

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. HARRY G. STURGILL

**Criminal Court for Davidson County
No. 2001-B-1260**

No. M2003-01817-CCA-R3-CD - Filed July 19, 2005

OPINION ON REHEAR

This court granted Defendant's petition to rehear to consider the impact of the United States Supreme Court's decision in *Blakely v. Washington*, 542 U.S. 296, 124 S. Ct. 2531 (2004) on Defendant's sentence. Since that time, the Tennessee Supreme Court has considered the impact of *Blakely* on Tennessee's sentencing scheme and concluded that the Criminal Sentencing Reform Act of 1989 and its procedures do not violate a defendant's Sixth Amendment right to a trial by a jury as described in *Blakely*. See *State v. Edwin Gomez*, ____ S.W.3d ____, No. M2002-01209-SC-R11-CD, 2005 WL 856848, at *22 (Tenn. Apr. 15, 2005). In light of the Supreme Court's recent decision in *Gomez*, this court determines that Defendant's argument that his sentence is improper under *Blakely* has no merit. This court's previous opinion is affirmed in all respects. Costs are assessed against the State.

PER CURIAM
JERRY L. SMITH, JUDGE
JOE G. RILEY, SPECIAL JUDGE
ALAN E. GLENN, JUDGE