

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

Monday, January 25, 2010

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
CAO Holdings, Inc. v. Loren L. Chumley, Commissioner of Revenue M2008-01679-SC-R11-CV	Davidson County Chancery Court Chancellor Carol McCoy No. 06-719-II	Dinkins, J., Affirmed	Rule 11	Granted - Application of Loren L. Chumley, Commissioner of Revenue (Wade, J., not participating; Lee, J., not participating) (Order attached hereto)
State of Tennessee v. Jason J. Matthews M2007-01755-SC-R11-CD	Wayne County Circuit Court Judge Robert Holloway No. 17302	Williams, J., Affirmed as Modified	Rule 11	Granted for purpose of remanding case to Court of Criminal Appeals for reconsideration of sentencing - Application of Jason J. Matthews (Order attached hereto)
<u>Knoxville</u>				
NONE				

Jackson

NONE

**SUPREME COURT OF TENNESSEE
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DENIALS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
Mark Allen v. State of Tennessee M2009-00502-SC-R11-PC	Robertson County Circuit Court Judge Michael R. Jones No. 02-0333A	Glenn, J., Affirmed	Rule 11	Denied - Application of Mark Allen

Hugh Peter Bondurant v. State of Tennessee M2007-01937-SC-R11-CD	Giles County Circuit Court Judge Jim Hamilton No. 3990	Woodall, J., Affirmed	Rule 11	Denied - Application of Hugh Peter Bondurant
Lavelly L. Brown v. George Little, et al M2008-02644-SC-R11-CV	Hickman County Chancery Court Judge Robbie T. Beal No. 08-152C	Stafford, J., Affirmed and Remanded	Rule 11	Denied - Application of Lavelly Brown
John S. Bryan, Jr., et al v. William R. (Bill) Mitchell, Jr., et al M2008-01918-SC-R11-CV	Lincoln County Chancery Court Chancellor J. B. Cox No. 00012492	Swiney, J., Affirmed and Remanded	Rule 11	Denied - Application of William R. Mitchell, Jr. and Sherry L. Mitchell
State of Tennessee v. Clifford Eric Burgess M2008-01370-SC-R11-CD	Montgomery County Circuit Court Judge Michael R. Jones No. 40500792	Glenn, J., Affirmed	Rule 11	Denied - Application of Clifford Eric Burgess
Earl Thomas Burgess v. Ford Motor Company and Automotive Components Holdings, LLC M2009-02093-SC-S09-CV	Davidson County Chancery Court Chancellor Ellen H. Lyle No. 07-2398-III	Per Curiam Order, Rule 9 Denied	Rule 9	Denied - Application of Ford Motor Company and Automotive Components Holdings, LLC (Order filed 01-21-2010)
State of Tennessee v. Bruce Wayne Crenshaw M2007-00177-SC-R11-CD	Davidson County Criminal Court Judge Cheryl Blackburn No. 2007-C-2244	Wedemeyer, J., Affirmed	Rule 11	Denied - Application of Bruce Wayne Crenshaw
State of Tennessee v. Samuel Ryan Hawkins M2008-01611-SC-R11-CD	Putnam County Criminal Court Judge David Patterson No. 06-0463	Smith, J., Affirmed	Rule 11	Denied - Application of Samuel Ryan Hawkins
Sherrill Johnson, Individually and as next friend and mother of Victoria Johnson v. Metropolitan Government of Nashville and Davidson County M2009-01243-SC-R11-CV	Davidson County Circuit Court Judge Barbara Haynes No. 07C-536	Kurtz, J., Affirmed	Rule 11	Denied - Application of Sherrill Johnson

State of Tennessee v. Donald Knight M2008-01023-SC-R11-CD	Rutherford County Circuit Court Judge Don r. Ash No. F-58588	Smith, J., Affirmed	Rule 11	Denied - Application of Donald Knight
James Patrick O'Rourke v. Cydnie Browning O'Rourke M2007-02485-SC-R11-CV	Williamson County Chancery Court Judge R. E. Lee Davies No. 27493	Farmer, J., Affirmed; (Kirby, J., dissenting)	Rule 11	Denied - Application of Cydnie Browning O'Rourke
Lisa Peterson, et al v. James Dean, et al M2009-01567-SC-R23-CQ	United States District Court for the Middle District of Tennessee No. 3-09-0628		Rule 23 Certified Question	Declined and Dismissed - Certified Questions of Law: 1. Does the position of administrator of elections, as referred to by TENN. CODE ANN. § 2-12-201, qualify as an "office or public trust" as the term is used in TENN. CONST. Art I, § 4 whereby no political or religious test shall be used as a qualification for that position? 2. Is an administrator of elections a county employee or a state employee? Granted - Motions to File Amicus Brief of The Local Government Property and Casualty Fund and of Putnam County, Tennessee
Public Employees for Environmental Responsibility (PEER) v. Tennessee Department of Environment & Conservation, et al M2008-01567-SC-R11-CV	Davidson County Chancery Court Chancellor Carol McCoy No. 07-1136-II	Farmer, J., Dismissed and Remanded	Rule 11	Denied - Application of Public Employees for Environmental Responsibility (PEER). The opinion of the Court of Appeals is designated "Not for Citation" in accordance with Supreme Court Rule 4(E)(1).

