

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT NASHVILLE

MAY 1998 SESSION

FILED

September 18, 1998

Cecil W. Crowson
Appellate Court Clerk

STATE OF TENNESSEE,

*

No. 01C01-9708-CC-00175

Appellant,

*

Williamson County

vs.

*

Hon. Henry Denmark Bell, Judge

LONNY D. HAZELWOOD,

*

(Rule 9, Interlocutory Appeal)

Appellee.

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CONCURRING OPINION

I concur in the result reached by the majority, I write separately only to express my belief that at most this record demonstrates negligence on the part of the district attorney's office in making the blood alcohol test results available to the defense in a timely fashion. While this negligence did in fact deprive the defendant of the means to conduct a full defense to the charges against him, I find no evidence of bad faith on the part of the prosecutor's office as suggested by the majority's reference to State v. Golden, 941 S.W.2d 905 (Tenn. Crim. App. 1996). Nevertheless, the defendant must not be denied, even through negligence, of the ability to defend himself. I therefore concur that the judgment of the trial court must be affirmed.

JERRY L. SMITH, JUDGE