

Supreme Court Appeals
Pending Cases
8-22-19

1.	Style	State of Tennessee v. Carl Allen, aka Artie Perkins
2.	Docket Number	W2017-01118-SC-R11-CD
3.	Lower Court Decision Links	http://tncourts.gov/sites/default/files/allen_carl_aka_perkins_artie_opn.pdf
4.	Lower Court	The Appellant, Carl Allen, appeals the Shelby County Criminal Court's granting a motion filed by the Tennessee Bureau of Investigation (TBI) to intervene in this case and the court's vacating a portion of a previous order in which the court determined that the Appellant was required to register as a sexual offender as opposed to a violent sexual offender in the TBI's sexual offender registry (SOR). Based upon the oral arguments, the record, and the parties' briefs, we conclude that the appeal must be dismissed.
5.	Summary Status	Application granted 5/24/19; Appellant brief filed 6/24/19; Appellee brief filed 7/24/19.

1.	Style	Douglas Ralph Beier v. Board of Professional Responsibility of the Supreme Court of Tennessee
2.	Docket Number	E2019-00463-SC-R3-BP
3.	Lower Court Decision Links	N/A
4.	Lower Court	N/A
5.	Summary Status	Notice of Appeal filed 3/14/19; Appellate record filed 7/10/2019; Appellant brief filed 8/09/19; Appellee brief due 9/9/19.

1.	Style	State of Tennessee v. Antonio Benson
2.	Docket Number	W2017-01119-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/benson_antonio_opn.pdf
4.	Lower Court Summary	A Shelby County Criminal Court Jury convicted the Appellant, Antonio Benson, of first degree premeditated murder, and the trial court sentenced him to life. On appeal, the Appellant contends that the trial court erred by refusing to instruct the jury on self-defense, that the trial court erred by refusing to admit evidence about a prior violent act committed by the victim, that the trial court erred by preventing him from sitting at counsel table during the trial, and that the evidence is insufficient to support the conviction. Based upon the oral arguments, the record, and the parties' briefs, we conclude that the trial court erred by failing to instruct the jury on self-defense and that the State failed to show the error was harmless. Accordingly, the Appellant's conviction is reversed, and the case is remanded to the trial court for a new trial.
5.	Status	Application granted 4/12/19; Appellant brief filed 5/10/19; Appellee brief filed 6/8/19; Reply brief filed 6/24/19

1.	Style	Jeffery Todd Burke v. Sparta Newspapers, Inc.
2.	Docket Number	M2016-01065-SC-R11-CV
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/burke.jeffery.opn_.pdf
4.	Lower Court Summary	The trial court granted summary judgment to defendant publisher of an allegedly defamatory newspaper article concerning plaintiff. The article was based upon a one-on-one, private interview between the public information officer for the White County Sheriff's Office and a newspaper reporter. The court determined that the interview given by the public information officer constituted an "official action" of government that the article fairly and accurately reported. As such, the court concluded that any alleged defamatory statements included in the article were privileged under the common-law "fair report privilege." Plaintiff appealed, arguing in part, that the fair report privilege does not apply. Because we conclude that the interview did not constitute an official act of government, we reverse the grant of summary judgment.
5.	Status	Application granted 1/17/19; Appellant brief filed 2/19/19; Appellee brief filed 4/11/19, after extension; reply brief filed 4/25/19; TBH October 3, 2019, in Nashville.

1.	Style	State of Tennessee v. Brandon Cole-Pugh
2.	Docket Number	W2017-00469-SC-R11-CD
3.	Lower Court Decision Link	http://www.tsc.state.tn.us/sites/default/files/cole-pugh_brandon_opn.pdf
4.	Lower Court Summary	Following a jury trial, the defendant, Brandon Cole-Pugh, was convicted of being a felon in possession of a handgun and sentenced to eight years. On appeal, the defendant challenges the trial court's denial of his request for an instruction on the defense of necessity. Having thoroughly reviewed the record, we conclude the trial court did not err in denying the defendant's request on the defense of necessity.
5.	Status	Heard 5/30/19 at SCALES Girls State.

1.	Style	In re: Cumberland Bail Bonding
2.	Docket Number	M2017-02172-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/inrecumberlandbailbonding.opn_.pdf
4.	Lower Court Summary	The Appellant, Cumberland Bail Bonding, argues that the trial court erred in suspending its bonding privileges due to a violation of Rule 26.05(B) of the Local Rules of the Thirty-First Judicial District, a rule requiring a bonding agent to be present for a defendant's court appearance. After review, we reverse the judgment of the trial court.
5.	Status	Application granted 8/16/19; Appellant brief due 9/16/19.

1.	Style	John R. DeBerry v. Cumberland Electric Membership Corporation
----	-------	---

2.	Docket Number	M2017-02399-SC-R11-CV
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/deberry.john_opn_.pdf
4.	Lower Court Summary	This is a retaliatory discharge claim brought by an employee against his employer, alleging he was fired in retaliation for claiming workers' compensation benefits. The trial court ruled in favor of the employee, finding that the employee had made a prima facie showing that his termination was in retaliation for his claim for workers' compensation benefits. The trial court also found that the employee established the employer's stated non-discriminatory reason was pretext. Because the record does not reflect that the trial court exercised its own independent judgment, we vacate and remand for proceedings consistent with this opinion.
5.	Status	Application granted 02/20/19; Appellant brief filed 3/22/19; Appellee brief filed 4/22/19; Amended grant order filed 5/13/19; Reply brief filed 5/28/19; to be heard September 5, 2019, in Knoxville.

