



Tennessee Supreme Court
DISCRETIONARY APPEALS
Grants & Denials List
October 8, 2018 - October 12, 2018

GRANTS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Intermediate Court	Supreme Court Action
<u>Nashville</u>			
STATE OF TENNESSEE v. ASHLEY N. MENKE M2017-00597-SC-R11-CD	Sumner County Criminal Court Joe Thompson 268-CR-2014, 925-CR-2015	Holloway Jr., Robert L.: Remand	Granted: Application of Ashley Nicole Menke Order filed 10-11-18 (See Attached Order)
<u>Knoxville</u>			
STATE OF TENNESSEE v. ERNESTO DELGADILLO RODRIGUEZ E2017-00369-SC-R11-CD	Knox County Criminal Court Bobby R. McGee 105765	Williams, John Everett: Affirm	Granted: Application of Ernesto Delgadilo Rodriguez Order filed 10-10-18 (See Attached Order)
STATE OF TENNESSEE v. DENTON JONES E2017-00535-SC-R11-CD	Knox County Criminal Court G. Scott Green 105473	Witt Jr., James Curwood: Affirm	Granted: Application of Denton Jones Order filed 10-10-18 (See Attached Order)

Jackson

ADRIAN WHITE v. WARDEN GRADY PERRY ET AL.
W2018-01185-SC-R11-CV

Hardeman County Chancery Court
unknown

Per Curiam: Case Dispositional Decision

Granted and Remanded:
Application of Adrian White

Order filed 10-12-18 (See Attached Order)

DENIALS**Style/Appeal Number****County/Trial Judge/
Trial Court No.****Intermediate Court****Supreme Court Action****Nashville**

KATHRYN A. DUKE v. HAROLD W. DUKE, III
M2016-01636-SC-R11-CV

Williamson County Chancery Court
James G. Martin, III
33519

Frierson II, Thomas R.: Affirm

Denied: Application of Harold W. Duke, III

Order filed 10-10-18

STATE OF TENNESSEE v. NATHANIEL MORTON CHAMPION
M2016-01648-SC-R11-CD

Coffee County Circuit Court
Vanessa Jackson
40424

Holloway Jr., Robert L.: Affirm

Denied: Application of Nathaniel Morton Champion, Opinion of the CCA designated "Not For Citation" accordance with SCT Rule 4(E)

Order filed 10-11-18 (See Attached Order)

<p>GEORGE GRANT, ET AL. v. ELAINE ANDERSON, CLERK OF WILLIAMSON COUNTY, ET AL. M2016-01867-SC-R11-CV</p>	<p>Williamson County Chancery Court Joseph Woodruff 44859</p>	<p>McBrayer, W. Neal: Affirm</p>	<p>Denied: Application of George Grant, Lyndon Allen, Tim McCorkle, Larry Tomczak, and Deborah Deaver Order filed 10-10-18</p>
<p>STATE OF TENNESSEE v. FREDERICK D. CURLL M2017-00090-SC-R11-CD</p>	<p>Williamson County Circuit Court Deanna B. Johnson II-CR-068067</p>	<p>Ogle, Norma McGee: Affirm</p>	<p>Denied: Application of Frederick D. Curlll Order filed 10-10-18</p>
<p>ROY SMITH v. STATE OF TENNESSEE M2017-00321-SC-R11-PC</p>	<p>Rutherford County Circuit Court (CRIMINAL) Royce Taylor F-76440</p>	<p>Easter, Timothy L.: Affirm McMullen, Camille R.: Dissent</p>	<p>Denied: Application of Roy Allen Smith Order filed 10-10-18</p>
<p>STATE OF TENNESSEE v. MARTAVIOUS D. BROOKS AND BRITTANY G. LEE M2017-00505-SC-R11-CD</p>	<p>Montgomery County Circuit Court Jill Barte Ayers 63CC1-2015-CR-678</p>	<p>Wedemeyer, Robert W.: Affirm</p>	<p>Denied: Application of Martavious D. Brooks and Brittany G. Lee Order filed 10-10-18</p>

