

Supreme Court Appeals
Pending Cases
3-10-17

1.	Style	Cassidy Lynne Aragon v. Reynaldo Manuel Aragon
2.	Docket Number	M2014-02292-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/aragon.cassidy.opn_.pdf http://tncourts.gov/sites/default/files/aragon.cassidy.opn_.pdf
4.	Lower Court Summary	Father and Mother were divorced in April 2010; a parenting plan was entered into providing that the parties would share equal parenting time. In March 2012, pursuant to the parental relocation statute at Tenn. Code Ann. § 36-6-108, Father notified Mother that he intended to relocate to Tucson, Arizona, for an employment opportunity and filed a petition requesting to modify the parenting plan and relocate. Mother filed a petition in opposition to relocation, stating, <i>inter alia</i> , that Father’s proposed move served no reasonable purpose. The trial court determined that Father’s move served no reasonable purpose; the court did not make the best interests determination as required by the relocation statute. Father appealed and this court vacated the judgment and remanded the case for the court to consider the best interests of the child and to make findings in that regard. On remand, the court made findings relative to the factors as designated in the relocation statute and concluded that relocation was not in the best interests of the child. Finding no reversible error, we affirm the decision of the trial court.
5.	Status	Heard 10/5/16 in Nashville.

1.	Style	Athlon Sports Communications, Inc. v. Stephen C. Duggan, et al.
2.	Docket Number	M2015-02222-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/athlonsportscommunications.opn_.pdf
4.	Lower Court Summary	This appeal arises from a dispute over the fair value of stock in a dissenting shareholders case. Athlon Sports Communications, Inc. (“Athlon”) completed a merger (“the Merger”) which converted the minority dissenting shareholders’ (“Defendants”) shares into cash consideration and terminated their rights as shareholders. Athlon offered cash consideration for the shares at \$0.10 per share. Defendants contend that their shares are worth at least \$6.48 per share. Athlon sued Defendants to determine judicially the fair value of these shares. This case was tried before the Chancery Court for Davidson County (“the Trial Court”). After a trial, the Trial Court, applying the Delaware Block Method ¹ for determination of share value, found that the share value was \$0.10 per share as of the date of the Merger. Defendants appeal to this Court, arguing that (1) the Delaware Block Method is ill-suited for a business like Athlon attempting a new venture, and is antiquated, generally; and, (2) that the Trial Court erred in its application of the Delaware Block Method. We find and hold that, under Tennessee law, the Trial Court properly utilized the Delaware Block Method. We find and hold further that the Trial Court considered the competing expert testimony, accredited Athlon’s expert, and the evidence does not preponderate against the Trial Court’s factual findings. We affirm the judgment of the Trial Court.

5. Status Application granted 3/9/17; Appellant's brief due 4/8/17.

1. Style Linda Beard v. James William Branson, et al.

2. Docket Number M2014-01770-SC-R11-CV

3. Lower Court
Decision Link

http://www.tncourts.gov/sites/default/files/linda_beard_v._james_branson_et_al_26april2016_and_31march2016_0.pdf

4. Lower Court
Summary

The dispositive issue in this wrongful death action is whether the pro se complaint filed by the decedent's surviving spouse tolled the statute of limitations. The defendants, a hospital and a physician, filed a motion for summary judgment, arguing that the complaint was a nullity because the surviving spouse was asserting claims in a representative capacity and the complaint was not signed by a licensed attorney. It is undisputed that the decedent was survived by three heirs, the surviving spouse and two children of the decedent. The trial court denied the motion concluding that, although the pro se complaint could not assert the claims of the children, the surviving spouse could properly assert his own claims. The trial court also held that the initial complaint was sufficient to toll the statute of limitations and the claims of the children were not time barred because a licensed attorney signed and filed an amended complaint that related back to the original filing pursuant to Tenn. R. Civ. P. 15. Following a jury trial, the defendants were found liable and damages were awarded. The hospital appealed. We conclude the claims asserted by the surviving spouse were brought in a representative capacity on behalf of the decedent and were not his individual claims. Filing a complaint on behalf of another constitutes the practice of law and "[p]roceedings in a suit by a person not entitled to practice law are a nullity." *Bivins v. Hosp. Corp. of Am.*, 910 S.W.2d 441, 447 (Tenn. Ct. App. 1995). Because the complaint filed by the surviving spouse was a nullity, it did not toll the statute of limitations and no other complaint was filed within the statute of limitations. Therefore, the trial court erred in denying the hospital's motion for summary judgment based on the statute of limitations defense. Accordingly, we reverse and remand with instructions to dismiss all claims and vacate all judgments against the hospital.

5. Status Heard 2/8/17 in Nashville.

1. Style Board of Professional Responsibility v. Robin K. Barry

2. Docket Number M2016-02003-SC-R3-BP

3. Lower Court
Decision Link N/A

4. Lower Court
Summary N/A

5. Status Notice of Appeal filed 9/29/16; record filed 2/13/17; Appellant's brief due 3/15/17.

1.	Style	Donriel A. Borne v. Celadon Trucking Services, Inc.
2.	Docket Number	W2013-01949-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/bornedonrielaopn.pdf http://www.tncourts.gov/sites/default/files/bornedis.pdf
4.	Lower Court Summary	Plaintiff was injured in an accident involving three tractor-trailer trucks. Plaintiff, who was driving a tractor-trailer, sued the other truck drivers and the trucking company owners of the vehicles. However, prior to trial, Plaintiff entered into an agreement with one of the trucking companies whereby Plaintiff and the agreeing defendant agreed to cooperate regarding the litigation and to work together to expose the defenses asserted by the non-agreeing defendant. The jury returned an itemized verdict of \$3,705,000 for the Plaintiff against the non-agreeing defendant. The trial court denied the non-agreeing defendant's motion for a new trial, but it suggested a remittitur of \$1,605,000, for a total award of \$2,100,000. Plaintiff accepted the remittitur under protest and the non-agreeing defendant appealed to this Court. For the following reasons, we affirm in part and we reverse in part. Specifically, we affirm the physical pain and mental anguish and permanent injury awards as reduced by the trial court; we reverse the trial court's suggested remittitur of the loss of earning capacity award and we instead reinstate the jury verdict of \$1,455,000; and we further reduce the loss of enjoyment of life award to \$50,000. Thus, we approve a total award to Plaintiff of \$2,105,000.
5.	Status	Heard 11/05/15 in Memphis.

1.	Style	Deborah Bray v. Radwan R. Khuri, M.D.
2.	Docket Number	W2015-00397-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/braydeborahopn.pdf
4.	Lower Court Summary	This is a health care liability action arising from decedent's death. Appellant filed this action against Dr. Radwan Khuri. Dr. Khuri moved to dismiss this action for failure to comply with the notice requirement of Tennessee Code Annotated section 29-26-121 et seq. Specifically, Dr. Khuri challenged whether the medical release provided with the pre-suit notice letter was compliant with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). The trial court agreed with Dr. Khuri and dismissed the action with prejudice. Appellant timely appealed. We affirm.
5.	Status	Heard 2/8/17 in Nashville.

