

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

Monday, August 22, 2005

Corrected and Re-sent 8/29/05

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
Allstate Insurance Company v. Robert E. Watson M2003-01574-SC-R11-CV	Davidson Circuit Hamilton V. Gayden, Jr. 99C-1898	Cain, J Reversed and Remanded	Rule 11	Granted - Application of Allstate Insurance Company.
Paula P. King Booker v. The Boeing Company, d/b/a Boeing-Oak Ridge Company M2005-00832-SC-R23-CQ		Per Curiam	Rule 23	Granted - Court Accepts certification of the following question of law: ¹ *Filed 8/18/2005*
State of Tennessee v. Daniel W. Livingston M2004-00086-SC-R11-CD	Davidson Criminal Cheryl Blackburn 2002-B-625	Welles, J Affirmed	Rule 11	Granted - Application of State of Tennessee

¹ Whether a discriminatory salary “ceases” within the plain meaning of the Tennessee Human Rights Act’s statute of limitations when it ends, or whether it “ceases” when the alleged discriminatory act should trigger an employee’s awareness of a duty to assert his or her rights.

State of Tennessee v. Malinda L. Mason M2003-3065-SC-411-CD	Davidson Criminal Frank Clement, Jr. 2002-T-348	Woodall, J Affirmed	Rule 11	Granted and Remanded to CCA - Application of Malinda L. Mason
State of Tennessee v. Travis Thompson, Individually and d/b/a Thompson Enterprises, LLC and Gold's Gym, and Thompson Enterprises, LLC a Delaware Limited Liability Company, doing business as Bold's Gym M2003-02636-SC-R11-CV	Davidson Chancery Ellen H. Lyle 99-2003-III	Franks, J Reversed and Remanded	Rule 11	Granted - Application of Travis Thompson, individually and doing business as Thompson Enterprises, LLC and Gold's Gym, and Thompson Enterprises, LLC a Delaware Limited Liability Company, doing business as Gold's Gym.
<u>Knoxville</u>				
Rena Mae Blair v. Rollin C. & Mary Ann Brownson E2004-00817-SC-R11- CV	Hamblen Chancery Kindall T. Lawson 2003-187	Susano, J Affirmed & Remanded.	Rule 11	Granted - Application of Rollin C. & Mary Ann Brownson
Noel Crawley, et al. v. Hamilton County E2003-03028-SC-R11-CD	Hamilton Circuit Marie Williams 00 C 199	Franks, J Vacated & Remanded	Rule 11	Granted - Application of Hamilton County
State of Tennessee v. Kirk Williams E2004-01452-SC-R11-CD	Hamilton Criminal Rebecca Stern 244455	Wade, J Reversed and Remanded	Rule 11	Granted - Application of Kirk Williams *Filed 8/16/05 *
<u>Jackson</u>				

Randy Alan Barnes v. Amy Robertson Barnes W2004-01426-SC-R11-CV	Shelby Circuit George H. Brown CT-003455-03	Crawford, J Reversed and Remanded	Rule 11	Granted - Application of Amy Robertson Barnes
Mary Warren Kesser v. Peter Hale Kesser W2003-02392-SC-R11-CV	Shelby Circuit Robert A. Lanier 147208	Highers, J Affirmed in Part, Reversed in Part, and Remanded	Rule 11	Granted - Application of Peter Hale Kesser
State of Tennessee v. Stephen Lynn Hugueley W2004-00057-SC-DDT-DD	Hardeman Circuit Jon K. Blackwood 6665	McLin, J Affirmed		Granted - The Court, at oral argument, is particularly interested in the following issues: ²
State of Tennessee v. Gary Lee Marise W2003-02434-SC-R11-CD	Carroll Circuit C. Creed McGinley 02CR-1964	Hayes, J Affirmed	Rule 11	Granted - Application of Gary Lee Marise
State of Tennessee v. Delawrence Williams W2004-01682-SC-R11-CD	Dyer Circuit Lee Moore C03-405	Glenn, J Affirmed	Rule 11	Granted - Application of Delawrence Williams

