cousin, who testified at the post conviction hearing that she heard more than 8 gunshots that day while she was inside her apartment, but didn't see or didn't know what was going on outside her apartment that day. The petitioner also called Cindy Wade who also testified that she heard 5 or 6 gunshots, and that she ran away from the area, into an apartment, not knowing who was doing the shooting. She also testified that everybody started running away from the area when the shooting started.

Ms. Savage, the mother of Mr. Jakeil Waller's daughter, testified that she had talked to Attorney Gookin before the trial about what she saw the day of the shooting. She was actually inside the apartment preparing for a kid's birthday party when the shooting started outside. She testified, "I don't know where anybody was when the gunshots started outside the apartment, because I was inside at the time." She also testified that she trusted Mr. Gookin as Jakeil Waller's attorney from the very beginning, but that she didn't trust the police, so that's the reason she never talked to or shared any information with the police.

Another witness, Mr. House testified that he didn't see anyone shooting out there that day, but that he had seen a lot of commotion around the area where the fist fight broke out between two other men. He testified that he also started running away from the area when someone started firing gunshots.

Final, Martell Majors, estimated approximately 1,000 people were out there that day, even though everybody else estimated the size of the crowd to be 30 to 50 people. He admitted that he had participated in the physical fight with Tristan Cook prior to the shooting, and that he had been with Jakeil Waller and his brother, Nigal Blackwell that day. He described his relationship with them as like "we are all like family", but he couldn't say that he saw anyone pointing a gun or shooting a gun that day.

The petitioner alleges that his trial counsel was ineffective because he failed to call each of these witnesses as part of the defense proof in this case. Mr. Gookin testified that he spoke with his client Mr. Waller following the completion of the State's proof and that they (Attorney Gookin and Mr. Waller) both agreed not to call these witnesses.

The Court notes that the petitioner, Jakeil Waller, chose not to testify at his own trial and also chose not to testify at his own post conviction hearing.

After considering all of the evidence in this case, the Court finds that the petitioner has failed to prove the allegations in his petition by clear and convincing evidence, therefore his Petition for Post Conviction Relief will be denied.

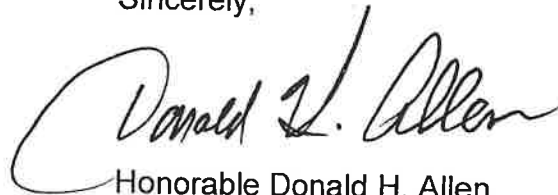
The Court finds that the advice given and the services rendered by trial counsel Greg Gookin, were certainly within the range of competence demanded of attorneys representing defendants in criminal cases. The Court also finds that Mr. Jakeil Waller has failed to show that his attorney's performance was deficient or that any alleged deficient performance by Attorney Gookin somehow prejudiced the defendant.

The Court finds that Mr. Waller has failed to present any credible evidence that his trial counsel failed to represent him properly at trial. This is a case where the Jury simply chose to believe the several State's witnesses testimony that Mr. Waller shot and killed Mr. Peterson.

After careful review of the entire trial transcripts and all the evidence in this case, the Court finds that none of the trial counsel's actions or omissions were so serious as to fall below the objective standard of reasonableness under prevailing professional norms. The Court find that Mr. Greg Gookin's representation was appropriate and that he provided Mr. Waller with reasonably effective assistance. The Court further finds that the petitioner has failed to show that there is a reasonable probability that, but for trial counsel's performance, the result of the trial proceeding would have been different. None of the witnesses called to testify for the petitioner at his post conviction hearing could even identify who was shooting a gun that day, so their testimonies were absolutely of no value to the defense in this matter.

Since the petitioner has failed to bear his burden of proof in this matter, his Petition will be denied. General Earls, please prepare the appropriate order.

Sincerely,

A handwritten signature in cursive script that reads "Donald H. Allen". The signature is written in black ink and is positioned above the typed name of the signatory.

Honorable Donald H. Allen,
Circuit Court Judge, Division II
26th Judicial District

DHA/mst
cc: Court file

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
DIVISION II

STATE OF TENNESSEE

v.

