

IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT NASHVILLE

METROPOLITAN GOVERNMENT OF)
NASHVILLE-DAVIDSON COUNTY,)

Plaintiff/Appellee,)

vs.)

DIANNA SADLER,)

Defendant/Appellant.)

Davidson Circuit No. 94C-2930

Appeal No. 01A01-9511-CV-00497

FILED

April 12, 1996

Cecil W. Crowson
Appellate Court Clerk

RULE 10 ORDER AND OPINION

This appears to be a proper matter for consideration pursuant to Court of Appeals Rule 10(a).¹

In this case, appellant, Dianna Sadler, appeals from the trial court's judgment finding that her dogs are "vicious" within the meaning of Metropolitan Code § 8.08.010. The trial court ordered appellant to remove the dogs from her premises and confine them upon her father's property in Cheatham County. The appellant filed a Notice of Appeal, but did not file a Transcript of the Proceedings within 90 days thereafter, as required by Rule 24(b) of the Tennessee Rules of Appellate Procedure.

Appellant's sole issue on appeal is whether the evidence preponderates against the trial court's finding of fact that the dogs were "vicious." However, the evidence and testimony considered by the trial judge in reaching this conclusion are absent from the record. It is well-established that in the absence of a transcript of the evidence, this court must conclusively presume that there was sufficient evidence to support the trial court's judgment and must, therefore, affirm. Reagor v. Dyer County, 651 S.W.2d 700, 701 (Tenn. 1983); Leek v. Powell, 884 S.W.2d 121 (Tenn. App. 1994); Coakley v. Daniels, 840 S.W.2d

¹Rule 10 (Court of Appeals). Affirmance Without Opinion. -- (a) The Court, with the concurrence of all judges participating in the case, may affirm the action of the trial court by order without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

- (1) The Court concurs in the facts as found or as found by necessary implication by the trial court.
- (2) There is material evidence to support the verdict of the jury.
- (3) No reversible error of law appears.

367, 370 (Tenn. App. 1992).

Accordingly, it is ORDERED that the trial court's judgment is affirmed in accordance with Court of Appeals Rule 10(a). Costs in this cause are taxed to appellant, for which execution may issue if necessary.

HIGHERS, J.

FARMER, J.

LILLARD, J.