1.	Style	James A. Dunlap v. Board of Professional Responsibility
2.	Docket Number	M2018-01919-SC-R3-BP
3.	Lower Court Decision Links	N/A
4.	Lower Court Summary	N/A
5.	Status	Notice of Appeal Filed 11/8/18; Appellate record filed 3/8/19; Appellant brief filed 4/5/19; Appellee brief filed 5/3/19; TBH October 3, 2019, in Nashville.

1.	Style	East Tennessee Pilot's Club, Inc. v. Knox County, Tennessee, et al.
2.	Docket Number	E2018-00649-SC-R11-CV
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/east_tennessee_pilots_club_inc._v._knox_county_tennessee_et_al..pdf
4.	Lower Court Summary	After a state administrative law judge concluded the proper tax classification for the property owned and operated by a private pilot's club in 2010 and 2011 to be "farm property," the county property assessor reclassified it in 2013 as split property, commercial and farm. The club paid its 2013 to 2016 taxes "under protest" and filed consolidated complaints in chancery court, seeking a refund under Tennessee Code Annotated section 67-5-901. The club argued that the chancery court had jurisdiction over its claim because purely legal issues were involved and the doctrines of res judicata and/or collateral estoppel prevented such reclassification. Upon determining that it lacked subject matter jurisdiction, the trial court granted the government's motion to dismiss. We affirm.
5.	Status	Application granted 6/19/19; Appellant brief filed 7/19/19; Appellee brief filed 8/19/19.

1.	Style	Roy Franks, et al. v. Tiffany Sykes, et al.
2.	Docket Number	W2018-00654-SC-R11-CV
3.	Lower Court	

Decision Link <http://tncourts.gov/sites/default/files/franksroyopn.pdf>

4. Lower Court Summary
This appeal concerns two separate plaintiffs' claims under the Tennessee Consumer Protection Act ("TCPA"), alleging that the filing of undiscounted hospital liens violated the TCPA by "[r]epresenting that a consumer transaction confers or involves rights, remedies or obligations that it does not have or involve or which are prohibited by law." The trial court dismissed one plaintiff's claim based on the pleadings due to the plaintiff's failure to bring a claim under the Hospital Lien Act and dismissed another plaintiff's claim for improper venue. We affirm in part as modified, reverse in part, and remand for further proceedings.
 5. Status
Application granted 4/12/19; Appellant brief filed 6/3/19, after extension; Appellee brief filed 7/2/19; Reply brief filed 7/16/19.
-

1. Style
Stephen P. Geller v. Henry County Board of Education
 2. Docket Number
W2017-01678-SC-R11-CV
 3. Lower Court Decision Link
<https://www.tncourts.gov/sites/default/files/gellerstephenopn.pdf>
 4. Lower Court Summary
A tenured teacher serving as an assistant principal was transferred to teach at an alternative school after the local director of schools learned that the teacher did not hold an administrator's license. On appeal, the teacher asserts that the transfer was arbitrary and capricious where the director of schools did not comply with the law concerning when assistant principals are required to hold administrator's licenses. Following a trial, the trial court dismissed the teacher's complaint, ruling that the director of school's belief that the teacher was required to hold an administrator's license was reasonable. We conclude that the director of schools' actions and beliefs were not reasonable under the circumstances; as such, we reverse and remand for further proceedings.
 5. Status
Application granted 3/28/19; Appellant brief filed 4/26/19; Appellee brief filed 5/28/19; Reply brief filed 6/11/19. Appellee reply brief (to amicus brief) filed 7/10/19.
-

1. Style
State of Tennessee v. Angela Carrie Payton Hamm and David Lee Hamm
 2. Docket Number
W2016-01282-SC-R11-CD
 3. Lower Court Decision Link
https://www.tncourts.gov/sites/default/files/hamm_angela_david_opn.pdf
 4. Lower Court Summary
The State appeals the trial court's order granting the Defendants' motions to suppress evidence seized as a result of a warrantless search of their house. The trial court found that, although Defendant Angela Hamm was on probation at the time of the search and was subject to warrantless searches as a condition of her probation, the search was invalid because the police officers did not have reasonable suspicion to justify the search. On appeal, the State contends that (1) the search was supported by reasonable suspicion; (2) the search was reasonable based upon the totality of the circumstances; (3) Angela Hamm consented to the search by agreeing to the warrantless search probation condition; and (4) the warrant search was valid as to Defendant David Lee Hamm under the doctrine of common authority. Upon review, we affirm the judgment of the trial court.
 5. Status
Heard April 4, 2019, in Jackson.
-