1.	Style	In re Estate of J. Don Brock
2.	Docket Number	E2016-00637-SC-R11-CV
3.	Lower Court Decision Link	http://www.tsc.state.tn.us/sites/default/files/estateofjdonbrockopn.pdf

4. Lower Court Summary
This is an appeal of an order dismissing a will contest for lack of standing. The Contestants sought to challenge the testator's will, alleging that it was the product of fraud and/or undue influence. The Estate introduced multiple prior wills that appeared to be facially valid and properly executed in which all or some of the Contestants were disinherited. The chancery court found that the Contestants would not benefit if the testator's will was set aside and dismissed the contest for lack of standing. We affirm.
5. Status
Application granted 3/8/17; Appellant brief due 4/7/17.
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1. Style
Darryl F. Bryant, Sr. v. Darryl F. Bryant, Jr.
2. Docket Number
M2014-02379-SC-R11-CV
3. Lower Court Decision Link
http://tncourts.gov/sites/default/files/bryantd.opn_.pdf
4. Lower Court Summary
Owner of real property conveyed, by quitclaim deed, an interest to herself and her son as joint tenants, with the right of survivorship. Owner then conveyed her interest to her grandson by quitclaim deed a year later. In the deed to her grandson, Owner expressly referenced the earlier deed to her son, the grandson's father. After Owner died, the son filed a declaratory judgment in which he asked the court to rule that he owns the property in fee simple. The son filed a motion for summary judgment, which the trial court granted. The grandson appealed the trial court's judgment. We affirm. Owner transferred her right of survivorship to her grandson; but this right would come into play only if her son predeceased her. Because Owner died first, the son exercised his right of survivorship and became the sole owner in fee of the property.
5. Status
Heard 6/2/16 in Nashville.
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1. Style
State v. James Robert Christensen, Jr.
2. Docket Number
W2014-00931-SC-R11-CD
3. Lower Court Decision Link
<http://tncourts.gov/sites/default/files/christensenjamesrobertjroprn.pdf>
http://tncourts.gov/sites/default/files/christensen_dissent_0.pdf
4. Lower Court Summary
Appellant, James Robert Christensen, Jr., stands convicted of resisting arrest, a Class B misdemeanor; promotion of methamphetamine manufacture, a Class D felony; initiation of methamphetamine manufacture, a Class B felony; and two counts of possession of a firearm during the commission of a dangerous felony, Class D felonies. He received an effective sentence of three years' incarceration followed by eight years suspended to supervised probation. On appeal, appellant contends that the trial court erred by denying his motion to suppress evidence and that the evidence was insufficient to sustain his convictions for two counts of possession of a firearm during the commission of a dangerous felony. Following our careful review, we affirm the judgments of the trial court.
5. Status
Heard 6/2/16 in Nashville.

1.	Style	Chuck’s Package Store, et al. v. City of Morristown
2.	Docket Number	E2015-01524-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/chucks_package_store_et_al._v._city_of_morristown_2.pdf
4.	Lower Court Summary	This case originated when six retail wine and liquor stores filed suit against the City of Morristown seeking a refund of a portion of inspection fees that had been erroneously calculated by the City. The fees were assessed by the City on the purchases at wholesale of alcoholic beverages. The City failed to use the correct percentage mandated by Tenn. Code Ann. § 57-3-501 (2013). It is undisputed that the plaintiffs overpaid the City; since the plaintiffs were understandably unaware of the error, they failed to state that they were paying the fees under protest. The City moved to dismiss the case, citing the plaintiffs’ failure to pay “under protest.” The trial court held that Tenn. Code Ann. § 67-1-1807 (2013) relieved the plaintiffs of the requirement to pay the inspection fees under protest. Accordingly, the trial court denied the City’s motion. The case proceeded to a bench trial where the court resolved all of the issues in the plaintiffs’ favor. The City appeals, arguing that Tenn. Code Ann. § 67-1-1801, et seq. (2013) does not apply to challenges involving fees paid to municipalities. The State Attorney General filed an amicus curiae brief supporting the City’s position. We affirm the trial court.
5.	Status	Application granted 11/16/16, Appellant brief filed 12/16/16, Appellee brief filed 2/15/17, after two extensions; Appellant’s reply brief filed 3/1/17; TBH May 9, 2017, in Knoxville.

1.	Style	Church of God in Christ, Inc., et al. v. L.M. Haley Ministries, Inc., et al.
2.	Docket Number	W2015-00509-SC-R11-CV
3.	Lower Court Decision Link	http://www.tncourts.gov/sites/default/files/churchofgodpn.pdf http://www.tncourts.gov/sites/default/files/churchofgoddis.pdf
4.	Lower Court Summary	A hierarchical church filed a complaint against one of its local churches, seeking an order establishing the hierarchical church’s control over the local church’s real and personal property. The trial court dismissed the complaint on the basis of the doctrine of ecclesiastical abstention. Discerning no error, we affirm.
5.	Status	Rule 11 application granted 8/18/16; Appellant brief filed 10/5/16, after an extension; Appellee brief filed 12/7/16, after an extension; TBH April 5, 2017, in Jackson.

1.	Style	State v. Sedrick Clayton
2.	Docket Number	W2015-00158-SC-DDT-DD
3.	Lower Court	

Decision Link http://www.tncourts.gov/sites/default/files/claytonsedrickopn_1.pdf

4. Lower Court Summary

The Defendant, Sedrick Clayton, was convicted by a Shelby County Criminal Court jury of three counts of first degree murder, attempt to commit first degree murder, possession of a firearm with the intent to go armed during the commission of a dangerous felony, employing a firearm during the commission or attempt to commit a dangerous felony, and unauthorized use of a motor vehicle. See T.C.A. §§ 39-12-101 (2014), 39-13-202(a)(1) (2014), 39-14-106, 39-17-1324(a) (2010) (amended 2012). The jury sentenced the Defendant to death for each first degree premeditated murder conviction. The trial court sentenced the Defendant to fifteen years for attempted first degree murder, three years for possession of a firearm with the intent to go armed during the commission of a dangerous felony, six years for employing a firearm during the commission of or attempt to commit a dangerous felony, and eleven months, twenty-nine days for unauthorized use of a motor vehicle. On appeal, the Defendant contends that (1) the evidence is insufficient to support his convictions for first degree premeditated murder and attempted first degree murder; (2) the trial court erred in denying the Defendant's motion to suppress his statements to the police; (3) double jeopardy principles prohibit his dual convictions for possessing a firearm with the intent to go armed during the commission of a dangerous felony and employing a firearm during the commission or attempt to commit a dangerous felony; (4) the trial court erred in admitting photographs of the victims during the penalty phase; (5) the trial court erred in admitting recordings of two 9-1-1 calls made from the victims' residence around the time of the murders; (6) Lieutenant Goods' testimony during redirect examination was improper in numerous respects; (7) Tennessee's death penalty scheme constitutes cruel and unusual punishment; (8) Tennessee's death penalty scheme is unconstitutional in numerous other respects; and (9) the Defendants sentences of death are disproportionate. Although we affirm the Defendant's convictions and sentences for each first degree premeditated murder and attempted first degree murder, we conclude that the trial court should have merged the convictions for possession of a firearm with the intent to go armed during the commission of a dangerous felony with the employing a firearm during the commission or attempt to commit a dangerous felony. Therefore, we remand for the entry of corrected judgments. We affirm the judgments of the trial court in all other respects.

