

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

STATE OF TENNESSEE v. CHARLES CHESTEEN

**Direct Appeal from the Criminal Court for Cocke County
No. 7221, 7222 Kindall T. Lawson, Judge**

No. E1999-00910-CCA-R3-CD - Decided June 8, 2000

JUDGE TIPTON concurring.

I concur in the results reached and most of the reasoning used in the majority opinion. However, I respectfully disagree with its conclusion that the minor victims were particularly vulnerable because of their age as contemplated by Tenn. Code Ann. § 40-35-114(4). In my opinion, the fact that the defendant, as clerk and master, had control over the minors' funds because they were minors rendered them no more vulnerable than any other litigant or party whose funds had been paid into court or otherwise put within the control of the clerk and master. I would not apply enhancement factor (4) to the offense of embezzlement in an official capacity.