1. Style Bonnie Harmon, et al. v. Hickman Community Healthcare Services, Inc.
 2. Docket Number M2016-02374-SC-R11-CV
 3. Lower Court Decision Link https://www.tncourts.gov/sites/default/files/harmon_bonnie_opn_.pdf
 4. Lower Court Summary
This suit was brought by the children of a woman who died while incarcerated at Hickman County Jail. Defendant is a contractor of the jail that provides medical services at the jail; a nurse in Defendant's employment treated the decedent for symptoms of drug and alcohol withdrawal. She passed away shortly after. The children brought this suit under the Health Care Liability Act claiming negligence and negligent hiring, retention, and supervision. In due course, Defendant moved for summary judgment, arguing, among other things, that there was not a genuine issue of material fact as to causation and it was entitled to judgment as a matter of law on that element of Plaintiffs' claim; the trial court granted Defendant's motion and subsequently denied a motion to revise, filed by the Plaintiffs. This appeal followed.
 5. Status Heard May 31, 2019, in Nashville.
-

1. Style Marty Holland v. State of Tennessee
 2. Docket Number W2018-01517-SC-R11-PC
 3. Lower Court Decision Link http://tncourts.gov/sites/default/files/holland_marty_opn.pdf
 4. Lower Court Summary
The Petitioner, Marty Holland, appeals from the Hardeman County Circuit Court's denial of post-conviction relief. On appeal, the Petitioner argues generally that "the post-conviction court erred in finding [the Petitioner] received effective assistance of counsel."1 Based on the issues developed at the post-conviction hearing and the order of the post-conviction court, the issue presented is whether the Petitioner's guilty pleas are constitutionally infirm due to trial counsel's failure to investigate (1) a coerced confession; (2) the validity of a bench warrant concerning an unrelated offense; and (3) a search warrant executed at the Petitioner's home concerning an unrelated case. Following our review, we deem it necessary to remand this matter to the post-conviction court for a hearing to determine whether the Petitioner was advised of the circumstances attendant to entering a guilty plea based upon an agreement that his state sentence would be served concurrently to a previously imposed federal sentence. In all other respects, the judgment of the post-conviction court it affirmed.
 5. Status Application granted 8/21/19; Appellant brief due 9/23/19.
-

1. Style Antonio Howard v. State of Tennessee
2. Docket Number W2018-00786-SC-R11-PC
3. Lower Court Decision Link https://www.tncourts.gov/sites/default/files/howard_antonio_opn.pdf
4. Lower Court Summary
The Petitioner, Antonio Howard, filed a petition for post-conviction relief, alleging, among other things, that trial counsel was ineffective for failing to file a timely motion for new

trial. After a review of the record, we hold that the Petitioner’s trial counsel was deficient in this regard and that the Petitioner was presumptively prejudiced by the deficiency. Therefore, we reverse the judgment of the post-conviction court denying the petition and remand this case with instructions to that court that it grant the Petitioner a delayed appeal, beginning with the right to file a delayed motion for new trial.

5. Status Application granted 6/24/19; Appellant brief due 8/23/19, after extension.

1. Style Lataisha M. Jackson v. Charles Anthony Burrell, et al.

2. Docket Number W2018-00057-SC-R11-CV

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/jacksonlataishaopn.pdf>

4. Lower Court Summary This is a sexual assault/health care liability case wherein a female customer alleges she was assaulted while receiving a massage at a day spa. The customer sued both the massage therapist as well as the employer-business, bringing intentional tort, negligence, and vicarious liability claims. The customer complied with the pre-suit notice requirements as required by the Tennessee Health Care Liability Act; however, she failed to file a certificate of good faith with her complaint. The massage therapist and the business both moved for summary judgment and noted such failure, asking the trial court to dismiss the customer’s claims with prejudice. The trial court granted both parties’ motions for summary judgment, dismissing all of the customer’s claims. The customer appealed. Because we find that the requirements of the Tennessee Health Care Liability Act are not applicable to the claims against the massage therapist but are applicable to the claims against the employer, we affirm in part and reverse in part.

5. Status Application granted 8/21/19; Appellant brief due 9/23/19.

1. Style State of Tennessee v. Steve M. Jarman

2. Docket Number M2017-01313-SC-R11-CD

3. Lower Court Decision Link https://www.tncourts.gov/sites/default/files/jarman.steve_opn_.pdf
https://www.tncourts.gov/sites/default/files/jarman.steve_concurringopn.pdf

4. Lower Court Summary The Defendant, Steve M. Jarman, was convicted by a jury of voluntary manslaughter and received a sentence of five years to be served in the Tennessee Department of Correction. On appeal, the Defendant challenges: (1) the sufficiency of the evidence to support his conviction; (2) the admission of evidence of a prior assault charge for which the Defendant was acquitted and of prior threats against the victim’s sister; (3) the admission of evidence of the Defendant’s attempt to cash a check made out to the victim after the victim’s death; (4) the admission of the victim’s testimony in a prior trial as violating the Confrontation Clause; (5) and his five-year sentence to be served in confinement. We conclude that the trial court committed reversible error in admitting evidence of a prior criminal offense for which the Defendant was acquitted and evidence of the Defendant’s prior threats against the victim’s sister. Accordingly, we reverse the judgment of the trial court and remand the case for a new trial.

5. Status Application granted 3/27/19; Appellant brief filed 4/25/19; Appellee brief filed 5/28/19; Reply brief filed 6/6/19; TBH 11/19/19 at SCALES in Kingsport.