5. Status Appeal initiated 9/1/16; Appellant's brief filed 12/20/16, after two extensions; Appellee brief filed 1/20/17; TBH June 1, 2017, at Girls State SCALES Project in Nashville.

1. Style Rose Coleman v. Bryan Olson

2. Docket Number M2015-000823-SC-R11-CV

3. Lower Court Decision Links http://www.tncourts.gov/sites/default/files/colemanr.opn_.pdf

4. Lower Court Summary This appeal concerns two disputes between the widowed husband and mother of a deceased woman: (1) the proper party to whom the woman's life insurance proceeds are owed; and (2) a request for grandparent visitation. We conclude that the trial court erred in failing to return the life insurance beneficiary to the status quo that existed prior to wife's violation of the automatic injunction pursuant to Tennessee Code Annotated Section 36-4-106(d)(2). The proceeds from the life insurance policy are therefore awarded to husband. We vacate, however, the trial court's seizure of the grandmother's Bank of America account and remand for further proceedings to determine if the funds contained therein represent the remainder of the life insurance proceeds improperly paid to the grandmother. We further conclude that the trial court erred in awarding

grandparent visitation, where there was no evidence of opposition to visitation prior to the filing of the grandparent visitation petition. Reversed in part, vacated in part, and remanded.

5.	Status	Application granted 3/9/17; Appellant's brief due 4/8/17.
1.	Style	In re Gabriella D. (consolidated cases)
2.	Docket Number	E2016-00139-SC-R11-PT (C)
3.	Lower Court Decision Links	https://www.tncourts.gov/sites/default/files/gabriella_d._opinion.pdf https://www.tncourts.gov/sites/default/files/jude_d._opinion.pdf https://www.tncourts.gov/sites/default/files/chance_d._opinion_-_final.pdf
4.	Lower Court Summary	<p>This is a termination of parental rights case involving Gabriella D., who was age seven at the time of trial. The mother, Carla D. ("Mother"), and the father, Julius D. ("Father"), have three children currently involved in termination actions: Chance D., Gabriella D., and Jude D. (collectively, "the Children"). Mother and Father have an extensive history with child welfare agencies and the courts in both Tennessee and Georgia. In March 2012, the Hamilton County Juvenile Court ("juvenile court") granted temporary legal custody of the Children to the Tennessee Department of Children's Services ("DCS"). Upon their placement in DCS custody, the Children were placed in the home of Karen P. and Thomas S. (collectively, "Foster Parents"). DCS did not seek a finding of severe child abuse against Mother in the dependency and neglect action in juvenile court. Foster Parents filed a petition to terminate the parental rights of Mother and to adopt Gabriella D. ("Gabriella") in the Hamilton County Circuit Court ("trial court") on July 31, 2013. Foster Parents concomitantly filed separate termination of parental rights actions involving Gabriella's two siblings, Chance D. ("Chance") and Jude D. ("Jude"). Following a bench trial, the trial court found by clear and convincing evidence that Mother had committed severe child abuse against Chance while he was in her custody. The trial court recognized that the determination of severe child abuse against Chance was a ground for termination of Mother's parental rights to Gabriella. The trial court also found, however, that Foster Parents had not proven by clear and convincing evidence that the conditions leading to the removal of the Children persisted or that termination of Mother's parental rights was in Gabriella's best interest. The trial court thereby denied the petition to terminate Mother's parental rights to Gabriella. Foster Parents have appealed. We affirm the trial court's finding that the statutory ground of severe child abuse was proven by clear and convincing evidence. However, having determined that Foster Parents also proved by clear and convincing evidence that termination of Mother's parental rights was in the best interest of Gabriella, we reverse the trial court's denial of the termination petition. We therefore grant Foster Parents' petition for termination of Mother's parental rights to Gabriella. We remand this matter to the trial court for an adjudication regarding Foster Parents' petition for adoption.</p>
5.	Status	Application granted 3/8/17; Appellant's brief due 4/7/17.

1.	Style	State of Tennessee v. Angela Faye Daniel
2.	Docket Number	M2015-01073-SC-R11-CD
3.	Lower Court Decision Links	http://www.tncourts.gov/sites/default/files/danielangelafoyedpn.pdf

4. Lower Court Summary
In this interlocutory appeal, the appellant, State of Tennessee, appeals the Williamson County Circuit Court’s order granting a motion to suppress evidence filed by the appellee, Angela Faye Daniel. The appellant claims that the trial court erroneously concluded that a police officer’s failure to deliver a copy of a search warrant to the appellee was not a “clerical error” under Tennessee Code Annotated section 40-6-108, the Exclusionary Rule Reform Act. Based upon the oral arguments, the record, and the parties’ briefs, we affirm the order of the trial court.
5. Status
Application granted 1/18/17; Appellant’s brief filed 2/17/17; Appellee’s brief due 3/19/17.

1. Style
Jean Dedmon v. Debbie Steelman, et al.
2. Docket Number
W2015-01462-SC-R11-CV
3. Lower Court Decision Links
http://www.tncourts.gov/sites/default/files/dedmonjeanopn_0.pdf
http://www.tncourts.gov/sites/default/files/dedmonjeancon_0.pdf
4. Lower Court Summary
This interlocutory appeal requires review of a ruling on a motion in limine in a personal injury case. Prior to trial, the plaintiffs submitted expert testimony from a treating physician to establish the reasonableness of their claimed medical expenses. The defendants filed a motion in limine seeking to exclude evidence of what they deemed —unreasonable medical expenses. They argued that the Tennessee Supreme Court’s decision in West v. Shelby County Healthcare Corporation, 459 S.W.3d 33 (Tenn. 2014), established a new standard in Tennessee for determining the reasonable amount of medical expenses as a matter of law. The trial court granted the defendants’ motion in limine, thus excluding the testimony of the treating physician. For the following reasons, the trial court’s order is reversed and this matter is remanded for further proceedings.
5. Status
Application granted 10/21/16; Appellant brief filed 11/22/16; Appellee brief filed 1/23/17, after extension; Appellant’s reply brief filed 2/10/17; TN Trial Lawyers Association’s amicus brief filed 2/27/17; Appellee’s reply brief filed 3/9/17; TBH April 5, 2017, in Jackson.

1. Style
Elizabeth Eberbach v. Christopher Eberbach
2. Docket Number
M2014-01811-SC-R11-CV
3. Lower Court Decision Link
http://tncourts.gov/sites/default/files/eberbache.opn_0.pdf
4. Lower Court Summary
This post-divorce case involves issues concerning reimbursement for the parties’ children’s uncovered medical expenses and an award of attorney’s fees in favor of Mother. Father/Appellant contends that he is not responsible for the uncovered medical expenses on grounds that Mother/Appellee failed to timely send him copies of the bills as required under the permanent parenting plan. Father also contests the award of attorney’s fees and costs. Discerning no error, we affirm and remand.
5. Status
Heard 10/5/16 in Nashville.

