

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON
April 2000 Session

**STATE OF TENNESSEE v. DONALD L. CULBREATH and
GENNA McCALLIE**

**Appeal by Permission from the Court of Criminal Appeals
Criminal Court for Shelby County
Nos. 96-13497; 97-00667, -72, -73, -75 Hon. L.T. Lafferty, Judge**

No. W1999-01553-SC-R11-CD - Filed October 20, 2000

WILLIAM M. BARKER, J., concurring.

I write separately in this case to make clear my understanding that the holding of this Court today does not depend upon any perceived distinction between the federal and state guarantees to due process of law. Although I agree that our state constitution may be interpreted more broadly than the federal constitution in the proper case, I do not understand the holding of this court to rest upon a broader interpretation of Article I, section 8 of the Tennessee Constitution in this context.

Accordingly, I concur in the Court's opinion that the indictment in this case was properly dismissed based upon the denial of the defendants' right to due process of law under Article I, section 8 of the Tennessee Constitution *and* the Fourteenth Amendment to the United States Constitution.

WILLIAM M. BARKER, JUSTICE