1.	Style	State of Tennessee v. Denton Jones
2.	Docket Number	E2017-00535-SC-R11-CD
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/denton_jones_cca_opinion.pdf
4.	Lower Court Summary	The defendant, Denton Jones, appeals his Knox County Criminal Court jury conviction of theft of property valued at \$1,000 or more, arguing that the State should not have been permitted to aggregate into a single count of theft the value of property taken on five separate occasions from two different locations; that the trial court erred by permitting testimony concerning evidence that suggested the defendant had committed other offenses; that the trial court erred by denying his motions for mistrial, including one based upon an alleged violation of Brady v. Maryland; that the evidence was insufficient to support his conviction; and that the cumulative effect of the errors at trial entitle him to a new trial. Discerning no error, we affirm.
5.	Status	Heard 5/22/19 at SCALES Boys State.

1.	Style	State of Tennessee v. Charles Keese
2.	Docket Number	E2016-02020-SC-R11-CD
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/charles_keese_opinion.pdf
4.	Lower Court Summary	In this appeal, the State challenges the trial court's decision to apply the amended version of Code section 39-14-105, which provides the grading of theft offenses, when calculating the defendant's sentence. The defendant asserts that the State has no right to appeal the ruling of the trial court and, in the alternative, that the trial court correctly applied the amended statute in this case. The defendant also appeals the judgment of the trial court, claiming that the evidence was insufficient to support his convictions because the State failed to adequately establish the value of the stolen property. We agree with the defendant that no appeal of right lies for the State pursuant to either Tennessee Rule of Appellate Procedure 3 or Code section 40-35-402. Because we have concluded that the trial court exceeded its authority by the application of the amended version of Code section 39-14-105 before the effective date, we could treat the improperly-filed Rule 3 appeal as a common law petition for writ of certiorari. We need not do so, however, because, pursuant to Tennessee Rule of Appellate Procedure 13, this court acquired jurisdiction of the State's claim when the defendant filed a timely notice of appeal. Following our review of the issues presented, we hold that sufficient evidence supports the defendant's conviction but that the trial court erred by applying the amended version of Code section 39-14-105. Accordingly, we affirm the defendant's conviction but vacate the six-year sentence imposed by the trial court and remand the case for the entry of a modified judgment reflecting a 12-year sentence for a Class D felony conviction of theft of property valued at \$1,000 or more but less than \$10,000.
5.	Status	Heard 5/7/19 in Knoxville.

1.	Style	Joshua Keller v. Janice Casteel, et al.
2.	Docket Number	E2017-01020-SC-R11-CV
3.	Lower Court	

Decision Link	https://www.tncourts.gov/sites/default/files/joshua_keller_v._janice_casteel_et_al..pdf
4. Lower Court	This action involves the petitioner’s termination of employment as a firefighter for the City of Cleveland. The petitioner filed a petition for writ of certiorari and sought partial summary judgment, alleging, inter alia, that the termination procedure was unlawful. The trial court agreed and granted partial summary judgment. The case proceeded to a hearing on damages, after which, the court found that the petitioner failed to exercise reasonable diligence in securing employment. The petitioner filed a motion to alter or amend. The court then altered its original order and held that material evidence existed in the record to support the termination decision, reversing the order for partial summary judgment and dismissing the action. The petitioner appeals. We reverse.
5. Status	Application granted 6/19/19; Appellant brief filed 7/16/19. Appellee brief due 8/15/19; TBH 11/19/19 at SCALES in Kingsport.

1. Style	Ken Smith Auto Parts v. Michael F. Thomas
2. Docket Number	E2018-00928-SC-R11-CV
3. Lower Court Decision Link	http://tncourts.gov/sites/default/files/ken_smith_coa_majority_opinion.pdf
4. Lower Court	This appeal concerns whether a circuit court has jurisdiction to consider a post-trial motion once it dismisses an appeal by a defendant from general sessions court for failure to appear. Ken Smith Auto Parts (“Plaintiff”) brought an action against Michael F. Thomas (“Defendant”) in the Hamilton County General Sessions Court (“the General Sessions Court”) and prevailed. Defendant appealed to the Circuit Court for Hamilton County (“the Circuit Court”). Defendant missed trial. The Circuit Court entered an order dismissing his appeal and remanding the case to the General Sessions Court for execution of judgment. Defendant filed a motion pursuant to Tenn. R. Civ. P. 59 and 60 seeking relief on the basis that he missed trial because of a traffic jam. The Circuit Court granted Defendant’s motion and vacated the order of dismissal. However, the Circuit Court later concluded that it lost jurisdiction when it dismissed Defendant’s appeal and that its subsequent order was null. Defendant appeals to this Court. We hold that the Circuit Court’s order of dismissal was subject to post-trial motion via the Tennessee Rules of Civil Procedure, and the Circuit Court retained jurisdiction to consider it. We hold further that the Circuit Court properly exercised its discretion to grant Defendant’s motion. We affirm, in part, and reverse, in part, the judgment of the Circuit Court, and remand for further proceedings.
5. Status	Application granted 5/17/19; Appellant brief filed 6/14/19; Appellee brief filed 7/15/19; Reply brief filed 7/26/19; To be heard September 5, 2019, in Knoxville.