State of Tennessee v. Marcie Lynn Pursell M2008-01625-SC-R11-CD	Davidson County Criminal Court Judge J. Randall Wyatt, Jr. No. 2007-B-948	Welles, J., Affirmed	Rule 11	Denied - Application of Marcie Lynn Pursell
Thomas R. Ralston v. Fred R. Hobbs M2008-01637-SC-R11-CV	Rutherford County Chancery Court Allen Wallace, Sr. Judge No. 06-01310-CV	Clement, J., Affirmed in Part; Reversed in Part	Rule 11	Denied - Application of Fred R. Hobbs
Keith Ramsey, et al v. Mr. T's Auto Detail & Sales, Inc., et al M2008-01865-SC-R11-CV	Rutherford County Chancery Court Chancellor Robert E. Corlew, III No. 07-0865-CV	Franks, J., Affirmed and Remanded	Rule 11	Denied - Application of Keith Ramsey and Cassandra Ramsey
Troy Tackett v. State of Tennessee M2008-020705-SC-R11-PC	Warren County Circuit Court Judge Larry B. Stanley, Jr. No. F-10387	Wedemeyer, J., Affirmed	Rule 11	Denied - Application of Troy Tackett
Ronald Timmons v. Metropolitan Government of Nashville and Davidson County, Tennessee M2008-01581-SC-R11-CV	Davidson County Circuit Court Judge Thomas W. Brothers No. 05C-137	Clement, J., Affirmed and Remanded	Rule 11	Denied - Application of Metropolitan Government of Nashville and Davidson County, Tennessee
State of Tennessee v. Avery Walker M2008-02824-SC-R11-CD	Maury County Circuit Court Judge Stella L. Hargrove Nos. 11592, 12540 & 13081	Glenn, J., Affirmed	Rule 11	Denied - Application of Avery Walker
Ronald Edward Walker v. State of Tennessee M2008-01242-SC-R11-HC	Davidson County Criminal Court Judge Mark Fishburn No. 3712	Smith, J., Affirmed	Rule 11	Denied - Application of Ronald Edward Walker
State of Tennessee v. Jimmy Lee Whitmire M2007-01389-SC-R11-CD	Marshall County Circuit Court Judge Robert Crigler No. 17268	McMullen, J., Affirmed as Modified	Rule 11	Denied - Application of Jimmy Lee Whitmire

Knoxville

State of Tennessee v. Jamie Scott Brock E2007-00766-SC-R11-CD	Claiborne County Criminal Court Judge E. Shayne Sexton No. 12,881	Smith, J., Affirmed	Rule 11	Denied - Application of Jamie Scott Brock
Jerome William Devereaux, Jr., et al v. Jerome William Devereaux, Sr., et al E2008-00861-SC-R11-CV	Jefferson County Chancery Court Chancellor Telford E. Forgety, Jr. No. 05-147	McClarty, J., Affirmed	Rule 11	Denied - Application of Jerome William Devereaux, Sr.
Mike Ellis v. Pauline S. Sprouse Residuary Trust, et al E2009-00654-SC-R11-CV	Knox County Circuit Court Judge Wheeler A. Rosenbalm No. 3-51-05	Susano, J., Affirmed	Rule 11	Denied - Application of Pauline S. Sprouse Residuary Trust and Kerry M. Sprouse (Lee, J., not participating)
State of Tennessee v. David Hastings E2009-00068-SC-R11-CD	Bradley County Criminal Court Judge Carroll L. Ross No. 06-213	Ogle, J., Affirmed	Rule 11	Denied - Application of David Hastings
State of Tennessee v. Daniel H. Jones E2009-02263-SC-R10-CD	Sullivan County Circuit Court Judge Robert H. Montgomery No. S53124	Ogle, J., Tipton, J. and Witt, J., Rule 9 & 10 Applications Denied	Rule 11	Denied - Application of Daniel H. Jones
State of Tennessee v. Andrew Lynn Kendall E2008-01587-SC-R11-CD	Knox County Criminal Court Judge Mary Beth Leibowitz No. 88276	Witt, J., Affirmed in Part; Reversed in Part	Rule 11	Denied - Application of Andrew Lynn Kendall

