

**SUPREME COURT OF TENNESSEE
SUPREME COURT DISCRETIONARY APPEALS
Grants & Denials List**

Monday, January 30, 2006

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
Robert Kendall Broadbent v. Shari Katherine Langhi Broadbent M2003-00583-SC-R11-CV	Davidson Circuit Marietta M. Shipley 01D-1410	Koch, J Reversed in Part, Affirmed in Part & Remanded	Rule 11	Granted - Application of Shari Katherine Langhi Broadbent. Birch, J., Not Participating *This case has been designated as a SCALES case.*
State of Tennessee v. Gregory T. Harwood M2004-01811-SC-R11-CO	Davidson Criminal Steve Dozier 2003-B-843	Williams, J Affirmed	Rule 11	Granted - Application of Gregory T. Harwood.
Charles G. Summers v. State of Tennessee M2004-02806-SC-R11-HC	Hickman Circuit Russ Heldman 04-5099C	Ogle, J Reversed & Remanded	Rule 11	Granted -Application of the State of Tennessee. * Court appointed Douglas T. Bates to represent Charles G. Summers.

<u>Knoxville</u>				
State of Tennessee v. Arthur T. Copeland E2002-01123-SC-R11-DD	Blount Circuit D. Kelly Thomas, Jr. C-11100	Witt, J Affirmed in Part; Reversed in part, remanded	Rule 11	Granted - Applications of the State of Tennessee and Arthur T. Copeland. The court requests the parties to address the following issues at oral argument. ¹

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1. Did the Court of Criminal Appeals err in finding plain error where the procedure set out in Momon v. State, 18 S.W.3d 152 (Tenn. 1999), was not followed and in remanding the case to the trial court to determine whether the error requires a new trial?
 2. Did the Court of Criminal Appeals err in its comparative proportionality analysis?
 3. Should the conviction of the defendant be set aside because of the systematic exclusion of African-Americans from the petit jury and the office of grand jury foreperson?
 4. Did the failure of the indictment to charge criminal responsibility violate the defendant's due process rights?
 5. Were certain statements made by Ashley James to Myron Kellogg admissible as excited utterances?
 6. Does the trial court's failure to ascertain whether the defendant personally waived his right to testify warrant relief?
 7. Did the use of leg restraints on the defendant at trial violate due process and the right to a fair trial?
 8. Did the trial court's instruction that aggravated robbery is a felony involving the use of violence to the person violate the defendant's rights to due process and trial by jury?
 9. Did the trial court err in allowing the victim's aunt to give victim impact testimony at the sentencing hearing?
 10. Is the sentence invalid under the mandatory review criteria of Tennessee Code Annotated section 39-13-206(c)(1)(A)-(C)?

<p>State of Tennessee v. Melissa Ann Laymon E2004-01471-SC-R11-CD</p>	<p>Anderson Circuit James B. Scott A3CR0257</p>	<p>Hayes, J Affirmed</p>	<p>Rule 11</p>	<p>Granted - Application of Melissa Ann Layman.</p> <p>For purposes of oral argument only, this appeal is consolidated with <u>State v. Taylor</u>, E2004-02866-SC-R11-CD.</p> <p>In addition to the issue raised in the application for permission to appeal regarding refusal to grant leave to dismiss a charge under Rule 48(a), the parties are directed to brief and present oral argument on the following issues.²</p>
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² The State is directed to file a supplemental brief on the following issues:

1. Whether victims have a “right to be heard” at pre-trial proceedings;
2. Whether the Victims’ Bill of rights applies to pre-trial proceedings;
3. Whether a victim’s family may retain an attorney and participate in the proceedings to oppose a plea agreement; and,
4. Whether the victim’s family may offer unsworn hearsay statements that are not subject to cross-examination.

