

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
September 25, 2001 Session

STATE OF TENNESSEE v. JOHN A. BOATFIELD

**Appeal from the Criminal Court for Hamilton County
Nos. 222129, 2221315 Rebecca J. Stern, Judge**

**No. E2000-01500-CCA-R3-CD
December 20, 2001**

JOSEPH M. TIPTON, J., concurring.

I concur in all respects save one. I seriously question the conclusion that all of the victim's statements to her mother were admissible as excited utterances. A declarant's opinion about who caused an event would ordinarily not be admissible even if the declarant appeared and testified at a trial. Here, I do not believe that the victim's opinion about who started the fire was admissible. However, given the location and timing of the fire, the inferences drawn by the victim as to the potential cause of it would be obvious to the jury in any event. Thus, I do not believe that the error affected the verdict.

JOSEPH M. TIPTON, JUDGE