

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

OCTOBER SESSION, 1999

FILED

February 2, 2000

Cecil Crowson, Jr.
Appellate Court Clerk

STATE OF TENNESSEE,)	C.C.A. NO. 03C01-9901-CR-00035
)	
Appellee,)	
)	HAMILTON COUNTY
VS.)	
)	
DAVID ANDREW)	
NICHOLSON,)	HON. DOUGLAS A. MEYER,
)	JUDGE
Appellant.)	
)	(Rape of a Child)

CONCURRING AND DISSENTING OPINION

I write separately because I do not agree that the parole eligibility jury instruction formerly mandated by our legislature violated the Defendant's due process rights. I adhere to this Court's reasoning and decision stated in State v. Green, 995 S.W.2d 591, 614-16 (Tenn. Crim. App. 1998). In all other respects, I concur with the opinion of my learned colleague, Judge David G. Hayes.

DAVID H. WELLES, JUDGE