1. Style	Polly Spann Kershaw v. Jeffrey L. Levy
2. Docket Number	M2017-01129-SC-R11-CV
3. Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/kershaw.polly_.opn_.pdf
4. Lower Court Summary	This is a legal malpractice case. Appellant filed suit against Appellee, who had previously served as Appellant’s attorney in a divorce matter. Appellant alleged that she suffered monetary damages and was convicted of criminal contempt as a result of the negligent legal representation she received from Appellee in her divorce case. Appellee filed a motion for summary judgment claiming that Appellant’s claims were, among other things, barred by the doctrine of judicial estoppel as a result of the sworn statements Appellant made in

conjunction with her divorce settlement. The trial court agreed and granted summary judgment in favor of Appellee. We affirm.

5.	Status	Heard 02/06/19 in Nashville.
<hr/>		
1.	Style	Board of Professional Responsibility v. James S. MacDonald
2.	Docket Number	E2018-01699-SC-R3-BP
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Notice of appeal filed 09/18/18; Appellate record filed 1/14/19; Appellant brief filed 2/13/19; Appellee brief filed 3/14/19; to be heard September 5, 2019, at Knoxville.
<hr/>		
1.	Style	Melissa Martin, et al. v. Rolling Hills Hospital, LLC, et al.
2.	Docket Number	M2016-02214-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/martin.melissa.opn_.pdf
4.	Lower Court Summary	This is an appeal in a health care liability action from the dismissal of the action for Plaintiffs' failure to comply with Tennessee Code Annotated section 29-26-121(a)(2)(E) when they failed to provide the Defendants with HIPAA compliant authorizations for release of medical records. The trial court held that, as a result of the failure, Plaintiffs were not entitled to an extension of the one-year statute of limitations for bringing suit and the action was barred. Plaintiffs appeal. Upon our review, we find that Plaintiffs substantially complied with the requirements of section 29-26-121 and that the Defendants have not shown that they were prejudiced by the deficiencies in the authorizations; accordingly, we reverse the decision of the trial court and remand the case for further proceedings.
5.	Status	Heard May 30, 2019, in Nashville.
<hr/>		
1.	Style	State of Tennessee v. Quintis McCaleb
2.	Docket Number	E2017-01381-SC-R11-CD
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/quintis_mccaleb_cca_opinion.pdf
4.	Lower Court Summary	The State, pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure, appeals the trial court's grant of Defendant's motion to suppress inculpatory statements made during his post-polygraph interview. The trial court found that the statements were voluntary but determined that they were inadmissible under Tennessee Rule of Evidence 403 because Defendant would be required to reference the polygraph examination to provide context for Defendant's statements made during the post-polygraph interview. Concluding that the trial court abused its discretion by excluding the statements, we reverse the judgment of the trial court and remand this case for further proceedings consistent with this opinion.
5.	Status	Heard 01/09/19 in Knoxville; Opinion filed 8/21/19.
<hr/>		

1.	Style	Jodi McClay v. Airport Management Services, LLC
2.	Docket Number	M2019-00511-SC-R23-CV
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Certification accepted 6/19/19; To be heard September 4, 2019, at Knoxville.
<hr/>		
1.	Style	Jennifer Elizabeth Meehan v. Board of Professional Responsibility
2.	Docket Number	M2018-01561-SC-R3-BP
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard May 30, 2019, in Nashville.
<hr/>		
1.	Style	State of Tennessee v. Ashley N. Menke
2.	Docket Number	M2017-00597-SC-R11-CD
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/menke_ashley_nopn.pdf
4.	Lower Court Summary	<p>On July 14, 2016, Ashley N. Menke, the Defendant, entered an open guilty plea in Case No. 925-CR-2015 to five felonies and three misdemeanors, including one count of theft in the amount of \$1,000 or more but less than \$10,000 (Count 9), and to a violation of probation in Case No. 268-CR-2014. The value of the property taken in Count 9 was exactly \$1,000, and the Defendant was released on bail for felony offenses in Counts 3, 4, 5, and 6 at the time she committed the theft in Count 9. Following the December 2, 2016 sentencing hearing, the trial court took the matter under advisement without sentencing the Defendant. On January 1, 2017, the Public Safety Act of 2016 became effective. Section 5 of the Public Safety Act “deleted and replaced” Tennessee Code Annotated section 39-14-105(a), the “grading of theft” statute. Theft in the amount of \$1,000 or less committed after January 1, 2017, is now graded as a Class A misdemeanor. In its March 10, 2017 sentencing order, the trial court imposed an eleven month and twenty-nine day sentence in Count 9 based on the criminal savings statute, Tennessee Code Annotated section 39-11-112, and ordered the sentence to be served concurrently with the effective three-year sentence for the other seven counts. The judgment states that the conviction offense is a Class D felony. We hold that the criminal savings statute does not apply and that the trial court erred in sentencing the Defendant in Count 9 to a concurrent sentence of eleven months and twenty-nine days because of the following: (1) the General Assembly did not specifically indicate that Section 5 of the Public Safety Act operated retrospectively so the statute is presumed to operate prospectively; (2) “the value of the property or services obtained” is an essential element of the offense of theft; and (3) the legislature changed an essential element of, not the sentence for, Class A misdemeanor theft, Class E felony theft, and Class D felony theft. We affirm the judgment of conviction for the Class D felony theft in Count 9, vacate the sentence in Count 9, and remand the case to the trial court for resentencing within the applicable range for Class D felony theft and for consecutive alignment of the sentence pursuant to Tennessee Code Annotated section 40-20-111(b) and Tennessee Rule of Criminal Procedure 32(c)(3)(C).</p>