1.	Style	Embraer Aircraft Maintenance Services, Inc. v. AeroCentury Corp.
2.	Docket Number	M2016-00649-SC-R23-CV
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard 2/9/17 in Nashville.

1.	Style	Rogelynn Emory v. Memphis City School Bd. of Educ., n/k/a Shelby Cnty. Bd. of Educ.
2.	Docket Number	W2014-01293-SC-R11-CV
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/emoryrogelynnopn.pdf
4.	Lower Court Summary	This is an appeal by a tenured teacher seeking relief for the school board's failure to comply with the procedures set forth in the Tennessee Teacher Tenure Act for her termination. After receiving notice of charges pending against her, the teacher demanded a hearing before the school board. Pursuant to the Tenure Act, the school board was required to conduct a hearing on the charges within thirty days of the teacher's demand. The school board failed to do so. The trial court held that because the delay did not affect the outcome of the hearing, the school board's failure to comply with the Tenure Act was harmless and the teacher was not entitled to relief. On appeal, we conclude that Ms. Emory is entitled to an award of back pay for the number of days over thirty that she was suspended without pay and without a hearing following her demand for a hearing. We therefore reverse the judgment of the trial court and remand the case for a calculation of the proper amount of damages to which the teacher is entitled.
5.	Status	Heard 2/10/16 in Nashville; Opinion filed 1/13/17; Petition to Rehear filed 1/23/17.

1.	Style	In Re Estate of Calvert Hugh Fletcher
2.	Docket Number	M2015-01297-SC-R11-CV
3.	Lower Court Decision Link	http://www.tsc.state.tn.us/sites/default/files/estateofcalvertfletcher.opn_.pdf
4.	Lower Court Summary	This appeal stems from probate proceedings in the Putnam County Probate Court. During the course of the trial proceedings, an issue arose as to the ownership of a certificate of deposit titled in the decedent's name. Following an evidentiary hearing, the trial court entered an order concluding that the certificate of deposit was, in fact, the property of the decedent's estate. On appeal, the decedent's surviving wife argues that because the funds within the certificate of deposit were derived from a joint marital account, they should have been impressed as entireties property. We agree and conclude that the funds in the certificate of deposit passed to the surviving wife upon the decedent's death. The judgment of the trial court is accordingly reversed.

5. Status Application granted 9/23/16; Appellant brief filed 10/24/16; Appellee brief filed 12/20/16, after an extension; amicus brief filed 12/6/16; TBH April 5, 2017, in Jackson.

1. Style Danny C. Garland, II v. BPR

2. Docket Number E2016-01106-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Heard 1/10/17 in Knoxville.

1. Style State of Tennessee v. Tabitha Gentry aka Abka Re Bay

2. Docket Number W2015-01745-SC-R11-CD

3. Lower Court Decision Link http://www.tsc.state.tn.us/sites/default/files/gentrytopn_0.pdf

4. Lower Court Summary A Shelby County jury convicted the Defendant, Tabitha Gentry, aka Abka Re Bay, of theft of property valued over \$250,000 and aggravated burglary. The trial court ordered an effective sentence of twenty years in the Tennessee Department of Correction, to be served consecutively to a prior sentence from another Shelby County conviction. The Defendant appeals contending that: (1) the evidence is insufficient to support her convictions, (2) the trial court improperly limited cross-examination of a State witness about adverse possession; (3) the trial court improperly limited the Defendant's closing argument; and (4) consecutive sentencing was inappropriate in this case. After review, we remand the case for resentencing and affirm the trial court's judgments in all other respects.

5. Status Application granted 12/14/16; Appellant's election not to file brief filed 1/11/17; Appellee's brief filed 2/8/17; TBH June 1, 2017, at Girls State SCALES Project in Nashville.

1. Style Charles Grogan v. Daniel Ugglá, et al.

2. Docket Number M2014-01961-SC-R11-CV

3. Lower Court Decision Link http://tncourts.gov/sites/default/files/grogancharles.opn_.pdf

4. Lower Court Summary This appeal concerns a home inspector's liability for a guest's injury following the collapse of a homeowner's second-story deck railing. The accident occurred just one month after the home inspection was performed. In his report to the homeowner, the inspector noted that the deck flooring was warped but failed to report the improper construction of the deck railing. The injured guest filed suit against the homeowner and the home inspector, among others. The inspector moved for summary judgment. The trial court granted summary judgment, finding that the inspector did not owe a legal duty to

the guest. We affirm.

5. Status Heard 10/6/16 in Nashville.

1. Style State of Tennessee v. Lajuan Harbison

2. Docket Number E2015-00700-SC-R11-CD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/harbisonlajuanopn_0.pdf

4. Lower Court Summary

The Defendant, Lajuan Harbison, stands convicted by a Knox County jury of four counts of attempted voluntary manslaughter and four counts of employing a firearm during the commission of a dangerous felony, for which the trial court sentenced him to an effective term of twenty-two years' incarceration. On appeal, the Defendant argues (1) that the trial court erred by refusing to grant his motion for a severance; (2) that the evidence was insufficient to support his convictions, including therein a double jeopardy challenge to his employing a firearm during the commission of a dangerous felony convictions, and (3) that consecutive sentencing was improper. Following our review, we first conclude that a severance of defendants should have been granted and that the failure to do so constitutes reversible error. We also conclude that the evidence was insufficient to support one of the Defendant's convictions for attempted voluntary manslaughter because the doctrine of transferred intent is inapplicable to such a conviction, and therefore, the corresponding count of employing a firearm during the commission of said dangerous felony likewise cannot stand. Additionally, multiple convictions for employing a firearm during the commission of a dangerous felony violate double jeopardy principles because the statute does not authorize separate firearms convictions for each felony committed in a single transaction. Accordingly, we reverse the judgments of the trial court and remand the case for a new trial.

5. Status Application granted 12/14/16; Appellant brief filed 1/17/17; Appellee brief due 3/10/17, after two extensions; TBH May 24, 2017, at Boys State SCALES Project in Cookeville.

1. Style Kim Hardy v. Tournament Players Club at Southwind, Inc., d/b/a "TPC Southwind," et al.

2. Docket Number W2014-02286-SC-R11-CV

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

4. Lower Court Summary

This is an interlocutory appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure. In March 2014, Plaintiff food server/bartender filed an action alleging, in relevant part, that Defendants violated Tennessee Code Annotated § 50-2-107 by failing to pay her and other similarly situated employees all of the gratuities that they earned. Plaintiff further alleged that Defendants caused the gratuities to be shared with non-tipped employees. The trial court dismissed Plaintiff's claim under § 50-2-107 upon determining that the section does not permit a private cause of action in light of amendments to § 50-2-101 in 2013. We reverse and remand for further proceedings.