State of Tennessee v. Jonathan Ray Taylor E2004-02866-SC-R11-CD	Anderson Criminal James B. Scott A4CR0014	Wedemeyer, J Affirmed and Remanded	Rule 11	<p>Granted - Application of Jonathan Ray Taylor</p> <p>For purposes of oral argument only, this appeal is consolidated with State v. Layman, E2004-01471-SC-R11-CD.</p> <p>* The issue: whether the trial court abused its discretion and infringed the constitutional authority of the district attorney general when it refused to grant leave to dismiss a charge under Rule 48(a) of the Tennessee Rules of Criminal Procedure. This legal issue also presented in <u>State v. Melissa Ann Layman</u>, E2004-01471-SC-R11-CD.</p>
<p style="text-align: center;"><u>Jackson</u></p>				
<p>NONE</p>				

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DENIALS

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<u>Nashville</u>				
Ronald L. Davis v. State of Tennessee M2003-02302-SC-R11-CO	Maury Circuit Jim T. Hamilton 9444	Wedemeyer, J Affirmed Pursuant to Rule 20	Rule 11	Denied - Application of Ronald L. Davis.
William Lee Drumbarger v. State of Tennessee M2004-00932-SC-R11-CO	Davidson Criminal Steve Dozier C-9912	Williams, J Affirmed Pursuant to Rule 20	Rule 11	Denied - Application of William Lee Drumbarger.
Marcus D. Nunley, et al. v. Charles D. Meeks M2005-00026-SC-R11-CV	Grundy Chancery Jeffrey F. Stewart 4969	Cain, J Cottrell, J Clement, J Dismissed	Rule 11	Denied - Motion/Petition to Reconsider Court's denial of Charles D. Meeks application for permission to appeal.

Lee Pittman v. Williamson County M2003-02860-SC-R11-CV	Williamson Circuit R. E. Lee Davies 01631	Cain, J Affirmed and Remanded	Rule 11	Denied - Application of Lee Pittman.
Amos E. Qualls v. In RE: The Estate of Henry Atlas Qualls M2003-01850-SC-R11-CV	Perry Probate Donald P. Harris PB-325	Highers, J Affirmed	Rule 11	Denied - Application of Amos E. Qualls ** Previous order of 12/27/06, vacated and this order substituted ** ** Motion to reconsider Court's denial of permission to appeal also denied**. Filed - January 26, 2006.
State of Tennessee v. Robert Louis Gibson M2005-00100-SC-R11-CO	Wilson Criminal J.O. Bond 03-0792	McLin, J Affirmed	Rule 11	Denied - Application of Robert Louis Gibson.
State of Tennessee v. James Edward Mitchell M2005-00962-SC-R11-PC	Davidson Criminal Seth W. Norman 2000-C-1549	Welles, J Affirmed Pursuant to Rule 20	Rule 11	Denied - Application of James Edward Mitchell.
<u>Knoxville</u>				
Aaron T. Burton v. Virginia Lewis, Warden E2004-02380-SC-R11-HC	Bledsoe Circuit J. Curtis Smith 452004	Witt, J Affirmed Pursuant to Rule 20	Rule 11	Denied - Application of Aaron T. Burton.

John E. Carter v. State of Tennessee E2005-01296-SC-R11-HC	Johnson Circuit Lynn W. Brown 4632	Witt, J Affirmed	Rule 11	Denied - Application of John E. Carter.
Dewey Esquiance v. Polk County Education Association, Tennessee E2004-02408-SC-R11-CV	Polk Circuit Lawrence Howard Puckett CV-03-074	Crawford, J Affirmed in Part, Reversed in Part	Rule 11	Denied - Application of Polk County Education Association, Tennessee.
Cynthia J. Gibson, et al. v. Susan Camelle Gibson, et al. E2005-02454-SC-S10-CV	Hamilton Chancery Howell N. Peoples 01-G-097; 00P-0536; 03- 1437	Swiney, J Susano, J & Lee, J Rule 10 Denied	Rule 11	Denied - Application of Susan Camelle Gibson, et al.
Claude L. Glass v. George Underwood, Jr. E2004-02871-SC-R11-CV	Knox Circuit Wheeler A. Rosenbalm 3-436-04	Lee, J Affirmed and Remanded	Rule 11	Denied - Motion to reconsider Order of 12/19/05, denying his Rule 11 application
Tyris Lemont Harvey v. State of Tennessee E2004-01982-SC-R11-PC	Blount Circuit D. Kelly Thomas C-14906	Wedemeyer, J Affirmed	Rule 11	Denied - Application of Tyris Lemont Harvey.
Rabia Kafozi and Audry C. Kafozi v. Windward Cove, LLC E2004-01791-SC-R11-CV	Hamilton Circuit Howell N. Peoples 02-0336	Swiney, J Reversed; Claims Dismissed & Remanded	Rule 11	Denied - Application of Rabia Kafozi and Audry C. Kafozi.
Stacy Allen Melton v. State of Tennessee E2005-00206-SC-R11-PC	Greene Circuit James E. Beckner 04CR255	Tipton, J Affirmed	Rule 11	Denied - Application of Stacy Allen Melton.
State of Tennessee v. Marlon Avery Bussell E2004-01239-SC-R11-CD	Knox Criminal Richard Baumgartner 76849	Woodall, J Affirmed	Rule 11	Denied - Application of Marlon Avery Bussell.

