

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT KNOXVILLE

Assigned on Briefs July 28, 2009

**STATE OF TENNESSEE v. RANDY JOE MCNEW**

**Appeal from the Criminal Court for Sullivan County**  
**No. S51,902      R. Jerry Beck, Judge**

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**No. E2008-02189-CCA-R3-CD - Filed October 13, 2009**

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JOSEPH M. TIPTON, P.J., concurring.

I concur with the majority opinion. I believe, though, that the statement that the weight assigned to advisory enhancement and mitigating factors no longer has an appellate review provision should not preclude such an assessment relative to whether the sentence meets the principles and purposes of the Sentencing Act. That is, for example, using a five-year old conviction for speeding to enhance an aggravated burglary conviction to a maximum sentence may not meet the principles and purposes of the Sentencing Act because of inordinate weight given to the speeding conviction.

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JOSEPH M. TIPTON, PRESIDING JUDGE