

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs February 11, 2015

JOHN C. CRIM v. STATE OF TENNESSEE

**Appeal from the Criminal Court for Wilson County
No. 08CR567 David Earl Durham, Judge**

No. M2014-00948-CCA-R3-PC - Filed April 13, 2015

THOMAS T. WOODALL, J., concurring in part and dissenting in part.

I respectfully dissent from that portion of the majority's opinion which affirms part of the post-conviction court's summary dismissal of the post-conviction petition. A colorable claim was made in the *pro se* petition. The post-conviction court clearly erred by summarily dismissing the petition. I conclude that upon remand under these circumstances the interests of justice dictate that the entire *pro se* petition must be considered by the post-conviction court. It may be that some of Petitioner's claims have been waived or previously determined - but that should be determined after a full hearing. This court should not sanction a rush to judgment when a trial court has erred as in this case. Accordingly, I would respectfully reverse the order of the post-conviction court without affirming any portion of it.

THOMAS T. WOODALL, PRESIDING JUDGE