

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs December 17, 2008

STATE OF TENNESSEE v. LORA ASHLEY

Appeal from the Circuit Court for Moore County
No. 1067 Robert Crigler, Judge

No. M2008-01563-CCA-R3-CD - Filed March 26, 2009

D. KELLY THOMAS, JR., J., concurring.

I concur in the result reached by the majority and agree that the trial court correctly denied alternative sentencing in this case based upon the defendant's criminal history and past failed efforts at rehabilitation. However, I write separately to note that the trial court revoked the defendant's bond and denied her bond in a misdemeanor case pending appeal in contravention to Tennessee Code Annotated section 40-26-104 and Rule 32(d)(1) of the Tennessee Rules of Criminal Procedure, which grant a defendant in a misdemeanor case "a right to have bail set or to be released on recognizance pending the exhaustion of all direct appellate procedure in the case."

D. KELLY THOMAS, JR., JUDGE