KEVIN CLARK v. STATE OF TENNESSEE M2017-00755-SC-R11-PC	Overton County Criminal Court David A. Patterson 2010-CR-6	Wedemeyer, Robert W.: Affirm	Denied: Application of Kevin Clark Order filed 10-10-18
JOSEPH H. JOHNSTON v. MARK GOINS M2017-00809-SC-R11-CV	Davidson County Chancery Court Ellen H. Lyle 16-800-II	Dinkins, Richard H.: Affirm	Denied: Application of Joseph H. Johnston Order filed 10-10-18
LARRY EDWARD MOORE, JR. v. STATE OF TENNESSEE M2017-00903-SC-R11-PC	Davidson County Criminal Court Monte Watkins 2007-A-514	Holloway Jr., Robert L.: Affirm	Denied: Application of Larry Edward Moore, Jr. Order filed 10-10-18
CHARLES OWENS v. KEVIN GENOVESE, WARDEN M2017-01251-SC-R11-HC	Hickman County Circuit Court James G. Martin, III 16-CV-49	McMullen, Camille R.: Affirm	Denied: Application of Charles Owens Order filed 10-10-18
SUSAN WALTON EX REL JAMES WALTON v. TULLAHOMA HMA, LLC M2017-01366-SC-R11-CV	Coffee County Circuit Court Vanessa Jackson 40937	Goldin, Arnold B.: Reverse	Denied: Application of Susan Walton Order filed 10-10-18

BETTY JO GOODMAN v. NATIONSTAR
MORTGAGE, LLC, ET AL.
M2017-01407-SC-R11-CV

Maury County Chancery Court
Robert L. Jones
13-612

Bennett, Andy D.: Affirm in Part

Denied: Application of Betty Jo
Goodman

Order filed 10-10-18

STATE OF TENNESSEE v. ERIC ORLANDO
CARTER
M2017-01466-SC-R11-CD

Davidson County Criminal Court
Monte Watkins
2016-B-826

Thomas Jr., D. Kelly: Affirm

Denied: Application of Eric
Orlando Carter

Order filed 10-10-18

JOE CLARK MITCHELL v. DEBRA JOHNSON,
WARDEN
M2017-01478-SC-R11-HC

Hickman County Circuit Court
James G. Martin, III
2015-CV-55

McMullen, Camille R.: Affirm

Denied: Application of Joe Clark
Mitchell

Order filed 10-10-18

RODERICK DEWAYNE CROSBY v. STATE OF
TENNESSEE
M2017-01482-SC-R11-PC

Davidson County Criminal Court
Mark J. Fishburn
2011-B-1911

Wedemeyer, Robert W.: Affirm

Denied: Application of Roderick
Crosby

Order filed 10-10-18

STATE OF TENNESSEE v. JEROME EDWIN LOCKRIDGE M2017-01646-SC-R11-CD	Davidson County Criminal Court Cheryl A. Blackburn 2016-D-2205	Ogle, Norma McGee: Affirm	Denied: Application of Jerome Edwin Lockridge Order filed 10-10-18
STATE OF TENNESSEE v. MARK ANTHONY CLEMMONS M2017-01756-SC-R11-CD	Wilson County Circuit Court Brody N. Kane 16-CR-556	Montgomery Jr., Robert H.: Affirm	Denied: Application of Mark Anthony Clemmons Order filed 10-10-18
RAYMOND THOMAS SWEATT v. STATE OF TENNESSEE M2017-01803-SC-R11-PC	Davidson County Criminal Court Steve R. Dozier 2015-B-1506	Ogle, Norma McGee: Affirm	Denied: Application of Raymond Thomas Sweatt Order filed 10-11-18
ANGELINA RAE HUBBARD FINDLEY ET AL. v. RICHARD ODEL HUBBARD ET AL. M2017-01850-SC-R11-CV	Marion County Chancery Court Jeffrey F. Stewart 7880	Clement Jr., Frank G.: Affirm	Denied: Application of Angelina Rae Hubbard Findley and Stacey Lynnette Hubbard Order filed 10-10-18

RHYUNIA LAMONT BARNES v. STATE OF TENNESSEE M2017-02033-SC-R11-ECN	Davidson County Criminal Court Steve R. Dozier 97-D-2542	McMullen, Camille R.: Affirm	Denied: Application of Rhyunia Lamont Barnes Order filed 10-10-18
STATE OF TENNESSEE v. NICHOLAS ZAMARRON M2017-02123-SC-R11-CD	Davidson County Criminal Court Steve R. Dozier 2016-B-552	Montgomery Jr., Robert H.: Affirm	Denied: Application of Nicholas Zamarron, Sr. Order filed 10-11-18
DERRICK QUINTERO v. STATE OF TENNESSEE M2017-02272-SC-R11-PD	Humphreys County Circuit Court Larry J. Wallace 8850	Montgomery Jr., Robert H., Ogle, Norma McGee, Thomas Jr., D. Kelly: Case Dispositional Decision	Denied: Application of Derrick Desmond Quintero Order filed 10-10-18
OVALLA JOBE v. GOODWILL INDUSTRIES OF MIDDLE TENNESSEE, INC. ET AL. M2017-02299-SC-R11-CV	Davidson County Circuit Court Kelvin D. Jones 14C4626	Gibson, Brandon O.: Affirm	Denied: Application of Ovalla Arlene Jobe Order filed 10-10-18
IN RE CHARLES T. M2017-02545-SC-R11-PT	Montgomery County Juvenile Court Wayne C. Shelton 17-JV-1527	McClarty, John W.: Affirm	Denied: Application of Father, Charles Raymond B. Order filed 10-10-18