State of Tennessee v. Carey Ray Faught E2004-01705-SC-R11-CD	Knox Criminal Richard Baumgartner 78394	Woodall, J Affirmed	Rule 11	Denied - Application of Carey Ray Faught.
State of Tennessee v. Thomas Allen Franks, II E2005-00292-SC-R11-CD	Knox Criminal Mary Beth Leibowitz 76815	Wade, J Affirmed	Rule 11	Denied - Application of Thomas Allen Franks, II.
Linda Dianne Stutz v. David Larry Stutz E2004-01399-SC-R11-CV	Hamilton Circuit Neil Thomas 02 D 587	Lee, J Reversed & Remanded	Rule 11	Denied - Application of David Larry Stutz.
State of Tennessee v. Michelle Tipton E2004-01278-SC-R11-CD	Sevier Circuit Richard Vance 8733	Hayes, J Affirmed in Part; Reversed in Part	Rule 11	Denied - Application of Michelle Tipton. ** Motion to proceed in forma pauperis granted. ** ** Motion requesting appointment of counsel denied. **
Joseph B. Thompson v. State of Tennessee E2004-00920-SC-R11-PC	Sullivan Circuit R. Jerry Beck C48,0481	Wedemeyer, J Affirmed	Rule 11	Denied - Application of Joseph B. Thompson.
<u>Jackson</u>				
Eric B. Blakemore v. State of Tennessee W2004-01578-SC-R11-PC	Shelby Criminal Bernie Weinman, Jr. P-27036	Williams, J Affirmed	Rule 11	Denied - Application of Eric B. Blakemore.
Eric Carter v. State of Tennessee W2005-00650-SC-R11-HC	Hardeman Circuit Joes H. Walker, III 9544	Williams, J Affirmed Pursuant to Rule 20	Rule 11	Denied - Application of Eric Carter.

James Crain, et al v. Baptist Memorial Hospital W2004-00477-SC-R11-CV	Shelby Circuit Kay S. Robilio CT-002421-01	Highers, J Affirmed	Rule 11	Denied - Application of James Crain, et al.
Allen R. Jordan v. State of Tennessee W2005-01829-SC-R11-HC	Hardeman Circuit Joe H. Walker, III 05-02-0012	McLin, J Denied	Rule 11	Denied - Application of Allen R. Jordan.
State of Tennessee v. Kevin Smith W2004-02225-SC-R11-CD	Madison Circuit Roger A. Page 04-142	Glenn, J Affirmed	Rule 11	Denied - Application of Kevin Smith.
State of Tennessee v. Travis Young W2004-02426-SC-R11-CD	Shelby Criminal W. Otis Higgs 03-05458	Smith, J Affirmed	Rule 11	Denied - Application of Travis Young.
State of Tennessee v. Jerry Dale Tigner, Jr. W2004-01935-SC-R11-CD	Shelby Criminal Chris Craft 02-08463	Williams, J Affirmed	Rule 11	Denied - Application of Jerry Dale Tigner, Jr.
George Osborne Wade v. State of Tennessee W2004-00214-SC-R11-PC	Obion Circuit William B. Acree, Jr. 3-09	Williams, J Affirmed	Rule 11	Denied - Application of George Osborne Wade.
State of Tennessee v. John Whittington W2004-02405-SC-R11-CD	Shelby Criminal Arthur T. Bennett 03-06851	Wade, J Affirmed	Rule 11	Denied - Application of John Whittington.
Tony Willis v. Tony Parker, Warden W2004-02063-SC-R11-HC	Lake Circuit R. Lee Moore, Jr. 04-CR-8621	Wade, J Affirmed	Rule 11	Denied - Application of Tony Willis.