QUINTON PERRY

Docket #18-502

FILED
MAY 20 2019 C
KATHY BLOUNT, CIRCUIT COURT CLERK
11:50 DEPUTY CLERK
A.M.
P.M.

ORDER DENYING MOTION TO SUPPRESS EVIDENCE

This matter having come before this Honorable Court on March 19, 2019, upon motion of the Defendant. After arguments, the Court denied the Motion of the defendant on the following grounds:

1. That the Court credits the testimony of Investigator Karrie Hart.
2. That on February 13, 2018, the Defendant met with Investigator Hart.
3. That the Defendant was not in custody at that time and was free to leave at any time.
4. That the Defendant was advised of his rights and knowingly, freely, and voluntarily waived his rights and agreed to speak with Investigator Hart.
5. That Defendant signed a written waiver of rights form acknowledging that he understood his rights and was willing to answer questions.
6. That Defendant knowingly consented to a search of the contents of his cell phone.
7. That on February 14, 2018, Defendant contacted Investigator Hart over the phone.
8. That Defendant freely and knowingly initiated the contact with Investigator Hart.

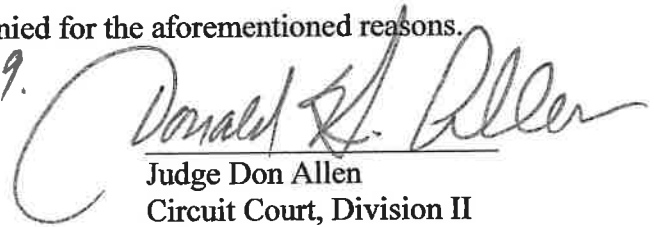


9. That the statements over the phone were in no way coerced.
10. That on May 3, 2018, the Defendant was taken into custody.
11. That the Defendant was properly advised of his Miranda rights.
12. That, based on the totality of the circumstances, the Defendant freely, voluntarily, and intelligently, waived his rights and agreed to give a statement.

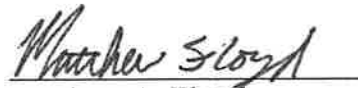
IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the

Defendant's Motion to Suppress Evidence be denied for the aforementioned reasons.

Entered, May 19th, 2019.

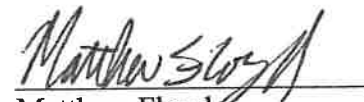

Judge Don Allen
Circuit Court, Division II
26th Judicial District

Approved for Entry:


Matthew A. Floyd
Assistant District Attorney
26th Judicial District
B.P.R. # 027222

Certificate of Service

I hereby certify that a true and exact copy of the foregoing has been delivered to Mr. Greg Gookin, Attorney for the Defendant, 245 Sycamore St, Jackson, TN 38301, this the 13th day of May, 2019.


Matthew Floyd
Assistant District Attorney
26th Judicial District
B.P.R. #027222



CIRCUIT COURT
STATE OF TENNESSEE
TWENTY-SIXTH JUDICIAL DISTRICT
CHESTER, HENDERSON AND MADISON COUNTIES

DONALD H. ALLEN
CIRCUIT JUDGE
DIVISION II

MARY TAYLOR
ADMINISTRATIVE ASSISTANT

MADISON COUNTY CRIMINAL JUSTICE COMPLEX
515 SOUTH LIBERTY STREET, SUITE 210
JACKSON, TENNESSEE 38301
(731) 423-6066
Fax (731) 988-3048

May 3rd, 2019

Mr. Greg Gookin, Public Defender
245 Sycamore St.
Jackson, TN 38301

Mr. Matt Floyd, Assistant DA
225 Martin Luther King Dr.
P.O. Box 2825
Jackson, TN 38302-2825

Re: State of TN vs Quinton Perry
Madison County Circuit Case #18-502

Dear Counselors,

After careful review and consideration of all the evidence presented at the defendant's hearing on March 19th, 2019, pertaining to his "Motion to Suppress Statements", the Court finds as follows:

