

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE
February 5, 2002 Session

STATE OF TENNESSEE v. WILLIAM R. STEVENS

**Appeal from the Court of Criminal Appeals
Criminal Court for Davidson County
No. 98-A-825 Steve Dozier, Judge**

No. M1999-02067-SC-DDT-DD - Filed May 14, 2002

ADOLPHO A. BIRCH, JR., J., concurring and dissenting.

I concur with the majority's decision to affirm the defendant's convictions. With regard to the imposition of the death penalty in this case, however, I cannot agree. Repeatedly, I have expressed grave concerns about the comparative proportionality review protocol employed by the majority to impose the death penalty. See, e.g., State v. Chalmers, 28 S.W.3d 913 (Tenn. 2000)(Birch, J., concurring and dissenting); State v. Keen, 31 S.W.3d 196 (Tenn. 2000)(Birch, J., concurring and dissenting); State v. Carruthers and Montgomery, 35 S.W.3d 516 (Tenn. 2000)(Birch, J., concurring and dissenting); State v. Sims, 45 S.W.3d 1 (Tenn. 2001)(Birch, J., concurring and dissenting); Terry v. State, 46 S.W.3d 147 (Tenn. 2001)(Birch, J., concurring and dissenting); State v. Stout, 46 S.W.3d 689 (Tenn. 2001)(Birch, J., concurring and dissenting); State v. Bane, 57 S.W.3d 411 (Tenn. 2001)(Birch, J., concurring and dissenting); State v. Godsey, 60 S.W.3d 759 (Tenn. 2001)(Birch, J., concurring and dissenting); State v. McKinney, ___ S.W.3d ___ (Tenn. 2002)(Birch, J., concurring and dissenting); State v. Dellinger and Sutton, ___ S.W.3d ___ (Tenn. 2002)(Birch, J., concurring and dissenting); see also State v. Bland, 958 S.W.2d 651 (Tenn. 1997)(Birch, J., concurring and dissenting). As detailed in my prior dissents, I do not believe the Court is properly fulfilling its statutory obligation to determine whether "the sentence of death is excessive or disproportionate to the penalty imposed in similar cases." Tenn. Code Ann. § 39-13-206(c)(1)(D) (2001). Because I have not detected any meaningful effort to address and rectify my concerns, I respectfully dissent from the imposition of the penalty of death in this case.

ADOLPHO A. BIRCH, JR., JUSTICE