

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs August 30, 2011

STATE OF TENNESSEE v. SUSAN RENEE BISE

Direct Appeal from the Criminal Court for Greene County
No. 09-CR-353 John F. Dugger, Jr., Judge

No. E2011-00005-CCA-R3-CD - Filed September 15, 2011

JOHN EVERETT WILLIAMS, J., concurring in results only.

Judge Glenn, Judge Woodall, and I all agree that the trial court inappropriately applied a single enhancement factor when considering the defendant's sentence. I write separately because each of us has different opinions as to what process should be used in determining the end result in circumstances in which the trial court inappropriately applied a single enhancing factor. Because I believe the trial judge is "closer to the case," I would prefer to remand this case to the trial court for resentencing. I do not have that option as a result of my other two colleagues' decisions. Therefore, with the trial court not having a presumption of correctness, I have reviewed the case *de novo* and, after giving consideration to the principles of sentencing, have concluded that the defendant's appropriate sentence is two years. The result that I reached is the same reached by Judge Glenn's opinion announcing the decision of the court. However, I think Judge Woodall has expressed appropriate concerns about the language contained in that opinion.

JOHN EVERETT WILLIAMS, JUDGE