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² 1. Is the death sentence valid under the mandatory review of Tenn. Code Ann. § 39-13-206(c)(1): (A) Was the sentence imposed in an arbitrary fashion? (B) Does the evidence support the jury's findings of statutory aggravating circumstances? (C) Does the evidence support the jury's finding that the aggravating circumstances outweigh any mitigating circumstances? (D) Is the sentence excessive or disproportionate to the penalty imposed in similar cases? 2. Did the trial court allow the prosecution to strike jurors in violation of Batson v. Kentucky, 476 U.S. 79, 106 S.Ct. 1712, 90 L.Ed. 2d 69 (1986), and J.E.B. v. Alabama, ex rel. T.B., 511 U.S. 127, 114 S.Ct. 1419, 128 L.Ed. 2d 89 (1994)? 3. Did the trial court err in refusing to exclude prospective juror Barry Watkins for cause?

Monday, August 22, 2005

DENIALS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
Danny Ray Applegate v. State of Tennessee M2004-00547-SC-R11-CD	Davidson Criminal Steve R. Dozier 2003-B-1514	Wedemeyer, J Affirmed	Rule 11	Denied - Application of Danny Ray Applegate's ** The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4, § F.**
Kenneth E. Braswell v. Lowe's Home Centers, Inc. M2003-0282-SC-R11-CV	Davidson Circuit Walter C. Kurtz 01C-2445	Koch, J Affirmed	Rule 11	Denied - Application of Kenneth E. Braswell
Darren Ray Case v. State of Tennessee M2004-1727-SC-R11-HC	Wayne Circuit Robert L. Jones 13428	Wedemeyer, J Rule 20 Affirmed	Rule 11	Denied - Application of Darren Ray Case *The motion for appointment of counsel is also denied.* *The Motion to proceed in forma pauperis is granted.*
Anthony Jackson v. State of Tennessee M2004-1997-SC-R11-HC	Davidson Criminal Cheryl A. Blackburn 3497	Woodall, J Rule 20 Affirmed	Rule 11	Denied - Application of Anthony Jackson

Lamar Tennessee LLC, d/b/a Lamar Advertising of Nashville v. The City of Hendersonville M2003-00415-SC-R11-CV	Sumner Chancery Tom E. Gray 2001C-128	Highers, J Reversed and Remanded	Rule 11	Denied - Application of Lamar Tennessee, LLC.
Ludmilla Lambright, et al. v. National Union Fire Insurance Company of Pittsburgh, et al. M2003-02133-SC-R11-CV	Montgomery Chancery Carol Catalano 2001-01-0085	Cain, J Reversed and Remanded	Rule 11	Denied - Application of Ludmilla Lambright
Dany Ray Meeks v. Charles Traughber, et al. M2003-02077-SC-R11-CV	Davidson Chancery Irvin H. Kilcrease, Jr. 02-3535-I	Inman, J Affirmed and Modified	Rule 11	Denied - Application of Danny Ray Meeks
Ryan James Moran v. State of Tennessee M2004-01084-SC-R11-PC	Giles Circuit Robert Holloway 11369	Wedemeyer, J	Rule 11	Denied - Application of Ryan James Moran
Ricky E. Pullens v. State of Tennessee M2005-00570-SC-S10-PC	Rutherford Circuit James K. Clayton, Jr. F-54353	Welles, J Woodall, J Wedemeyer, J Rule 10 Denied	Rule 10/ Rule 11	Denied - Application of Ricky E. Pullens
State of Tennessee v. Luis Castanon M2003-01491-SC-R11-CD	Davidson Criminal Seth W. Norman 98-C-2056	Woodall, J Affirmed	Rule 11	Denied - Application of Luis Castanon
State of Tennessee v. Jason Lee Holley M2005-01759-SCR8-CD	Davidson Criminal Seth W. Norman 99-B-1289, 99-D-2882, 99-D-2434, 2000-A-221		Rule 8	Overruled - Motion of Jason Lee Holley. Filed 8/16/05.

