

SUPREME COURT OF TENNESSEE  
 SUPREME COURT DISCRETIONARY APPEALS  
**July 2, 2001**

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<b>Kelly Gray vs. David Wayne Gray M2000-00620-SC-R11-CV</b>	Rutherford Chancery Royce Taylor 98DR-1321	Cantrell, J. Affirmed and remanded	Rule 11	<b>Granted</b> - Application of David Gray <sup>1</sup>
<b>Amy Lynn Surber vs. Ralph Lee Cannon M1998-00928-SC-R11-CV</b>	Davidson Circuit Barbara N. Haynes 95C-3592	Cottrell, J. Affirmed and remanded	Rule 11	<b>Denied</b> - Application of Amy Lynn Surber
<b>Lisa A. Vaccarella vs. Raymond M. Vaccarella M1999-01937-SC-R11-CV</b>	Williamson Chancery Russ Heldman II-24634	Cain, J. Affirmed in part, reversed in part, and remanded	Rule 11	<b>Denied</b> - Applications of Raymond Vaccarella and Lisa Vaccarella

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<sup>1</sup>For oral argument, the Court is particularly interested in the following issue: 1. Whether the trial court erred in ordering the Father, David Wayne Gray, the primary custodian of the two minor children, to pay child support to the Mother, Kelly Rae Gray? This statement of the issue for oral argument does not prevent the parties from raising additional issues pursuant to Rule 13(a), TRAP. The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing. The motion of attorney M. Keith Siskin to withdraw is granted. Appellant, David Wayne Gray, is granted thirty days from entry of this order to either secure counsel who shall file a notice of appearance, file a motion for appointment of counsel accompanied by a civil affidavit of indigency, see Tenn. Sup. Ct. R. 29, or file a notice of his intent to proceed pro se. The time for filing briefs pursuant to TRAP 11(f) shall not commence until further order of this Court.

<b>Harry T. Kradel, et al vs. Piper Industries, Inc., et al M2001-00338-SC-R23-CQ</b>	U.S. District Court of Appeals, Third Circuit		Rule 23	<b>Accepted</b> - This Court accepts certification of the following questions of law <sup>2</sup>
<b>Audrey Moss vs. Shelia K. Sankey, et al W2000-00659-SC-R11-CV</b>	Shelby Circuit D'Army Bailey 81027-8	Farmer, J. Affirmed and remanded	Rule 11	<b>Denied</b> - Application of Audrey Moss
<b>Harry James Tusan, Jr., et al vs. City of Memphis W2000-01431-SC-R11-CV</b>	Shelby Chancery Floyd Peete, Jr. 00-0484-2	Crawford, J. Affirmed and remanded	Rule 11	<b>Denied</b> - Application of Harry James Tusan, Jr., et al; motion to “Strike Post Judgment Facts” is granted

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<sup>2</sup>1. What law governs the making of claims arising in 1994 against a corporation which filed Articles of Dissolution in 1986 - the law of 1986 or those revisions to the law effective 1/1/98, TCA § 48-24-101, et seq.? More specifically, do the saving provisions of TCA § 48-27-103(a)(2), stating that the repeal of the pre-1998 law does not affect liabilities incurred under the statute before its repeal, support the contention that a liability incurred after the law’s effective date is governed by the 1988 revisions? 2. If the pre-1988 law applies, do the provisions of TCA § 48-1-1013(a) [repealed] apply to liabilities incurred after Piper filed Articles of Dissolution and, if not, does the common law of Tennessee bar such actions? See Great American Ins. Co. v. Byrd & Watkins Constr., Inc., 630 F.2d 460, 461 (6<sup>th</sup> Cir. 1980); Cf. Hunter v. Fort Worth Capital Corp., 620 S.W.2d 547, 549 (Texas 1981). 3. Did Piper comply with TCA § 48-1-1007 [repealed]? If not, does the manner in which Piper failed to comply invalidate an otherwise lawful dissolution and permit a cause of action accruing eight years after the dissolution was filed? Cf. Swindle vs. Big River Broadcasting Corp., 905 S.W. 2d 565, 567 (Tenn. Ct. App. 1995). 4. Do the pre-1988 Tennessee dissolution statutes require provision for unforeseen future liabilities or that the process of asset distribution be final? See Blankenship v. Demmler Manufacturing Co., 411 N.E.2d 1153, 1155 (Ill. App. Ct. 1980). 5. Could Kradel’s claims proceed under the ‘trust fund’ doctrine established in Voightman & Company v. Southern Ry. Co., 131 S.W. 982, 983 (Tenn. 1910) and Bean v. Commercial Sec., Inc., 156 S.W.2d 338, 346 (Tenn. Ct. App. 1942), in the absence of corporate insolvency, if other remedies are unavailable to Kradel for the claims against Piper? See Ottarson v. Dobson & Johnson, Inc., 430 S.W.2d 873, 878 (Tenn. Ct. App. 1968). Pursuant to Rule 23, Section 7(B) of the Supreme Court Rules, this Court desires to have oral argument by the parties.