STATE OF TENNESSEE v. AMANDA C.
ANDREWS, AKA AMANDA C. PERKINSON
M2018-00253-SC-R11-CD

Davidson County Criminal Court
Cheryl A. Blackburn
2017-A-538, 2017-A-715, 2017-
A-856

Holloway Jr., Robert L.: Affirm

Denied: Application of Amanda
Christen Andrews

Order filed 10-10-18

Knoxville

DAVID MICHAEL BLEVINS v. STATE OF
TENNESSEE
E2016-02304-SC-R11-PC

Sullivan County Circuit Court
R. Jerry Beck
C64574

Woodall, Thomas T.: Affirm

Denied: Application of David
Michael Blevins

Order filed 10-10-18

STATE OF TENNESSEE v. DARRELL WAYNE
SMITH
E2017-00764-SC-R11-CD

Roane County Criminal Court
Michael S. Pemberton
2012-CR-167

Dyer, J. Ross: Affirm

Denied: Application of Darrell
Wayne Smith

Order filed 10-10-18

STATE OF TENNESSEE v. WESLEY LYNN
HATMAKER
E2017-01370-SC-R11-CD

Campbell County Criminal Court
Paul G. Summers
17253

Holloway Jr., Robert L.: Affirm

Denied: Application of Wesley
Lynn Hatmaker

Order filed 10-11-18

<p>STATE OF TENNESSEE v. QUINCY D. SCOTT E2017-01416-SC-R11-CD</p>	<p>McMinn County Criminal Court Sandra Donaghy 2014-CR-331</p>	<p>Woodall, Thomas T.: Affirm</p>	<p>Denied: Application of Quincy Demond Scott, Sr. Order filed 10-11-18</p>
<p>GILLIS ELLIOTT v. MIKE ROBBINS ET AL. E2017-01440-SC-R11-CV</p>	<p>Claiborne County Chancery Court Elizabeth C. Asbury 18340</p>	<p>McClarty, John W.: Affirm</p>	<p>Denied: Application of Mike Robbins and Treva Robbins Order filed 10-10-18</p>
<p>IN RE: EMMALEE O. ET AL. E2017-01605-SC-R11-JV</p>	<p>Knox County 4th Circuit Court Gregory S. McMillan 126793</p>	<p>McClarty, John W.: Affirm</p>	<p>Denied: Application of Alan O. Order filed 10-10-18</p>
<p>STATE OF TENNESSEE v. BRADLEY MITCHELL ECKERT E2017-01635-SC-R11-CD</p>	<p>McMinn County Criminal Court Andrew M. Freiberg 16-CR-261</p>	<p>Williams, John Everett: Affirm</p>	<p>Denied: Application of Bradley Mitchell Eckert Order filed 10-10-18</p>
<p>STATE OF TENNESSEE v. GAVINO TORRES, JR. E2017-01690-SC-R11-CD</p>	<p>Bradley County Criminal Court Sandra Donaghy 16-CR-167A</p>	<p>Glenn, Alan E.: Affirm</p>	<p>Denied: Application of Gavino Torres, Jr. Order filed 10-10-18</p>

JOHNSON REAL ESTATE LIMITED
PARTNERSHIP v. VACATION DEVELOPMENT
CORP. ET AL.
E2017-01774-SC-R11-CV

Sevier County Chancery Court
Telford E. Forgety, Jr.
17-1-002

McClarty, John W.: Affirm

Denied: Application of Johnson
Real Estate Limited Partnership

Order filed 10-10-18

JOSHUA BROWN v. STATE OF TENNESSEE
E2017-01788-SC-R11-PC

Knox County Criminal Court
Bobby R. McGee
106367

Glenn, Alan E.: Affirm

Denied: Application of Joshua
Brown

Order filed 10-10-18

RICHARD DARRELL TRIGG v. JOSEPH CHURCH,
ET AL.
E2017-01834-SC-R11-CV

Hawkins County Chancery Court
Robert E. Lee Davies
2017-CH-32

McClarty, John W.: Affirm

Denied: Application of Richard
Darrell Trigg

Order filed 10-10-18

DANIEL H. JONES v. STATE OF TENNESSEE
E2017-02026-SC-R11-CO

Sullivan County Criminal Court
James F. Goodwin, Jr.
S52468, S53124, S53126,
S53127