State of Tennessee v. Christopher Demotto Linsey M2004-00128-SC-R11-CD	Montgomery Circuit John H. Gasaway 40200695	Wedemeyer, J Affirmed	Rule 11	Denied - Application of Christopher Demotto Linsey. ** The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4, § F.**
State of Tennessee, ex rel. Moore & Associates, Inc. v. Lon F. West, Zoning Administrator of the Department of Codes Administration of the Metropolitan Government of Nashville and Davidson County, Tennessee M2003-00152-SC-R11-CV	Davidson Chancery Ellen H. Lyle 02-627-III	Cottrell, J Reversed	Rule 11	Denied - Application of the State of Tennessee, ex rel. Moore & Associates, Inc.
State of Tennessee v. Jason Allen Needel M2004-01412-SC-R11-CD	Sumner Criminal Jane Wheatcraft 937-2003	Ogle, J Affirmed	Rule 11	Denied - Application of Jason Allen Needel
State of Tennessee v. Ephraim B. Robinson M2004-01415-SC-R11-CD	Bedford Circuit Lee Russell 15458	Smith, J Affirmed	Rule 11	Denied - Application of Ephraim B. Robinson
State of Tennessee v. Thomas D. Stanton M2003-03049-SC-R11-CD	Davidson Criminal Seth W. Norman 2003-A-654	Welles, J Affirmed	Rule 11	Denied - Application of Thomas D. Stanton
State of Tennessee v. Henry Ford Williams, Jr. M2003-00515-SC-R11-CD	Robertson Circuit Jane Wheatcraft 00-0150	Wade, J Affirmed	Rule 11	Denied - Application of Henry Ford Williams, Jr.
Town of Cornersville, Tennessee v. Meleathie Harmon, et al. M2003-01061-SC-R11-CV	Marshall Chancery J.B. Cox 12,301	Cottrell, J Affirmed and Remanded	Rule 11	Denied - Application of Meleathie Harmon, Camuel Harmon, Harmon Scrap Metal, Inc., and Harmon Scrap Metal, LLC

Knoxville

Richard Alan Butler v. State of Tennessee and Re'Licka Dajuan Allen v. State of Tennessee E2004-00359-SC-R11-CD	Knox Criminal Richard Baumgartner & Mary Beth Leibowitz 76909, 77455	Glenn, J Affirmed	Rule 11	Denied - Application of Richard Alan Butler
Chico Lopez Chigano v. State of Tennessee E2004-00679-SC-R11-HC	Bledsoe Circuit Buddy Perry 2-2004	Tipton, J, Witt, J Ogle, J rule 20 Affirmed	Rule 11	Denied - Application of Chico Lopez Chigano. * Motion to proceed in forma pauperis is granted.*
David L. Elmore v. Mary Rosanna Elmore, et al. E2004-00301-SC-R11-CV	Cumberland Probate Steven C. Douglas 12, 777	Lee, J	Pet. To Rehear Rule 11 App.	Denied - Petition to Rehear application for permission to appeal, by Jerry Ralph Monday, Brenda Joyce Monday, Melissa Renee Beaty, and David Dewayne Beaty.
Charles Edward Ferguson, et al. v. Ran Neiger, M.D., et al. E2005-01178-SC-S10-CV	Knox Circuit Dale C. Workman 1-638-02	Susano, J Swiney, J Lee, J Rule 10 Denied	Rule 10	Denied - Application of Charles Edward Ferguson and Samantha Ferguson
Marcella Gant, et al. v. Parkridge Medical Center, Inc., et al. E2005-00996-SC-S09-CV	Hamilton Circuit W. Neil Thomas, III 04C1454	Swiney, J Lee, J Susano, J Rule 9 Denied	Rule 9	Denied - Application of Parkridge Medical Center, Inc., d/b/a Parkridge Medical Center *Motion of the Tennessee Hospital Association to appear as amicus curiae is denied*
Pamela K. Ginn v. American Heritage Life Insurance Company, et al. E2004-00198-SC-R11-CV	Monroe Circuit Lawrence Howard Puckett V01011P	Swiney, J Affirmed in Part, Reversed in Part	Rule 11	Denied - Application of Pamela K. Ginn