<b>Eddie Williams, Jr.</b> vs. <b>Alton Hesson</b> <b>W2000-02725-SC-R11-CV</b>	Lauderdale Circuit Joe H. Walker, III 5302	Highers, J. Affirmed	Rule 11	<b>Denied</b> - Application of Eddie Williams, Jr.
<b>State of Tennessee</b> vs. <b>David Plunk</b> <b>W2000-00526-SC-R11-CD</b>	Crockett Circuit L. Terry Lafferty 2939	Riley, J. Affirmed	Rule 11	<b>Denied</b> - Application of David Plunk
<b>Louis Tyrone Robinson</b> vs. <b>State of Tennessee</b> <b>W2000-02852-SC-R11-CO</b>	Lauderdale Circuit Joe H. Walker, III 5408	Hayes, J. Affirmed pursuant to Rule 20	Rule 11	<b>Denied</b> - Application of Louis Tyrone Robinson
<b>Patricia K. Baker d/b/a Patty's Pampered Nails</b> vs. <b>Tiffany Hooper (Moates), et al</b> <b>E2001-01615-SC-R11-CV</b>	McMinn Russell Simmons 21493	Franks, J. Affirmed	Rule 11	<b>Denied</b> - Application of Patricia K. Baker, et al
<b>John R. Fiser, et al</b> vs. <b>Town of Farragut, Tennessee</b> <b>E1999-00425-SC-R11-CV</b>	Knox Chancery Daryl R. Fansler 127706-2	Goddard, J. Reversed and remanded	Rule 11	<b>Denied</b> - Application of Town of Farragut
<b>In re: Estate of Lois Chandler</b> <b>E2000-03055-SC-S10-CV</b>	Knox Chancery John F. Weaver 55595-1	Susano, J. Order denying appeal in abeyance	Rule 10	<b>Denied</b> - Application of Buster Chandler
<b>Rachel Knowles, et al</b> vs. <b>State of Tennessee</b> <b>E2000-01634-SC-R11-CV</b>	Blount Circuit William D. Young L11287	Susano, J. Affirmed	Rule 11	<b>Denied</b> - Application of State of Tennessee; recommended that the Court of Appeals opinion be published.

<b>Paul A. Mattio vs. Powell River Laboratories, Inc. E2001-01003-SC-R10-CV</b>	Anderson James B. Scott A0LA0260		Rule 10	<b>Denied</b> - Application of Powell River Laboratory <sup>3</sup>
<b>Vickie J. Sherman vs. American Water Heater Co., Inc. E2000-01389-SC-R11-CV</b>	Washington Chancery Thomas J. Seeley, Jr. 32143	Franks, J. Reversed	Rule 11	<b>Denied</b> - Application of American Water Heater Company, Inc.
<b>Perry H. Young vs. Hamilton County E2000-03119-SC-S10-CV</b>	Hamilton Circuit	Franks, J. Rule 10 Denied	Petition to rehear Rule 10 denial	<b>Denied</b> - Application of Perry H. Young
<b>State of Tennessee vs. Sean Imfeld E2000-00094-SC-R11-CD</b>	Knox Criminal Mary Beth Leibowitz 66960	Wade, J. Affirmed	Rule 11	<b>Granted</b> - Application of Sean Imfeld <sup>4</sup>
<b>State of Tennessee vs. Amos Phillips, Jr. E2001-01197-SC-R10-CO</b>	Sullivan Criminal Phyllis H. Miller S41,666	Wade, J. Affirmed	Rule 11	<b>Denied</b> - Application of Amos Phillips, Jr.

<sup>3</sup>To avoid further delay, this matter is remanded to the trial court for further proceedings. Pursuant to TCA §27-1-222, this Court sua sponte reserves the issue of whether the appeal was frivolous. A motion to consider the issue of frivolous appeal may be filed within 30 days of the trial court’s judgment.

<sup>4</sup>For oral argument, the Court is particularly interested in the following issues: Did the Court of Criminal Appeal err in applying enhancement factors (3) and (16) in this case? Is the defendant a “dangerous offender” under TCA § 40-35-115(b)(4)? This statement of issues for oral argument does not prevent the parties from raising additional issues pursuant to Rule 13(a), TRAP.

<b>State of Tennessee vs. Howard William Weaver E2000-00066-SC-R11-CD</b>	Roane Criminal E. Eugene Eblen 11781	Witt, J. Reversed and remanded	Rule 11	<b>Denied</b> - Application of Howard William Weaver
<b>John E. Carter vs. Howard Carlton E2000-00406-SC-R11-PC</b>	Johnson Criminal Robert E. Cupp 3360	Witt, J. Affirmed	Rule 11	<b>Denied</b> - Application of John E. Carter
<b>Jimmy Greene vs. State of Tennessee E2000-00426-SC-R11-PC</b>	Blount Circuit D. Kelly Thomas, Jr. 11391	Wedemeyer, J. Affirmed	Rule 11	<b>Denied</b> - Application of Jimmy Greene
<b>James Perry Hyde vs. State of Tennessee E2000-00806-SC-R11-PC</b>	Hamblen Criminal James E. Beckner 99CR035	Wade, J. Affirmed	Rule 11	<b>Denied</b> - Application of James Perry Hyde
<b>J. D. Lingerfelt vs. State of Tennessee E2000-02108-SC-R11-CO</b>	Sullivan Criminal Robert E. Cupp 11717B/11946BL	Witt, Tipton & Ogle Rule 20 Affirmed	Rule 11	<b>Denied</b> - Application of J. D. Lingerfelt
<b>Harold Wayne Nichols vs. State of Tennessee E1998-00562-SC-R11-PD</b>	Hamilton Criminal D. Kelly Thomas, Jr. 205863	Glenn, J. Affirmed	Rule 11	<b>Granted</b> - Application of Harold Wayne Nichols <sup>5</sup>

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<sup>5</sup>For oral argument, the Court is particularly interested in the following issue: Did the Court of Criminal Appeals err in raising and deciding the issue of how the Fifth Amendment right against self-incrimination applied to the petition at the petitioner's post-conviction hearing? This statement of the issue for oral argument does not prevent the parties from raising additional issues pursuant to Rule 13(a), TRAP.

**The following Rule 11 Dismissals were filed the weeks of June 25<sup>th</sup> - June 29<sup>th</sup>, 2001**

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