Ogle, Norma McGee: Affirm

Denied: Application of Daniel H.
Jones

Order filed 10-10-18

JUSTIN DANIEL LOINES v. STATE OF TENNESSEE E2017-02088-SC-R11-PC	Hamilton County Criminal Court Don R. Ash 274883, 298996	Glenn, Alan E.: Affirm	Denied: Application of Justin Daniel Loines Order filed 10-10-18
MARY J BEELER v. METRO KNOXVILLE HMA LLC ET AL. E2018-00646-SC-R11-CV	Knox County Circuit Court Deborah C. Stevens 3-23817	Per Curiam: Case Dispositional Decision	Denied: Application of Barfish Emergency Physicians, LLC, EmCare Physician Services, Inc., Nathan Roger Gilbert, and Derek L. Riseden Order filed 10-11-18
<u>Jackson</u>			
CLEO HENDERSON v. STATE OF TENNESSEE W2017-01570-SC-R11-PC	Shelby County Criminal Court Paula L. Skahan 10-07069	Dyer, J. Ross: Affirm	Denied: Application of Cleo Henderson Order filed 10-12-18
ROBERT TOWNSEND v. STATE OF TENNESSEE W2017-01667-SC-R11-PC	Shelby County Criminal Court James C. Beasley, Jr. 12-04688	Dyer, J. Ross: Affirm	Denied: Application of Robert Townsend Order filed 10-12-18

STATE OF TENNESSEE v. GRADY CARROLL
W2017-01952-SC-R11-CD

Madison County Circuit Court
Roy B. Morgan, Jr.
13-58, 13-59

Ogle, Norma McGee: Affirm

Denied: Application of Grady
Carroll

Order filed 10-12-18

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
10/11/2018
Clerk of the
Appellate Courts

STATE OF TENNESSEE v. ASHLEY N. MENKE

**Criminal Court for Sumner County
No. 925-CR-2015, 268-CR-2014**

No. M2017-00597-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Ashley Nicole Menke and the record before us, the application is granted.

The parties are directed to brief the following issues:

1. Whether the State may pursue an appeal as of right from the trial court's application of the Criminal Savings Statute, codified at Tennessee Code Annotated section 39-11-112, in sentencing the defendant for theft offenses that were committed before the effective date of the amendments to Tennessee Code Annotated section 39-14-105.
2. Whether the Criminal Savings Statute should apply to the amendments of Tennessee Code Annotated section 39-14-105.

Upon completion of briefing, the Clerk is directed to schedule this matter for oral argument on the same date and immediately preceding the setting for *State of Tennessee v. Charles Keese*, E2016-02020-SC-R11-CD.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

FILED
10/11/2018
Clerk of the
Appellate Courts

STATE OF TENNESSEE v. ERNESTO DELGADILLO RODRIGUEZ

**Criminal Court for Knox County
No. 105765**

No. E2017-00369-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Ernesto Delgadilo Rodriguez and the record before us, the application is granted to address the following issues:

1. Whether, for the purposes of the offense of resisting arrest, the initial determination of the nature of a defendant's detention should be made by the trial judge as a matter of law or submitted to the jury.
2. Whether, for the purposes of the offense of resisting arrest, the assessment of the detention is viewed by an objective standard or by the subjective beliefs of either the officer or the defendant.
3. Whether the definition of "arrest," submitted by the State and included in the trial court's jury instruction for the offense of resisting arrest, misled the jury.
4. Whether the evidence was sufficient to support the defendant's convictions for resisting arrest and assault.

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

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

FILED

10/11/2018

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DENTON JONES

Criminal Court for Knox County

No. 105473

No. E2017-00535-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Denton Jones and the record before us, the application is granted limited to the following issues:

1. Whether, under Tennessee Code Annotated section 39-14-105(b) (2018) and State v. Byrd, 968 S.W.2d 290 (Tenn. 1998), the State properly charged the defendant with theft of property valued at \$1,000 or more but less than \$10,000 based on the aggregate value of the property stolen on five separate days in 2014 from two different locations.
2. Whether the evidence sufficiently established that the separate instances of theft arose “from a common scheme, purpose, intent[,] or enterprise” as required by section 39-14-105(b)(1).

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

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

FILED

10/12/2018

Clerk of the
Appellate Courts

ADRIAN WHITE v. WARDEN GRADY PERRY ET AL.

