

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs January 31, 2003

**JOE CLARK MITCHELL v. CORRECTIONS CORPORATION OF
AMERICA, ET AL.**

**Appeal from the Chancery Court for Wayne County
No. 10349 Robert L. Jones, Judge**

No. M2002-00371-COA-R3-CV - Filed July 11, 2003

WILLIAM C. KOCH, JR., J., concurring.

I concur fully with the results that the court has reached on every issue presented in this case. I also concur with the court's reasoning with regard to every issue save one. The court has declined to consider Mr. Mitchell's issues regarding irregularities in his disciplinary proceedings on two grounds – first because he did not file a common-law writ of certiorari seeking to review these irregularities and second because the punishment he received was not an “atypical and significant hardship . . . in relation to the ordinary incidents of prison life.” *Sandin v. Conner*, 515 U.S. 472, 484, 115 S. Ct. 2293, 2300 (1995). While I agree completely with the former ground, I cannot agree with the latter. The application of *Sandin v. Conner* to prison disciplinary proceedings is currently before the Tennessee Supreme Court. *Willis v. Tennessee Dep't of Corr.*, No. M2000-01397, COA-R3-CV, 2002 WL 1189730 (Tenn. Ct. App. June 5, 2002), *perm. app. granted* (Tenn. Dec. 9, 2002).

WILLIAM C. KOCH, JR., JUDGE