

ORIGINAL

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
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APPELLATE COURT CLERK
NASHVILLE

IN RE: AMENDMENT TO RULE 17, RULES OF THE SUPREME COURT

No. M2012-02131-SC-RL2-RL – Filed: October 8, 2012

RESPONSE TO INVITATION FOR PUBLIC COMMENT

In response to the Court’s invitation for public comment concerning the proposed change to the uniform judgment document, the Executive Committee of the Tennessee District Public Defenders Conference recommends one revision to the new form as presented.

The Executive Committee would refer to Supreme Court Rule 13 in support of this recommendation. Rule 13 provides that in cases of indigency, “. . . the court shall appoint the district public defender’s office, the state post-conviction defender’s office, or other attorneys employed by the state for indigent defense. . . .” Tenn. Sup. Ct. R. 13(4)(A) (2012). It is only under circumstances in which the public defender has a conflict or is unqualified that the court should appoint counsel from the private bar. *Id.* at (4)(B).

Further, members of the Executive Committee have noticed that occasionally the private attorney checkbox is mistakenly checked because of its position in front of the public defender checkbox. If this revision is made, this clerical error should occur less often. This recommendation helps to ensure an accurate collection of caseload information, furthering the accuracy of the caseload determinations of both the Public Defenders and Administrative Office of the Courts.

Therefore, as the public defender is to be the default appointment for indigent defendants, it is the recommendation of the Executive Committee of the Tennessee District Public Defenders

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Conference that the checkbox for the appointment of a public defender be moved to a position in front of the checkbox for the appointment of a private attorney within the uniform judgment document. (See Appendix A).

Respectfully submitted,

Executive Committee of the Tennessee District Public Defenders Conference

By: Guy Wilkinson by Jeffrey S. Henry submission

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APPENDIX A

IN THE CRIMINAL/CIRCUIT COURT OF _____ COUNTY, TENNESSEE

Case Number: _____ Count # _____ Counsel for the State: _____

Judicial District: _____ Judicial Division: _____ Counsel for the Defendant: _____

State of Tennessee Retained Public Defender Appt Private Atty Appt
 Counsel Waived Pro Se

vs. Defendant: _____ Alias: _____ Date of Birth: _____ Sex: _____

Race: _____ SSN: _____ Driver License #: _____ Issuing State: _____

State ID #: _____ County Offender ID # (if applicable): _____ TOMIS/TDOC #: _____

Relationship to Victim: _____ Victim's Age: _____

State Control #: _____ Arrest Date: _____ Indictment Filing Date: _____

JUDGMENT Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the _____ day of _____, 20____, the defendant:

<input type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Pled Nolo Contendere <input type="checkbox"/> Pled Guilty – Certified Question Findings Incorporated by Reference Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of Insanity <input type="checkbox"/> Bench Trial	<p>Indictment: Class (circle one) 1st A B C D E <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor</p> Indicted Offense Name AND TCA §: _____ Amended Offense Name AND TCA §: _____ Offense Date: _____ County of Offense: _____ Conviction Offense Name AND TCA §: _____ <p>Conviction: Class (circle one) 1st A B C D E <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor</p> Is this conviction offense methamphetamine related? <input type="checkbox"/> Yes <input type="checkbox"/> No Sentence Imposed Date: _____
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After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One) <input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career <input type="checkbox"/> Repeat Violent	Release Eligibility (Check One) <input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> Violent 100% <input type="checkbox"/> Repeat Viol 100%	Concurrent with: Consecutive to:	Pretrial Jail Credit Period(s): From _____ to _____ From _____ to _____ From _____ to _____ From _____ to _____
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Sentenced To: TDOC County Jail Workhouse

Sentence Length: _____ Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: _____ 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or _____ 55-10-401 DUI 4th Offense

or _____ 39-17-1324 Possession/Employment of Firearm or _____ 40-39-208, -211 Violation of Sex Offender Registry

Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____ % (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____

WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

<p>Court Ordered Fees and Fines:</p> \$ _____ Court Costs <input type="checkbox"/> Defendant <input type="checkbox"/> State \$ _____ Fine Assessed \$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.) \$ _____ Drug Testing Fund (TN Drug Control Act) \$ _____ CICF \$ _____ Sex Offender Tax \$ _____ Other: _____	<p>Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____</p> <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
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The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.

Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.

Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.

Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

 Judge's Name Judge's Signature Date of Entry of Judgment

 Counsel for State/Signature (optional) Defendant/Defendant's Counsel/Signature (optional)

I _____, clerk, hereby certify that, before entry by the court, a copy of this judgment was made available to the party or parties who did not provide a signature above.