Chancery Court for Hardeman County

No. W2018-01185-SC-R11-CV

ORDER

This case is before the Court upon the application of inmate Adrian White under Rule 11 of the Tennessee Rules of Appellate Procedure. We have determined that the application should be summarily granted and the order of dismissal of the Court of Appeals should be reversed for the reasons set forth below.

On June 25, 2015, Applicant filed a case in Hardeman County Chancery Court, captioned *Adrian White v. Michael Donahue, Warden, et al.*, No. 18290. That case was dismissed on September 3, 2015, and costs were assessed to Applicant. In 2018, Applicant attempted to file a new action challenging administrative parole decisions. The Chancellor instructed the Clerk & Master not to accept the filing pursuant to Tennessee Code Annotated section 41-21-812 because there were outstanding costs from the previously filed case. That statute provides, subject to defined exceptions, “a clerk of a court may not accept for filing another claim by the same inmate until prior fees, taxes, costs and other expenses are paid in full.” Tenn. Code Ann. § 41-21-812. The pleadings were returned to Applicant on May 7, 2018, and the case was not docketed.

On June 12, 2018, Applicant made two substantively identical filings: one in the Court of Appeals captioned as a “Notice of Appeal”, and one in this Court captioned as “Permission to Appeal Form [sic] Bolivar Chancery Court Clerk Decision.” Both filings were docketed as writs of mandamus. In those filings, Applicant sought review of the trial court’s refusal to accept his filing under Tennessee Code Annotated section 41-21-812.

With respect to the filing in the Court of Appeals, the Court sua sponte issued an order directing the trial court clerk to “certify by affidavit whether an order has been entered in this matter.” The clerk responded with an affidavit stating that the pleadings had been returned to Applicant under Tennessee Code Annotated section 41-21-812, the

case was never filed, no order was entered, and a petition for writ of mandamus had not been filed in the Chancery Court. The Court of Appeals then entered an order to show cause why the case should not be dismissed for lack of jurisdiction given that no order or final judgment had been entered in the trial court. Applicant's response, while not directly addressing the jurisdictional question, demonstrated that he was seeking review of the clerk's refusal to accept his filing under Tennessee Code Annotated section 41-21-812. The Court of Appeals then dismissed the case on July 27, 2018, for lack of subject matter jurisdiction, reasoning that there was no final appealable judgment under Tennessee Rule of Appellate Procedure 3.

This Court treated the parallel filing before it as a writ of mandamus, and on August 2, 2018, denied the writ. The Court observed that Applicant had not alleged any facts that would fall within the statutory exceptions to Tennessee Code Annotated section 41-21-812, and that the issuance of a writ of mandamus is only proper when it serves an appellate function. The Court also noted that the Court of Appeals had dismissed the filing before it for lack of jurisdiction.

Applicant now seeks review under Rule 11 of the order of dismissal from the Court of Appeals. We take this opportunity to provide instruction regarding appellate review of a trial court's refusal to accept a filing pursuant to Tennessee Code Annotated section 41-21-812.

The Court of Appeals does not lack subject matter jurisdiction over a trial court's refusal to accept a filing pursuant to Tennessee Code Annotated section 41-21-812 simply because there was no final judgment under Tennessee Rule of Appellate Procedure 3. As the present case illustrates, if that were the case, there could never be appellate review of a trial court's refusal to accept a filing pursuant to Tennessee Code Annotated section 41-21-812 because there will never be a final judgment in such circumstances. In the instant case, the Court of Appeals should have treated the appellate filing as a writ of mandamus over which the court had appellate jurisdiction to consider. *See State v. Irick*, 906 S.W.2d 440, 442 (Tenn. 1995) (“[T]he appellate courts of this state have limited mandamus jurisdiction in circumstances under which the writ is necessary to aid the exercise of the appellate function.”).

The Court of Appeals improperly held that it lacked subject matter jurisdiction. Accordingly, we reverse the Court of Appeals' order of dismissal and remand this case to the Court of Appeals for further proceedings.

Applicant has been found indigent. Therefore, the costs of this appeal are taxed to the State of Tennessee.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

10/11/2018

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. NATHANIEL MORTON CHAMPION

Circuit Court for Coffee County

No. 40424

No. M2016-01648-SC-R11-CD

ORDER

The Tenn. R. App. P. 11 application for permission to appeal filed on behalf of Nathaniel Morton Champion is untimely. The Amended Sworn Motion for Permission to Late File Rule 11 Application filed on behalf of Mr. Champion is granted. The Court waives the time limit in the interest of justice. See Tenn. R. App. P. 11(b). Upon consideration of the application, and the record before us, the application is denied.

The opinion of the Court of Criminal Appeals is designated “Not For Citation” in accordance with Supreme Court Rule 4, § E.

PER CURIAM