5.	Status	Heard 5/7/19 in Knoxville.
1.	Style	State of Tennessee v. Reuben Eugene Mitchell
2.	Docket Number	E2017-01739-SC-R11-CD
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/reuben_mitchell_cca_majority_opinion.pdf https://www.tncourts.gov/sites/default/files/reuben_mitchell_cca_separate_opinion.pdf
4.	Lower Court Summary	A Knox County jury convicted the Defendant, Reuben Eugene Mitchell, of arson and filing a false insurance claim valued between \$10,000 and \$60,000, and the trial court sentenced him to four years of probation. On appeal, the Defendant contends that the evidence is insufficient to sustain his convictions. After review, we conclude that the evidence is insufficient to sustain the Defendant's conviction for filing a false insurance claim, and we vacate the judgment and dismiss that charge. We affirm the Defendant's conviction for arson.
5.	Status	Application granted 3/27/19; Appellant brief filed 4/26/19; Appellee brief filed 5/24/19; Reply brief filed 6/5/19; to be heard September 5, 2019, at Knoxville.
1.	Style	Paul Zachary Moss v. Shelby County Civil Service Merit Board
2.	Docket Number	W2017-01813-SC-R11-CV
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/mosspaulzacharyopn.pdf
4.	Lower Court Summary	Appellant was previously terminated from his employment with the Shelby County Fire Department. After the Shelby County Civil Service Merit Board upheld Appellant's termination, judicial review followed in the Shelby County Chancery Court, which affirmed the Merit Board's decision. In his appeal to this Court, Appellant contends that the decision upholding his termination should be reversed due to a violation of his due process rights. We agree and reverse.
5.	Status	Application granted 02/25/19; Appellant brief filed 3/27/19; Appellee brief filed 4/16/19; Reply brief filed 4/30/19.
1.	Style	State of Tennessee v. Hassan Falah al Mutory
2.	Docket Number	M2017-00346-SC-R11-CD
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard 02/06/19 in Nashville; Opinion filed 8/7/19; Petition to Rehear filed 8/16/19; Rehear denied 8/19/19.
1.	Style	State of Tennessee v. Leroy Myers, Jr.

2.	Docket Number	M2015-01855-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/myers_leroyopn.pdf
4.	Lower Court Summary	After a bench trial, the trial court issued a written order finding the Defendant, Leroy Myers, Jr., not guilty of the charged offense, aggravated assault, but guilty of reckless endangerment. The Defendant appealed, asserting that reckless endangerment is not a lesser-included offense of aggravated assault under the facts of this case and that there was not an implicit amendment to the indictment to include reckless endangerment. We affirmed the trial court. <i>State v. Leroy Myers, Jr.</i> , No. M2015-01855-CCA-R3-CD, 2016 WL 6560014 (Tenn. Crim. App., at Nashville, November 4, 2016). The Defendant filed an application for permission to appeal with the Tennessee Supreme Court pursuant to Rule 11(a) of the Tennessee Rules of Appellate Procedure. On September 22, 2017, the Tennessee Supreme Court granted the Defendant’s application for the purpose of remanding the case to this Court to supplement the record. On remand, we again affirm the trial court’s judgment.
5.	Status	Heard 02/06/19 in Nashville; Opinion filed 8/5/19.

1.	Style	In Re: Petition to Stay the Effectiveness of Formal Ethics Opinion 2017-F-163
2.	Docket Number	M2018-01932-SC-BAR-BP
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard May 30, 2019, in Nashville.

1.	Style	In Re: Rader Bonding Company
2.	Docket Number	M2017-01687-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/majority_opinion_-_rader_bonding_us.pdf
4.	Lower Court Summary	In this appeal, we must determine whether the Appellant, Rader Bonding Company (“Rader”), remained obligated as surety for the \$7,500 bond set for the Defendant, Saul Aldaba-Arriaga, for a charge of driving under the influence of an intoxicant (“DUI”), second offense, and his \$2,500 bond for a charge of driving on a revoked license when the State later obtained an indictment that increased the severity of the Defendant’s misdemeanor charge of DUI second offense to a felony charge of DUI fourth offense and included additional charges. After the Defendant failed to appear in court on the indicted charges, the trial court initiated forfeiture proceedings and entered a final judgment of forfeiture against the Defendant and Rader following a hearing. We conclude that based on the specific and unique circumstances of this case, Rader’s obligation under the bonding agreement for the \$7,500 bond on the Defendant’s DUI second offense charge in general sessions court did not extend to the indicted charge of DUI fourth offense and that as a result, the trial court erred in entering a judgment of final forfeiture against Rader on the \$7,500 bond. We further conclude that Rader’s obligation for the \$2,500 bond on the Defendant’s charge of driving on a revoked license in general sessions court continued when the Defendant was indicted for the same offense and that the trial court did not abuse its discretion in denying Rader’s request for exoneration. Accordingly, the trial court’s

judgment is affirmed in part and reversed in part, and this case is remanded for further proceeding in accordance with this opinion.