Robert Ledford v. State of Tennessee	Hamilton Criminal Stephen Bevil 243211	Wade, J Affirmed	Rule 11	Denied - Application of Robert Ledford
Greg Mihal & wife Rae Mihal v. Curtis Ward & wife, Mitzi Ward, et al. E2005-0098-SC-S09-CV	Campbell Chancery Billy Joe White 15737	Franks, J Susano, J Swiney, J Rule 9 Denied	Rule 9	Denied - Application of Greg Mihal and Rae Mihal
State of Tennessee v. Carrie Ann Brewster, & William Justin Brewster E2004-00533-SC-R11-CD	Knox Criminal Mary B. Leibowitz 75681	Witt, J Affirmed, as Modified	Rule 11	Denied - Applications of Carrie Ann Brewster and William Justin Brewster *Motions for appointment of counsel are denied* *Motions to proceed in Forma Pauperis are granted*
State of Tennessee v. Gary Alden Bowers E2004-00697-SC-R11-CD	Carter Circuit Lynn W. Brown S159828, S15986, S16190	Ogle, J Affirmed	Rule 11	Denied - Application of Gary Alden Bowers ** The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4, § F.**
State of Tennessee v. Miguel Garcia E2004-01698-SC-R11-CD	Hamblen Circuit James Beckner 02CR192	Tipton, J Affirmed in Part, Sentence Modified	Rule 11	Denied - Application of Miguel Garcia ** The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4, § F.**
State of Tennessee v. Shelborne Mason E2004-00944-SC-R11-CD	Sullivan Circuit R. Jerry Beck C46,853	Wade, J Affirmed	Rule 11	Denied - Application of Shelborne Mason

Javvor Thomas v. State of Tennessee E2004-01486-SC-R11-PC	Knox Criminal Richard Baumgartner 73854	Glenn, J Affirmed	Rule 11	Denied - Application of Javvor Thomas
<u>Jackson</u>				
Randall Edwin Cobb v. State of Tennessee W2004-00156-SC-R11-HC	Obion Circuit William B. Acree, Jr. 9-421, 9-422, 9-423	McLin, J Affirmed	Rule 11	Denied - Application of Randall Edwin Cobb
Joseph L. Coleman v. Tony Parker, Warden W2004-01527-SC-R11-HC	Lake Circuit R. Lee Moore, Jr. 04-CR 8558	McLin, J Rule 20 Affirmed	Rule 11	Denied - Application of Joseph L. Coleman
Jackson Energy Authority v. William T. Diamond, Jr. W2004-01090-SC-R11-CV	Madison Circuit Donald H. Allen C-03-294	Kirby, J Affirmed	Rule 11	Denied - Application of William T. Diamond, Jr.
Michael Lynn Martindale v. Margo Miller Martindale W2003-00712-SC-R11-CV	Madison Chancery Joe C. Moris 48845	Kirby, J Affirmed	Rule 11	Denied - Application of Michael Lynn Martindale
Larry Mitchell v. State of Tennessee W2004-00981-SC-R11-PC	Shelby Criminal John P. Colton, Jr. P-27009	Hayes, J Affirmed	Rule 11	Denied - Application of Larry Mitchell * Motion to withdraw by court-appointed counsel is denied*
State of Tennessee v. James Robert Davis W2003-02362-SC-R11-CD	Tipton Circuit Joseph H. Walker, III 4520	Smith, J Affirmed	Rule 11	Denied - Application of James Robert Davis
State of Tennessee v. Frazier Fashun Perry W2004-00651-SC-R11-CD	Dyer Circuit Lee Moore C02-314	Smith, J Affirmed	Rule 11	Denied - Application of Frazier Fashun Perry

Michael Underwood v. State of Tennessee W2004-01630-SC-R11-CV	Lake Chancery J. Steven Stafford 5068	Kirby, J Affirmed	Rule 11	Denied - Application of Michael Underwood ** The opinion of the Court of Criminal Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4, § F.**
Terrance Dupree Woods v. State of Tennessee W2004-00443-SC-R11-PC	Madison Circuit Clayburn Peebles C-02-433	Woodall, J Affirmed	Rule 11	Denied - Application of Terrance Dupree Woods