5. Status Heard 5/25/16 at Boys State SCALES Project in Cookeville; Opinion filed 3/8/17.

1. Style Wade Harvey, Sr., ex rel. Alexis Breanna Gladden v. Cumberland Trust and Investment Company, et al.

2. Docket Number E2015-00941-SC-R11-CV

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

4. Lower Court Summary We granted an interlocutory appeal pursuant to Tenn. R. App. P. 9 in this case to consider whether the signature of the trustee of the Alexis Breanna Gladden Irrevocable Trust (“the Trust”) on an investment/brokerage account agreement agreeing to arbitration binds the minor beneficiary of the Trust to conduct arbitration of unknown future disputes or claims. We find and hold that while the plain language of the trust agreement does allow the trustee to agree to arbitrate claims and disputes that have arisen, it does not allow the trustee to agree to arbitration of unknown future disputes or claims. Therefore, the signature of the trustee of the Trust on an investment/brokerage account agreement agreeing to arbitration does not bind the minor beneficiary to conduct arbitration of unknown future disputes or claims.

5. Status Heard 1/10/17 in Knoxville.

1. Style State v. James Hawkins

2. Docket Number W2012-00412-SC-DDT-DD

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

4. Lower Court Summary Defendant, James Hawkins, appeals from his Shelby County Criminal Court jury convictions of premeditated first degree murder, see T.C.A. ' 39-13-202(a)(1); initiating a false report, see id. § 39-16-502, a Class D felony; and abuse of a corpse, see id. § 39-17-312, a Class E felony. The jury sentenced Defendant to death for the first degree murder conviction based upon its findings that the defendant was previously convicted of one (1) or more felonies whose statutory elements involve the use of violence to the person, see id. § 39-13-204(i)(2); and that the defendant knowingly mutilated the body of the victim after death, see id. § 39-13-204(i)(13); and that these aggravating circumstances outweighed any mitigating circumstances beyond a reasonable doubt. For the remaining felonies, the trial court imposed an effective sentence of 18 years' incarceration to be served consecutively to the death sentence. On appeal, Defendant alleges that (1) the trial court erred by denying Defendant's motion to suppress his statements given to the police; (2) the trial court erred by refusing to accept Defendant's guilty pleas to counts two and three of the indictment; (3) the trial court erred by admitting statements made by the victim through the victim's children, through Melvin Gaither, and through an application for order of protection; (4) the trial court erred by admitting evidence of other acts in violation of Tennessee Rule of Evidence 404(b); (5) the trial court erred by admitting photographs of bone fragments taken from the victim;(6) the trial court erred by admitting crime scene photographs that had not been provided during pretrial discovery; (7) the trial court erred by permitting improper closing argument by the State; (8) the evidence is insufficient to support Defendant's conviction of first degree murder; (9) the trial court erred by not requiring the State to provide discovery concerning an ongoing

investigation of sexual abuse committed by Defendant’s father against Defendant’s sisters for use in the penalty phase of the trial; (10) the trial court erred by denying Defendant’s special jury instruction request to charge the jury on the presumption that any sentence imposed for the first degree murder conviction would be carried out according to the laws of this State; (11) myriad aspects of Tennessee’s death penalty statutes and procedure are unconstitutional in general and as applied to Defendant; (12) the trial court imposed an excessive sentence in both length and manner of service relative to the sentences for filing a false report and abuse of a corpse; and (13) the cumulative effect of these errors violated Defendant’s right to due process. As an additional issue, Defendant alleges that the trial court erred by denying his petition for writ of error coram nobis. Following oral argument at the Cecil C. Humphreys School of Law at the University of Memphis and this court’s full consideration, we affirm the judgments of the trial court.

5. Status Heard 11/2/16 in Jackson.

1. Style State v. Antonio Henderson and Marvin Dickerson

2. Docket Number W2015-00151-SC-R11-CD

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

4. Lower Court Summary

Following a jury trial, Antonio Henderson (“Defendant Henderson”) and Marvin Dickerson (“Defendant Dickerson”) (collectively, “the Defendants” or “both Defendants”) were each convicted of one count of especially aggravated robbery (Count 1), one count of attempted second degree murder (Count 2), two counts of attempted aggravated robbery (Counts 3 and 4), one count of aggravated assault (Count 5), and one count of employing a firearm during the commission of or attempt to commit a dangerous felony (Count 6). The trial court imposed partially consecutive sentences for both Defendants and sentenced Defendant Henderson to an effective forty-one years’ incarceration and Defendant Dickerson to an effective thirty-seven years’ incarceration. In this consolidated direct appeal, both Defendants claim the evidence was insufficient to support their convictions for each count of the indictment. As to the conviction of especially aggravated robbery, both Defendants assert that the victim’s serious bodily injury had to precede or be contemporaneous with the taking in order to constitute especially aggravated robbery. Additionally, both Defendants contend the trial court erred in failing to instruct the jury as to certain lesser included offenses and in its instructions as to the elements of unlawful employment of a firearm. Additionally, Defendant Henderson claims the trial court erred in sustaining the State’s objection during Defendant Henderson’s closing argument and in sentencing him to serve partially consecutive sentences. Upon review, we conclude that the trial court committed reversible error when it failed to make any factual findings to support its order that Defendant Henderson’s sentence in Count 1 run consecutively to his sentences in Counts 2 and 6, and we reverse and remand the case for resentencing on the alignment of Count 1 with Counts 2 and 6 of Defendant Henderson’s sentence. As to the sufficiency of the evidence concerning the conviction for especially aggravated robbery, we reject the Defendants’ argument that a victim must suffer serious bodily injury before or contemporaneous to the taking of property, and we hold that the evidence was sufficient to support a conviction for especially aggravated robbery because the taking of property was accomplished with a deadly weapon and serious bodily injury was suffered by the victim in connection with the taking. We affirm the judgments of the trial court in all other respects.

5. Status Defendant Henderson's application granted 10/20/16; Appellant brief filed 11/16/16; Appellee brief filed 1/23/17, after extensions; TBH April 5, 2017, in Jackson.

1. Style Sean K. Hornbeck v. Board of Professional Responsibility

2. Docket Number M2016-01793-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Notice of Appeal filed 8/29/16; record filed 12/13/16; Appellant brief filed 1/12/17; Appellee brief filed 2/13/17.

1. Style Reginald Dion Hughes v. Tenn. Bd. of Probation and Parole

2. Docket Number M2015-00722-SC-R11-CV

3. Lower Court Decision Link N/A

4. Lower Court Summary Dismissed for failure to comply with Tennessee Code Annotated section 41-21-812.

5. Status Heard 6/2/16 at Girls State SCALES Project in Nashville.

1. Style Derrick Hussey, et al. v. Michael Woods, et al.

2. Docket Number W2014-01235-SC-R11-CV

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

4. Lower Court Summary This is an appeal from the denial of Appellant's Tennessee Rule of Civil Procedure 60.02 motion to set aside a settlement reached by Appellee, the decedent's mother, in the underlying wrongful death lawsuit. Appellant brought the Rule 60.02 motion on behalf of her minor child, who was born out of wedlock. The decedent had executed a voluntary acknowledgment of paternity of the minor child in Mississippi; Appellant argued that the acknowledgment was entitled to full faith and credit in Tennessee such that the child would be the rightful plaintiff in the wrongful death lawsuit. Appellee filed a challenge to paternity, arguing that the decedent was incarcerated at the time of the child's conception. The Circuit Court stayed all proceedings and transferred the question of paternity to the Probate Court, which had no authority to enroll the foreign acknowledgment of paternity under the Uniform Enforcement of Foreign Judgments Act. Furthermore, because the child's paternity was challenged, there was a question as to whether the mere filing of the VAP in a Tennessee Court, pursuant to Tennessee Code Annotated Section 24-7-113(b)(3), was sufficient to establish paternity for purposes of the Wrongful Death Statute. If there is a challenge to the VAP, Tennessee Code Annotated Section 24-7-113(e) requires the trial court to first find that there is a substantial likelihood that fraud,