5. Status Application granted 4/11/19; Appellant brief filed 5/13/19; Appellee brief filed 6/12/19; Appellant reply brief filed 6/26/19; TBH September 4, 2019, in Knoxville.

1. Style State of Tennessee v. Michael Rimmer

2. Docket Number W2017-00504-SC-DDT-DD

3. Lower Court Decision Link https://www.tncourts.gov/sites/default/files/rimmer_michael_opn.pdf

4. Lower Court Summary

The Defendant, Michael Rimmer, was convicted by a Shelby County jury of first degree premeditated murder, first degree felony murder, and aggravated robbery. T.C.A. §39-13-202(1), (2) (Supp. 1998) (first degree murder), §39-13-402 (1997) (aggravated robbery). The trial court merged the felony murder conviction into the premeditated murder conviction. The jury sentenced the Defendant to death for the first degree murder conviction, and the trial court sentenced him to eighteen years for the aggravated robbery conviction and ordered it to be served consecutively to the sentence for the murder conviction. On appeal, the Defendant contends that: (1) the evidence is insufficient to support his convictions for first degree murder and aggravated robbery; (2) the trial court erred in denying his motion to dismiss the felony murder charge; (3) the trial court erred in denying his motion to suppress DNA evidence; (4) the trial court erred in not striking the State's opening statement or declaring a mistrial based on a comment made by the State; (5) the trial court erred in admitting evidence of the Defendant's prior convictions; (6) the trial court erred in limiting the testimony of William Baldwin; (7) he trial court erred in admitting a drawing of the backseat of the Honda the Defendant was driving when he was arrested; (8) the trial court erred in finding James Allard was unavailable and allowing his testimony from the previous trial to be entered into evidence; (9) the trial court erred in admitting hearsay testimony through witness Rhonda Bell; (10) the trial court erred in allowing Chris Ellsworth to display his scars to the jury; (11) the trial court erred in allowing hearsay testimony through witness Tim Helldorfer; (12) the trial court erred in limiting the testimony of Tim Helldorfer regarding a photograph identification and the release of the Honda from police custody; (13) the trial court erred in allowing Joyce Carmichael to testify about Tommy Voyles; (14) the trial court erred in admitting previous testimony of deceased or otherwise unavailable witnesses; (15) the trial court erred in admitting Richard Rimmer's prior statement and related exhibits as substantive evidence; (16) the trial court erred in limiting the testimony of Kenneth Falk; (17) the trial court erred in limiting the testimony of Marilyn Miller; (18) the trial court erred in excluding documents relating to a lawsuit involving the Shelby County Jail; and 05/21/2019 - 2 - (19) the trial court erred in applying an aggravating factor and imposing a consecutive sentence for the aggravated robbery conviction. Following our review, we affirm the judgments of the trial court.

5. Status Direct Death Penalty Transfer on 6/6/19; Appellant brief filed 8/7/19 after extension; Appellee brief due 9/6/19.

1. Style State of Tennessee v. Ernesto Delgadilo Rodriguez

2. Docket Number E2017-00369-SC-R11-CD

3. Lower Court Decision Link http://www.tsc.state.tn.us/sites/default/files/ernesto_rodriguez_cca_opinion.pdf

4. Lower Court

Summary	A Knox County jury convicted the Defendant, Ernesto Delgadilo Rodriguez, of resisting arrest and assault. The trial court sentenced the Defendant to six months for the resisting arrest conviction and to eleven months and twenty-nine days for the assault conviction. On appeal, the Defendant challenges (1) a jury instruction of the definition of “arrest”; (2) the sufficiency of the evidence; and (3) the admissibility of evidence regarding alcohol and drug use. After a thorough review of the record and applicable law, we affirm the judgments of the trial court.
5. Status	Heard 5/22/19 at SCALES Boys State; Rule 11 application dismissed as improvidently granted.
1. Style	Tennessee Farmer’s Mutual Ins. Co. v. Brandon DeBruce
2. Docket Number	E2017-02078-SC-R11-CV
3. Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/tennessee_farmers_mutual_insurance_company_v_brandon_w_debruce.pdf
4. Lower Court Summary	This appeal involves a plaintiff with a personal injury claim who has challenged the validity of a declaratory judgment involving the defendant tortfeasor and his insurer because the personal injury plaintiff was not made a party to the declaratory judgment action. The personal injury plaintiff brought an action for damages against the defendant tortfeasor in December 2013 in Hamilton County, prior to the filing of the instant declaratory judgment action, based upon an automobile accident that occurred in December 2012. The defendant tortfeasor in the personal injury action reportedly failed to notify his insurance company of the lawsuit or cooperate with his insurance company regarding an investigation into the accident, which allegedly amounted to a breach of the automobile insurance policy between them. In March 2015, the insurance company filed the instant action in the Bradley County Chancery Court against the defendant tortfeasor, seeking a declaratory judgment that the insurance company had no duty to defend or indemnify the defendant tortfeasor based on his alleged breach of the insurance contract. In June 2015, the Bradley County Chancery Court entered a declaratory judgment against the defendant tortfeasor, holding that the insurer had no duty to defend or indemnify him. In June 2017, the personal injury plaintiff filed a petition to set aside that declaratory judgment pursuant to Tennessee Rule of Civil Procedure 60.02, alleging that she was a missing indispensable party to the declaratory judgment action and requesting to intervene therein. Following a hearing, the Bradley County Chancery Court denied the personal injury plaintiff’s petition. The personal injury plaintiff has appealed. Having determined that the personal injury plaintiff had a sufficient interest in the declaratory judgment action and was therefore an indispensable party, we set aside the underlying declaratory judgment as void for lack of subject matter jurisdiction.
5. Status	Heard 5/30/19 at SCALES Girls State.
1. Style	George H. Thompson, III v. Board of Professional Responsibility of the Supreme Court of Tennessee
2. Docket Number	M2018-02216-SC-R3-BP
3. Lower Court Decision Link	N/A
4. Lower Court Summary	N/A
5. Status	Notice of Appeal filed 12/12/18; Appellate record filed 6/13/19; Appellant brief filed 8/12/19, after extension; Appellee brief due 9/11/19.

