



Tennessee Supreme Court
DISCRETIONARY APPEALS

Grants & Denials List

June 18, 2018 - June 22, 2018

GRANTS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Intermediate Court	Supreme Court Action
<u>Jackson</u>			
STATE OF TENNESSEE v. BRANDON COLE- PUGH W2017-00469-SC-R11-CD	Madison County Circuit Court Donald H. Allen 16-109	Dyer, J. Ross: Affirm	Granted: Application of Brandon Cole-Pugh Order filed 6-22-18 (See Attached Order)

DENIALS

Style/Appeal Number	County/Trial Judge/ Trial Court No.	Intermediate Court	Supreme Court Action
<u>Knoxville</u>			
IN RE BENTLEY D. E2016-02299-SC-R11-PT	Washington County Circuit Court James E. Lauderback 34545	Bennett, Andy D.: Affirm	Denied: Application of father, David D. Order filed 6-19-18

IN RE AUTHUR R.
E2017-00782-SC-R11-PT

Hamilton County Juvenile Court
Robert D. Philyaw
269010

Frierson II, Thomas R.: Affirm

Denied: Application of Lola
Michelle R., and Arthur James D.

Order filed 6-22-18

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

FILED

06/22/2018

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. BRANDON COLE-PUGH

**Circuit Court for Madison County
No. 16-109**

No. W2017-00469-SC-R11-CD

ORDER

Upon consideration of the application for permission to appeal of Brandon Cole-Pugh and the record before us, the application is granted as to the issues set out herein.

Because Mr. Cole-Pugh is presently without counsel, the Court is pleased to appoint Lance R. Chism, 44 North 2nd Street, Suite 1103, Memphis, Tennessee 38103, to represent Mr. Cole-Pugh in the appeal in this Court.

Rather than addressing the issues as stated in the application(s), the parties are directed to brief the following issues:

1. Whether the trial court erred in denying Mr. Cole-Pugh's oral request for a jury instruction on the defense of necessity based on the facts of this case. *See* Tenn. Code Ann. § 39-11-609 and T.P.I. – Crim. 40.05 (19th ed. 2015). Included within this discussion are the elements of the defense (including “reasonable belief,” “immediately necessary,” and “imminent harm” etc.); the meaning of these terms; and whether the evidence posed a question of fact for the jury as to whether the defense had been established.
2. Whether Mr. Cole-Pugh waived the issue by failing to make his request for the necessity instruction in writing or whether the trial court had a duty to include such an instruction when the defense is “fairly raised” by the evidence even in the absence of a written request. *See, e.g., State v. Culp*, 900 S.W.2d 707 (Tenn. Crim. App. 1994); *State v. Davenport*, 974 S.W.2d 283 (Tenn. Crim. App. 1998); and *State v. Hawkins*, 406 S.W.3d 121 (Tenn. 2013).

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

PER CURIAM