duress, or material mistake of fact existed in the execution of the VAP. If the court so finds, then, under Tennessee Code Annotated Section 24-7-113(e)(2), DNA testing is required to establish paternity. Alternatively, the trial court could find that there is not a substantial likelihood of fraud, duress, or material mistake, deny the challenge to the VAP, and enroll the VAP as conclusive proof of paternity. Here, the trial court made no finding concerning fraud, duress, or material mistake under Section 24-7-113(e). Despite the fact that the court never resolved the paternity question, it, nonetheless, denied Appellant's Rule 60.02 motion and granted attorney's fees to the defendant in the underlying wrongful death action and to the Appellee/mother for Appellant's alleged violation of the order staying all proceedings in the Circuit Court. We conclude that the Rule 60.02 motion was not ripe for adjudication until such time as the trial court conclusively established the child's paternity under either Tennessee Code Annotated Section 24-7-113 or 24-7-112. Accordingly, we vacate the trial court's order denying Rule 60.02 relief and remand the case for further proceedings, including, but not limited to, entry of an order that complies with Section 24-7-113(e). We reverse the award of attorney's fees and the order staying proceedings in the Circuit Court.

5. Status Heard 2/8/17 in Nashville.

1. Style State of Tennessee v. Christopher Scottie Itzol-Deleon

2. Docket Number M2014-02380-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/itzoldeleonchristopherscottieopn.pdf>
<http://www.tncourts.gov/sites/default/files/itzol-deleonchristopherscottie.dissent.pdf>

4. Lower Court Summary
The Defendant, Christopher Scottie Itzol-Deleon, was found guilty by a Davidson County Criminal Court jury of attempted aggravated sexual battery, a Class C felony, four counts of aggravated sexual battery, a Class B felony, and three counts of rape of a child, a Class A felony. See T.C.A. §§ 39-13-504 (2014) (aggravated sexual battery), 39-13-522 (2010, 2014) (rape of a child), 39-12-101 (2014) (criminal attempt). He received an effective forty-year sentence. On appeal, the Defendant contends that (1) the evidence is insufficient to establish the element of penetration for rape of a child in Counts 3 and 4, (2) the trial court erred in allowing separate convictions for attempted aggravated sexual battery and rape of a child in Counts 1 and 3 and for rape of a child in Counts 4 and 5, (3) the court erred in permitting testimony regarding the Defendant's excessive drinking, (4) the court erred in admitting a letter written by the victim to her mother, (5) the court erred in not redacting a portion of the Defendant's statement to the police, (6) the court erred in admitting the victim's school photograph, (7) the court erred in sentencing the Defendant as a Range II offender relative to his rape of a child convictions, and (8) the judgment in Count 6 contains a clerical error. We merge Count 1, attempted aggravated sexual battery, with Count 3, rape of a child. Although we affirm the convictions, we remand the judgments for Counts 1 and 3 for entry of amended judgments reflecting merger of the offenses. We also modify the Defendant's sentences relative to Counts 3, 4, and 5 to twenty-five years in each count at 100% service. Finally, we remand the judgment in Count 6 for the correction of clerical errors.

5. Status Heard 2/9/17 in Nashville.

1. Style Ewin B. Jenkins et al. v. Big City Remodeling et al.

2. Docket Number E2014-01612-SC-R11-CV

3. Lower Court Decision Link http://tncourts.gov/sites/default/files/jenkins.opinion.final2_.pdf
[http://tncourts.gov/sites/default/files/jenkins v. big city remodeling susano co ncurring in part .pdf](http://tncourts.gov/sites/default/files/jenkins_v._big_city_remodeling_susano_co_ncurring_in_part_.pdf)
4. Lower Court Summary
 The plaintiffs filed this action to recover damages they incurred when, during construction, their home was completely destroyed by fire. The plaintiffs sued the project's general contractor as well as various subcontractors employed by the general contractor. The complaint included allegations of negligence, based in part on the doctrine of res ipsa loquitur, and breach of contract. The trial court granted summary judgment in favor of all defendants. The plaintiffs have appealed. We affirm the trial court's grant of summary judgment to the general contractor regarding claims based upon the general contractor's own negligence and res ipsa loquitur, but we reverse the trial court's grant of summary judgment regarding the negligence of the flooring subcontractors. We also reverse the trial court's grant of summary judgment in favor of the general contractor regarding the plaintiffs' breach of contract claim. Finally, we remand the case to the trial court for further proceedings consistent with this opinion.
5. Status Heard 9/8/16 in Knoxville.

1. Style Judy Kilburn v. Granite State Insurance Company, et al.
2. Docket Number M2015-01782-SC-R3-WC
3. Lower Court Decision Link N/A
4. Lower Court Summary N/A
5. Status Heard 11/2/16 in Jackson.

1. Style State of Tennessee v. Lindsey Brooke Lowe
2. Docket Number M2014-00472-SC-R11-CD
3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/lowelb.opn6_.pdf
4. Lower Court Summary
 The parents of the defendant, Lindsey Brooke Lowe, discovered the body of one of her newborn twins in a laundry basket in her bedroom. A second deceased newborn was also found in the basket, and the defendant gave an incriminating statement to police. A jury convicted the defendant of two counts of first degree (felony) murder, two counts of first degree (premeditated) murder, and two counts of aggravated child abuse, a Class A felony. The trial court merged the first degree murder convictions for each victim. The defendant received a life sentence for each first degree murder conviction and a twenty-five year sentence for each aggravated child abuse conviction, all to be served concurrently. On appeal she asserts that the evidence was insufficient to support the verdicts; that the trial court erred in not suppressing her statement; that the trial court was

biased; that the trial court denied her the right to testify in her defense; that the burden of proof was shifted to the defense; that her motion for a change of venue should have been granted; that the physical evidence obtained through a search warrant should have been suppressed; that the trial court erred in excluding expert testimony regarding her ability to waive her right to remain silent; that the trial court erred in various other evidentiary decisions; and that she is entitled to relief under the theory of cumulative error. After a thorough review of the record and the applicable law, we affirm the judgments of the trial court.