1.	Style	State of Tennessee v. Michael Eugene Tolle
2.	Docket Number	E2017-00571-SC-R11-CD
3.	Lower Court Decision Link	https://www.tncourts.gov/sites/default/files/michael_eugene_tolle_opinion.pdf
4.	Lower Court Summary	In this appeal, the State challenges the trial court’s decision to apply the amended version of Code section 39-14-105, which provides the grading of theft offenses, to modify the class of the defendant’s conviction offense and the corresponding sentence following the revocation of the defendant’s probation. No appeal right lies for the State pursuant to either Tennessee Rule of Appellate Procedure 3, Code section 40-35-402, or Tennessee Rule of Criminal Procedure 35 under the circumstances in this case. Because we have concluded that the trial court exceeded its authority by the application of the amended version of Code section 39-14-105, however, we have elected to treat the improperly filed appeal as a petition for the common law writ of certiorari. Accordingly, we vacate the order of the trial court and remand the case for proceedings consistent with this opinion.
5.	Status	Heard 5/7/19 in Knoxville.

1.	Style	State of Tennessee v. Alexander R. Vance and Damonta Meneese
2.	Docket Number	M2017-01037-SC-R11-CD
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/vance_and_meneese.opn_.pdf
4.	Lower Court Summary	The Defendants, Alexander R. Vance and Damonta M. Meneese, were each convicted of second degree murder, first-degree murder in perpetration of a felony, especially aggravated robbery, and three counts of aggravated assault. As to each, the trial court merged the second degree murder conviction into that for first-degree murder, imposing an effective sentence of life imprisonment plus 21 years. In these consolidated appeals, both defendants argue that the trial court erred in allowing hearsay testimony by a State witness regarding a statement made by a co-defendant whose charges had been severed from the two defendants in this matter. Additionally, the Defendant Vance argues that the evidence is insufficient to sustain his convictions, and the Defendant Meneese argues that the trial court erred by ordering partial consecutive sentencing. Following our review, we affirm the judgments of the trial court as to both defendants.
5.	Status	Application granted 02/20/19; Appellant brief filed 4/5/19, after extension; Appellee brief filed 5/13/19, after extension; TBH 10/3/19, in Nashville.

1.	Style	State of Tennessee v. Abbie Leann Welch
2.	Docket Number	E2018-00240-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/abbie_leann_welch_cca_majority_opinion.pdf http://tncourts.gov/sites/default/files/welch_cca_separate_opinion.pdf
4.	Lower Court Summary	Defendant, Abbie Leann Welch, entered a Walmart store and stole merchandise after she had received notification that she was banned from all Walmart properties. Defendant was convicted at a bench trial of one count of misdemeanor theft and one count of burglary. On appeal, Defendant argues that the burglary conviction should be dismissed because the

burglary statute, Tennessee Code Annotated section 39-14-402, does not apply to entry into buildings open to the public. Upon our review, we hold that the burglary statute is not unconstitutionally vague and affirm the judgments of the trial court.

5. Status Application granted 5/17/19; Appellant brief filed 6/21/19; Appellee brief filed 7/22/19; To be heard September 4, 2019, in Knoxville.

1. Style Rhonda Willeford, et al. v. Timothy P. Klepper, M.D., et al. v. State of Tennessee

2. Docket Number M2016-01491-SC-R11-CV

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Heard 01/10/18 in Nashville; Additional oral argument heard 2/6/19 in Nashville.

1. Style Vickie S. Young, Individually and as Administrator of the Estate of Randall Josh Young, Deceased v. First Cardiology PLLC, et al.

2. Docket Number M2019-00316-SC-R11-CV

3. Lower Court Decision Link N/A

4. Lower Court Summary This matter is before the court upon the defendants' application for permission to appeal pursuant to Tenn. R. App. P. 9. Having considered both the application and the answer, the court cannot conclude that an interlocutory appeal is necessary to prevent irreparable injury, to develop a uniform body of law, or to prevent needless, expensive and protracted litigation.

It is, therefore, ordered that the application for permission to appeal be denied. The costs are taxed to the defendants for which execution may issue.

5. Status Application granted 5/16/19; Appellate record filed 7/17/19; Appellant brief filed 8/16/19; Appellee brief due 9/16/19.
