

FILED

August 25, 1997

Cecil Crowson, Jr.
Appellate Court Clerk

IN THE SUPREME COURT OF TENNESSEE

**IN RE: AMENDMENT TO RULE 28, § 10
RULES OF THE SUPREME COURT OF TENNESSEE**

ORDER

Supreme Court Rule 28, delineating the procedure governing appeals in post-conviction actions is amended by adding the following paragraph to § 10(B):

When the Court of Criminal Appeals affirms the trial court's decision denying the motion to reopen, the petitioner shall have sixty (60) days from the date of the Court of Criminal Appeals decision to seek permission to appeal in the Tennessee Supreme Court by filing a Rule 11, application, Tenn. R. App. P. The application shall be accompanied by copies of all documents filed by both parties in the trial court and the orders denying the motion in the trial court and the Court of Criminal Appeals. The State shall have fifteen (15) days to file a response. The Supreme Court may allow the parties to file additional briefs, argue the case, or both. Permission to appeal will be denied unless it appears that the trial court abused its discretion by denying the motion to reopen. In the event the Supreme Court determines that the trial court abused its discretion by denying the motion, the Supreme Court, by Order, shall remand the case to the trial court for further proceedings.

Entered at Nashville this the 25th day of August, 1997.

FOR THE COURT:

RILEY ANDERSON, Chief Justice