City of Knoxville v. Joshua David Kimsey E2008-00850-SC-R11-CV	Knox County Circuit Court Judge Wheeler A. Rosenbalm No. 3-83-07	Franks, J., Affirmed	Rule 11	Denied - Application of Joshua David Kimsey
State of Tennessee v. Charles Nash E2008-00951-SC-R11-CD	Hamilton County Criminal Court Judge Don W. Poole No. 259270	Thomas, J., Affirmed	Rule 11	Denied - Application of Charles Nash
State of Tennessee v. Courtney Partin E2008-01669-SC-R11-CD	Campbell County Criminal Court Judge E. Shayne Sexton No. 11082	Tipton, J., Reversed and Remanded	Rule 11	Denied - Application of Courtney Partin
Elisar Rodas Roblero and Juan Sanchez-Ayala v. State of Tennessee E2009-00615-SC-S09-CD	Hamilton County Criminal Court Judge Rebecca J. Stern Nos. 264238 and 264239	Ogle, J., Witt, J. and Thomas, J., Rule 9 Denied	Rule 9	Denied - Application of Elisar Rodas Roblero and Juan Sanchez-Ayala
James Monroe Wilson v. Acie Harris, et al E2008-01787-SC-R11-CV	Blount County Circuit Court Judge William D. Young No. E-21342	Susano, J., Affirmed	Rule 11	Denied - Application of James Monroe Wilson
<u>Jackson</u>				
State of Tennessee v. Timothy Ray Azbill W2008-01884-SC-R11-CD	Decatur County Circuit Court Judge C. Creed McGinley No. 06-CR-253	McLin, J., Affirmed	Rule 11	Denied - Application of Timothy Ray Azbill
State of Tennessee v. Christopher Anderson W2008-00562-SC-R11-CD	Shelby County Criminal Court Judge Paula Skahan No. 05-04926	McLin, J., Affirmed	Rule 11	Denied - Application of Christopher Anderson

State of Tennessee v. Patrick Brown W2008-00108-SC-R11-CD	Shelby County Criminal Court Judge Paul Skahan No. 06-09028	Williams, J., Affirmed	Rule 11	Denied - Application of Patrick Brown
Elroy Gaines v. State of Tennessee W2008-01341-SC-R11-PC	Shelby County Criminal Court Judge James M. Lammey No. 01-03286	Williams, J., Affirmed	Rule 11	Denied - Application of Elroy Gaines
John Johnson v. State of Tennessee W2007-02847-SC-R11-PC	Shelby County Criminal Court Judge Mark Ward No. 00-05917	Glenn, J., Affirmed	Rule 11	Denied - Application of John Johnson
Marcus Deangelo Lee v. State of Tennessee W2009-00256-SC-R11-PC	Shelby County Criminal Court Judge James M. Lammey No. 95-11561	McLin, J., Affirmed	Rule 11	Denied - Application of Marcus Deangelo Lee
Bryant D. Millen v. State of Tennessee W2007-00674-SC-R11-PC	Shelby County Criminal Court Judge John P. Colton, Jr. No. P-21943	McLin, J., Affirmed	Rule 11	Denied - Application of Bryant D. Millen
Deborah Mitchell, ex rel., Gaynell Metts v. Kindred Healthcare Operating Inc., et al W2008-01643-SC-R11-CV	Shelby County Circuit Court Judge Kay Robilio No. CT-005450-05	Highers, J., Affirmed	Rule 11	Denied - Application of Kindred Healthcare Operating, Inc., Kindred Healthcare, Inc., et al
Samantha Nabors v. William M. Adams, Jr., M.D., et al W2008-02418-SC-R11-CV	Shelby County Circuit Court Judge John R. McCarroll, Jr. No. CT-000369-07	Stafford, J., Reversed and Remanded	Rule 11	Denied - Application of William M. Adams, M.D. and The Clinic for Plastic And Reconstructive Surgery, P.A.
Lamar Ross v. State of Tennessee W2008-01130-SC-R11-PC	Shelby County Criminal Court Judge James M. Lammey, Jr. No. 02-08113	McLin, J., Affirmed	Rule 11	Denied - Application of Lamar Ross

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

CAO HOLDINGS, INC. v. LOREN L. CHUMLEY, COMMISSIONER OF REVENUE

Chancery Court for Davidson County
No. 06-719-II

No. M2008-01679-SC-R11-CV

ORDER

Upon consideration of the application for permission to appeal of Loren L. Chumley, Commissioner of Revenue, and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

Wade, Gary R., J., Not Participating
Lee, Sharon G., J., Not Participating

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. JASON J. MATTHEWS

Circuit Court for Wayne County
No. 13702

No. M2007-01755-SC-R11-CD

ORDER

Upon consideration of the Tenn. R. App. P. 11 application for permission to appeal and the entire record in this case, the Court is of the opinion that the application should be, and is hereby, granted for the purpose of remanding the case to the Court of Criminal Appeals for reconsideration of sentencing in light of *State v. Moss*, 13 S.W.3d 374, 387 (Tenn. Crim. App. 1999), which held that application of a twenty-year presumptive sentence as a starting point for a second degree murder committed prior to July 1, 1995, as in this case, constituted an ex post facto violation of the defendant's constitutional rights. *See also Agee v. State*, 111 S.W.3d 571, 576-77 (Tenn. Crim. App. 2003), *perm. app. denied, published pursuant to Tenn. S. Ct. R. 4(D)* (Tenn. 2003) (citing *Moss* and holding that if application of the amended law would affect a substantial right of the petitioner, the ex post facto provisions of the state and federal constitutions are implicated and the law in effect on the date the offense was committed should be applied).

PER CURIAM