- 1) The Court credits the testimony of Investigator Karrie Hart who testified that she read Mr. Quinton Perry his constitutional rights on February 13th, 2018, prior to questioning him. She also testified that Mr. Perry was 21 years old, was able to read and write, and had graduated from North Side High School in Jackson. I also credit her testimony that she specifically told Mr. Perry that he was not under arrest and that he was not in custody. She also testified that he was not handcuffed during the interview process and that was free to leave at any time.
- 2) I also credit her testimony that she read him his rights, and that he thereafter signed the written waiver of rights form (Exhibit #1) acknowledging that he fully understood his rights and that he was willing to answer the questions and make a statement. He acknowledged that he understood his rights and knew what he was doing by voluntarily giving a statement. He also acknowledged that "NO promises or threats had been made to him" and that "no pressure of any kind" has been used against him, according to his signed waiver form.

- 3) The Court finds that Mr. Perry freely, voluntarily and knowingly waived his Miranda Rights and thereafter, without any threat or coercions, gave a statement to officers Karrie Hart and Ashley Robertson. The interview and statements made by Mr. Perry were electronically recorded, plus reduced to writing, which Mr. Perry signed and adopted as his statements. (Exhibits #2, #3 and #4)
- 4) The Court also credits Investigator Hart's testimony that Mr. Perry also knowingly consented for her to view and to search his cellphone for whatever evidence that might be contained on his cellphone.
- 5) The Court also credits Investigator Hart's testimony that the following day (February 14th, 2018) that Mr. Perry called her on his cell phone and gave another statement to her over his phone. Obviously, he was still not in custody at that time and it appears that he was the person who freely and voluntarily initiated the communication with the Investigator by phone. The Court finds that Mr. Perry's statements over the telephone were in no way coerced by the officer. That the statements were also recorded by the officer which she certainly had a right to do. (Exhibit #4)
- 6) Finally, concerning the statement made by Mr. Perry after he was arrested on May 3rd, 2018, and while he was in custody and was being transported by officers from Bolivar to Jackson. The Court finds that the defendant was properly advised of his Miranda Rights by Investigator Hart again and that such admonition of his constitutional rights were recorded. (Exhibit #5) Again, the Court credits Investigator Hart's testimony that the defendant freely and voluntarily and knowingly waived his rights as advised to him, and thereafter gave statements on his own volition.

After considering all of the evidence and arguments presented in this case, the Court is going to deny the Motion to Suppress any of the various statements given by the defendant. The Court finds that after examining the "totality of the circumstances" surrounding the giving of each of the various statements, the Court finds the statements were given by Mr. Perry intelligently, freely and voluntarily and without any pressure or threats being placed upon him by any law enforcement officer. Therefore, the Motion to Suppress Statements is denied in its entirety. General Floyd, please prepare the appropriate order.

Sincerely,

Donald H. Allen,
Circuit Judge, Division II
26th Judicial District

IN THE CIRCUIT COURT OF MADISON COUNTY, TENNESSEE
DIVISION II

CORBYN DAVIS

VS.

STATE OF TENNESSEE

C-19-048
Criminal Case No. 16-204

FILED
SEP 24 2019
KATHY BLOUNT, COURT CLERK
11:42 A.M.
DEPUTY CLERK
P.M.

**ORDER DENYING PETITIONER'S
PETITION FOR POST-CONVICTION RELIEF**

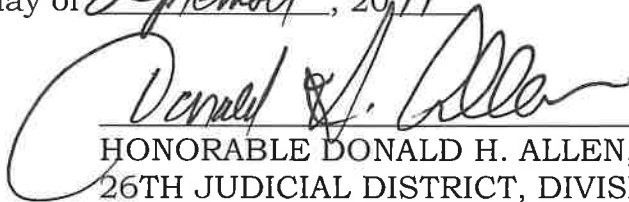
This cause came to be heard on August 27, 2019, before the Honorable Donald H. Allen, Circuit Court Judge, upon the Petitioner's Petition for Post-Conviction Relief. The Court having reviewed and considered the Petition, all of the Petitioner's grounds for relief, the pleadings, the transcript from the trial, the testimony and arguments at the post-conviction hearing, all of the evidence in this case, and it being shown to the Court:

1. That the Petitioner failed to prove the allegations in his Petition by clear and convincing evidence,
2. That the advice given and the services rendered by trial counsel were certainly within the range of competence demanded of attorneys representing defendants in criminal cases, and that the Petitioner failed to show that his attorney's performance was deficient or that any alleged deficient performance somehow prejudiced the Petitioner,
3. That there are no other grounds shown by the Petitioner upon which post-conviction relief can be granted,
4. That the Court's full findings with regard to each specific claim of the Petitioner are set out in the attached letter, which is hereby incorporated into this Order by reference, and
5. That since the Petitioner has failed to meet his burden of proof in this matter, the Petition should be denied.



IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Petitioner's Petition for Post-Conviction Relief be denied. The Court's letter dated September 18th, 2019 outlining the Court's ruling is hereby attached and incorporated in this Order.

Enter this the 24th day of September, 2019


HONORABLE DONALD H. ALLEN, JUDGE
26TH JUDICIAL DISTRICT, DIVISION II

Approved for Entry:




Al Earls
ASSISTANT DISTRICT ATTORNEY

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been hand-delivered and/or mailed *via* U. S. Mail, postage paid, to:

Mr. William Milam
Attorney at Law
116 South Liberty, St.
Jackson, TN 38301

This the 23 day of September 2019.



Al Earls
ASSISTANT DISTRICT ATTORNEY
26TH JUDICIAL DISTRICT



CIRCUIT COURT
STATE OF TENNESSEE
TWENTY-SIXTH JUDICIAL DISTRICT
CHESTER, HENDERSON AND MADISON COUNTIES

DONALD H. ALLEN
CIRCUIT JUDGE
DIVISION II

MARY TAYLOR
ADMINISTRATIVE ASSISTANT

MADISON COUNTY CRIMINAL JUSTICE COMPLEX
515 SOUTH LIBERTY STREET, SUITE 210
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(731) 423-8088
Fax (731) 989-3048

September 18, 2019

Mr. William Milam
Johnson and Milam
116 South Liberty Street
Jackson, TN 38301

Mr. Al Earls, Assistant DA
225 Martin Luther King Blvd.
P.O. Box 2825
Jackson, TN 38302

Re: Corbyn Davis vs. State of Tennessee
Post Conviction Case No. C-19-048
Madison County Criminal Case No. 16-204

Dear Counselors:

The Court has carefully reviewed and considered Mr. Corbyn Davis' Petition for Post-Conviction Relief which was filed Pro Se on February 14th, 2019. Likewise, the Court has reviewed and considered the State's response filed on February 27th, 2019 by General Al Earls. The Court record also reflects that the petitioner and his Court appointed Attorney, William Milam, did not file an amended petition.

The Court, after hearing all of the proof and arguments in this matter on August 27th, 2019, took this matter under advisement so that I could carefully review and consider all of the pleadings, transcripts from the jury trial, and all the evidence and exhibits presented at the post conviction hearing, which included the testimonies of petitioner Corbyn Davis and his trial attorney, Assistant Public Defender Greg Gookin.

The Petitioner alleges that he received "ineffective assistance of trial counsel," and thus was denied the effective representation at trial by his Attorney Greg Gookin.

The Court credits the testimony of trial counsel Greg Gookin who testified that he has served as an Assistant Public Defender since 2005, and has represented many individuals charged with serious criminal offenses, including First Degree Murder. He testified that he met with his client at least 6 times or more prior to the trial date, and had spent at least an hour each time talking to Mr. Davis, who was in custody in the Madison County Jail. He testified that he had fully discovered the State's file, including all witness statements, and that he and Mr. Davis discussed fully the State's evidence against him and that they developed a trial strategy. He also interviewed a potential alibi witness for the defense, the defendant's girlfriend, Jerica Thompson. Attorney Goodkin testified that she could not remember being with Mr. Davis on the night of the shooting of Jamar Rogers, and thus she could not support his claim of an alibi defense.