5. Status Application granted 1/18/17; Appellant brief filed 2/10/17; Appellee brief due 4/10/17, after extension.

1. Style William Thomas McFarland v. Michael S. Pemberton, et al.

2. Docket Number E2014-02176-SC-R11-CV

3. Lower Court Decision Link http://tncourts.gov/sites/default/files/mcfarland_v_roane_co_election_commn.pdf

4. Lower Court Summary This case involves a challenge by a candidate for circuit judge to the qualifications of the winning candidate. William Thomas McFarland and Michael S. Pemberton were the only candidates in the August 7, 2014 election for Ninth Judicial District Circuit Judge. In March 2014, an eligible voter in the Ninth District, who is not a party to this suit, filed a complaint with the local election commission challenging Pemberton’s eligibility to run for circuit judge, alleging he did not meet the residency requirement. The local election commission held a public hearing, and ultimately determined that Pemberton was eligible. Accordingly, his name was reflected on the ballot. He won the election. McFarland, who had knowledge of the March 2014 complaint and subsequent actions by the local election commission, then filed this election challenge, seeking to void the election results on the ground that Pemberton failed to satisfy the residency requirement. The trial court dismissed McFarland’s claim as an untimely review of a quasi-judicial determination under Tenn. Code Ann. § 27-9-102 (Supp. 2015). McFarland appeals. We affirm.

5. Status Heard 9/8/16 in Knoxville.

1. Style Judith Moore-Pennoyer v. State of Tennessee, et al.

2. Docket Number E2015-01701-SC-R11-CV

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

4. Lower Court Summary This is a Rule 9 interlocutory appeal for a determination as to whether a person who has prevailed in a judicial election, but not yet assumed the office of judge, acts as a “state officer or employee” for purposes of the waiver provision set forth in Tennessee Code Annotated section 9-8-307(b), when making administrative staffing provisions. The plaintiff filed this action alleging tortious interference with an employment relationship by the defendant, a newly elected circuit court judge. The defendant filed a motion to dismiss, alleging that he was entitled to immunity based upon his position as a state officer. Following a hearing, the trial court found that the defendant did not enjoy any

form of immunity and that the waiver provision did not apply because he was not yet a state officer or employee when the actions at issue took place before he took the oath of office and assumed his position. The court denied the motion to dismiss but granted permission to file an interlocutory appeal pursuant to Rule 9. We granted permission to appeal and now affirm the decision of the trial court.

5. Status Heard 1/10/17 in Knoxville.

1. Style Peter M. Napolitano v. BPR

2. Docket Number M2016-00869-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Heard 11/2/16 in Jackson.

1. Style State v. Antoine Perrier

2. Docket Number W2015-01642-SC-R11-CD

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/perrierantoineopn_0.pdf

4. Lower Court Summary
 The Defendant-Appellant, Antoine Perrier, was convicted in the Shelby County Criminal Court of attempted voluntary manslaughter in Count 1, employment of a firearm during the attempt to commit a dangerous felony in Count 2, aggravated assault in Counts 3 through 7, and assault in Count 8. The trial court merged Count 3 with Count 1 before sentencing Perrier to an effective sentence of thirty years. In this delayed appeal, Perrier argues: (1) the trial court erroneously instructed the jury on self-defense; (2) the trial court committed plain error in failing to instruct the jury on possession of a firearm during the attempt to commit a dangerous felony as a lesser included offense of employment of a firearm during the attempt to commit a dangerous felony; (3) the employment of a firearm count is void because it fails to name the predicate felony for the firearm offense; (4) the trial court erred in declining to instruct the jury on the defense of necessity; and (5) the evidence is insufficient to sustain his conviction for assault. We conclude that although the self-defense instruction was erroneous, the error was harmless. Therefore, we affirm the judgments of the trial court.

5. Status Application granted 11/22/16; Appellant brief filed 12/23/16; Appellee brief filed 1/24/17; TBH April 6, 2017, in Jackson.

1. Style Tennessee Department of Correction v. David Pressley

2. Docket Number M2015-00902-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/pressleyd.opn_.pdf

4. Lower Court Summary Employee of the Tennessee Department of Correction filed an administrative appeal challenging the termination of his employment. The board of appeals reduced the termination to a fourteen-day suspension. On appeal to the trial court, the chancery court ruled that the burden of proof was improperly allocated to the Tennessee Department of Correction in the hearing before the board of appeals. We reverse the decision of the chancery court and conclude that the board of appeals properly allocated the burden to the Tennessee Department of Correction. We further conclude that no substantial and material evidence in the record exists to support the board of appeals' finding that the employee committed negligence in the performance of his duties. We also reverse the board of appeals' decision denying the employee's request for attorney's fees in the prosecution of his appeal to the board of appeals and remand to the board of appeals for a determination of those fees.

5. Status Heard 2/8/17 in Nashville.

1. Style Jason Ray v. Madison County, Tennessee

2. Docket Number M2016-01577-SC-R23-CV

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Order accepting Rule 23 certification on 12/21/16; Appellant's supplemental brief filed 1/19/17; Appellee's supplemental brief filed 2/21/17; Tennessee Sheriffs' Association's amicus brief filed 2/22/17; TN District Public Defenders Conference's amicus brief filed 2/21/17; TN Assoc. of Criminal Defense Lawyers' amicus brief filed 2/21/17; TN Attorney General's amicus brief filed 2/21/17; TN District Attorneys General Conference's amicus brief filed 2/21/17; TBH April 6, 2017, in Jackson.

1. Style Regions Bank v. Thomas D. Thomas, et al.

2. Docket Number W2015-00798-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/regionsbankopn_0.pdf

4. Lower Court Summary Following a borrower's default on a loan agreement, Regions Bank ("Regions") accelerated the loan and filed this lawsuit against the loan's guarantors to collect the amounts due. After Regions sold the collateral securing the loan, it sought a judgment for the remaining deficiency. This is the second appeal of this case to this Court. Although the trial court awarded Regions a deficiency judgment prior to the first appeal, we vacated that award upon concluding that Regions had failed to provide sufficient notice to the guarantors prior to its disposition of the collateral. We observed that under Tennessee Code Annotated section 47-9-626, a secured party that has not complied with the commercial code's collection, enforcement, disposition, and acceptance requirements can only recover a deficiency if it proves that compliance with the relevant provisions would have yielded a smaller amount than the secured obligation, together with expenses and attorney's fees. Because the trial court did not make any findings on this issue, we remanded the case for further proceedings to determine the amount of the deficiency, if

any, under Tennessee Code Annotated section 47-9-626. On remand, the trial court entered a deficiency judgment against the guarantors in the amount of \$1,210,511.51. Both sides now appeal from this judgment, asserting various issues. Because Regions did not present any evidence that it would have received less than the total amounts due to it had it provided proper notice, we reverse the trial court's determination that Regions is entitled to a deficiency. We further reject the guarantors' assertions that they are entitled to a surplus.

5. Status Application granted 10/21/16; Appellant brief filed 11/18/16; Appellee brief filed 12/28/16; Appellant reply brief filed 1/18/17; Appellee reply brief filed 2/10/17; TBH April 5, 2017, in Jackson.

1. Style State v. Ray Rowland

2. Docket Number W2014-02311-SC-R11-CD

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

4. Lower Court Summary Ray Rowland ("the Defendant") filed a Motion for Return of Property pursuant to Rule 41(g) of the Tennessee Rules of Criminal Procedure. The trial court found that it did not have jurisdiction to hear the case and dismissed the Defendant's motion. On appeal, we conclude that the trial court does have jurisdiction. We reverse the judgment of the trial court and remand the case for a hearing.