The trial strategy was that Mr. Davis was not the person who shot the victim, Jamar Rogers, and that the various eye witnesses were just not credible witnesses. Attorney Gookin tried to impeach the testimony of one of the State's key eye witnesses, Demarcus Triplett, AKA "D", who was in the car with the defendant at the time of the shooting and who identified the defendant as the person who shot Jamar Rogers.

Mr. Gookin also testified that he did not call Joshua Cobb as a defense witness because Mr. Cobb had given a written statement to the police after the incident and had identified Corbyn Davis AKA "Humboldt" as the person who had shot Jamar Rogers. Mr. Gookin testified that he did not believe that Mr. Joshua Cobb's testimony would be helpful or beneficial to his client's defense. The defendant, Corbyn Davis, chose not to testify at his trial, which attorney Gookin believed was in his clients best interest because of a prior felony conviction which could be used to impeach his testimony. The Court credits Mr. Gookin's testimony as to his trial preparation and his defense trial strategy.

Mr. Corbyn Davis testified that he and his trial attorney had met at least "4 or 5 times" prior to the trial and that he had received a copy of all of the State's discovery materials, including the various witnesses' statements. He admitted that he "sells drugs" and had a felony conviction for "selling drugs", but that he had never "been caught" with a gun. He claims that the State's witnesses "just lied on me" on the witness stand at his trial, and the he did knowingly choose not to testify in his own defense at his trial. He also admitted that he did not know for sure what Joshua Cobb would have testified to even if he had been called as either a State's witness or as a defense witness. He also acknowledged the fact that Joshua Cobb had given a written statement to a Jackson Police Investigator identifying him (Mr. Davis) as being the person who shot and killed Jamar Rogers. Additionally, the petitioner never testified as to any possible alibi defense that he claims in his petition that he had. Although, the Court noted that Mr. Davis did testify that "if I had wanted to shoot Mr. Jamar Rogers that night, I could have shot him when I saw him the first time that night!"

After considering all of the evidence in this case, the Court finds that the petitioner has failed to prove the allegations in his petition by clear and convincing evidence, therefore his Petition for Post Conviction Relief will be denied.

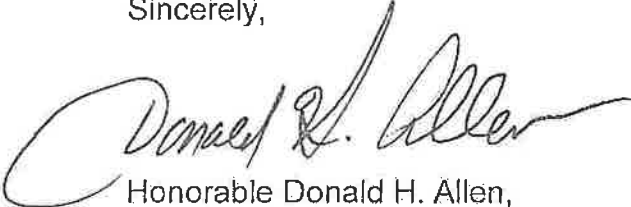
The Court finds that the advice given and the services rendered by trial counsel Greg Gookin was certainly within the range of competence demanded of attorneys representing defendants in criminal cases. The Court also finds that Mr. Davis has failed to show that his attorney's performance was deficient or that any alleged deficient performance by Attorney Gookin somehow prejudiced the defendant.

The Court finds that Mr. Davis has failed to present any credible evidence that his trial counsel failed to represent him properly at trial.

After careful review of the entire trial transcripts and all the evidence in this case, the Court finds that none of the trial counsel's actions or omissions were so serious as to fall below the objective standard of reasonableness under prevailing professional norms. The Court finds that Mr. Gookin's representation was appropriate and that he provided Mr. Davis with reasonably effective assistance. The Court further finds that the petitioner has failed to show that there is a reasonable probability that, but for trial counsel's performance, the result of the trial proceeding would have been different.

Since the petitioner has failed to bear his burden of proof in this matter, his Petition will be denied. General Earls, please prepare the appropriate order.

Sincerely,

A handwritten signature in cursive script that reads "Donald H. Allen". The signature is written in black ink and is positioned above the typed name of the signatory.

Honorable Donald H. Allen,
Circuit Court Judge, Division II
26th Judicial District

DHA/mst
cc: Court file