5. Status Heard 11/2/16 in Jackson.

1. Style Drayton Beecher Smith II v. Board of Professional Responsibility

2. Docket Number W2017-00247-SC-R3-BP

3. Lower Court Decision Link N/A

4. Lower Court Summary N/A

5. Status Notice of Appeal filed 2/6/17.

1. Style Kenneth M. Spires, et al. v. Haley Reece Simpson, et al.

2. Docket Number E2015-00697-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/spires_opinion_final_corrected.pdf

4. Lower Court Summary The surviving spouse in this wrongful death action appeals the trial court's dismissal of him as a plaintiff. The decedent and surviving spouse had one child together, who was eighteen months old at the time of the decedent's fatal automobile accident in October 2010. The decedent and surviving spouse were living apart, and the child had been

residing solely with the decedent. On November 18, 2010, the surviving spouse, acting on behalf of the decedent, the child, and himself, filed the instant action in the Monroe County Circuit Court (“trial court”) against the seventeen-year-old driver of the other vehicle involved in the accident and her parents, who were the owners of the vehicle. Also in November 2010, the Monroe County Juvenile Court granted custody of the child to the maternal grandmother. Upon a subsequent petition filed by the maternal grandmother and maternal uncle in the Blount County Chancery Court, the surviving spouse’s parental rights to the child were terminated and a decree of adoption was granted to the maternal uncle on August 8, 2012. The child’s maternal grandmother and adoptive father subsequently filed successive motions to intervene in this action on behalf of the child. Upon announcement of an agreement as to the settlement amount offered by the defendants’ insurance company, the trial court entered an agreed order awarding a \$100,000.00 judgment against the defendants.¹ Following a bench trial regarding the remaining issues, the court found that pursuant to Tennessee Code Annotated § 20-5-107(b), the surviving spouse was statutorily disqualified from commencing and maintaining this action or collecting any portion of a settlement because he owed outstanding child support arrearages on behalf of children born to four women other than the decedent. We determine that although Tennessee Code Annotated § 20-5-107(b) operates to prohibit the surviving spouse’s recovery of his one-half of the settlement until his child support obligations are paid, it does not operate to disqualify him from commencing and maintaining this wrongful death action. We therefore reverse the trial court’s dismissal of the surviving spouse as a plaintiff and the court’s substitution of the adoptive father as an intervening plaintiff. We remand for distribution of the wrongful death settlement proceeds, one-half toward payment of the surviving spouse’s child support arrearages with interest, pursuant to Tennessee Code Annotated § 20-5-107(b), and one-half to the minor child in trust with the adoptive father as trustee. We affirm the trial court’s judgment in all other respects.

5. Status Application granted 9/22/16; Appellant brief filed 10/21/16; Appellee brief filed 12/19/16 after extension; Appellant’s reply brief filed 1/5/17; TBH May 9, 2017, in Knoxville.

1. Style State v. Rodney Stephens

2. Docket Number E2014-02514-SC-R11-CD

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

4. Lower Court Summary The Defendant, Rodney Stephens, was convicted by a Campbell County Criminal Court jury of aggravated stalking. T.C.A. § 39-17-315(c)(1)(E) (2010) (amended 2012). The court sentenced the Defendant to three years, with sixty days’ confinement and the remainder to be served on probation. On appeal, the Defendant contends that (1) the trial court erred in allowing the trial to proceed despite the absence of a police officer and (2) the evidence is insufficient to support the conviction. We modify the judgment of conviction for aggravated stalking to one for misdemeanor stalking, and we remand the case for sentencing and entry of a judgment of conviction for misdemeanor stalking.

5. Status Heard 1/10/17 in Knoxville.

1. Style John Howard Story, et al. v. Nicholas D. Bunstine, et al.

2. Docket Number E2015-02211-SC-R11-CV

3. Lower Court Decision Link http://www.tncourts.gov/sites/default/files/story_v_bunstein.pdf
 4. Lower Court Summary
This is a legal malpractice case. Appellees, who are licensed attorneys, represented Appellants in the underlying lender's liability lawsuit. Following dismissal of all defendants in the underlying litigation, Appellants' filed a complaint for legal malpractice against Appellees. The trial court dismissed the legal malpractice case, inter alia, on the ground that the one-year statute of limitations for legal malpractice claims had expired. Tenn. Code Ann. §28-3-104(c)(1). Affirmed and remanded.
 5. Status
Application granted 11/17/16; Appellant brief filed 1/18/17, after an extension; Appellee brief due 3/20/17, after an extension; TBH May 9, 2017, in Knoxville.
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1. Style
State v. Kevin E. Trent
 2. Docket Number
E2015-00753-SC-R11-CD
 3. Lower Court Decision Link
http://www.tncourts.gov/sites/default/files/trentk.opn_clean.pdf
 4. Lower Court Summary
The defendant, Kevin E. Trent, appeals the trial court's denial of his request for alternative sentencing. Pursuant to a plea agreement, the defendant pled guilty to vehicular homicide by intoxication, a Class B felony. The agreement specified an eight-year sentence with the manner of service to be determined by the trial court. Following a sentencing hearing, the court ordered that the sentence be served in the Tennessee Department of Correction. On appeal, the defendant argues that the decision was error because the trial court incorrectly concluded that confinement was necessary to avoid depreciating the seriousness of the offense. Following review of the record and the evidence before us, we conclude that the trial court abused its discretion in requiring full confinement and reverse the sentence consistent with this opinion.
 5. Status
Application granted 11/17/16; Appellant brief filed 12/21/16; Appellee brief filed 1/20/17; TBH May 24, 2017, at Boys State SCALES Project in Cookeville.
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1. Style
State v. Jerry Lewis Tuttle
2. Docket Number
M2014-00566-SC-R11-CD
3. Lower Court Decision Link
<http://tncourts.gov/sites/default/files/tuttlejerryopnfinal.pdf>
<http://tncourts.gov/sites/default/files/tuttlejerrydis.pdf>
4. Lower Court Summary
Following the execution of a search warrant for his property and residence, the Defendant-Appellant, Jerry Lewis Tuttle, was indicted by the Maury County Grand Jury in case number 21695 for possession of .5 grams or more of cocaine with intent to sell, possession of not less than one-half ounce nor more than ten pounds of marijuana with intent to sell, and being a felon in possession of a firearm. He was also indicted by the Maury County Grand Jury in case number 22091 for conspiracy to possess marijuana in an amount over 300 pounds with intent to sell or deliver within 1000 feet of a school,

conspiracy to commit money laundering, money laundering, possession of a firearm with the intent to go armed during the commission of a dangerous felony, and acquiring or receiving property subject to judicial forfeiture pursuant to Tennessee Code Annotated section 39-11-703. The Defendant-Appellant filed motions to suppress the evidence seized and to dismiss the forfeiture count, which were denied by the trial court following a hearing. At trial, the Defendant-Appellant was convicted in case number 21695 of the lesser included offense of simple possession of cocaine and the charged offense of possession of marijuana with intent to sell; the count charging him with being a felon in possession of a firearm was dismissed. In case number 22091, the Defendant-Appellant was convicted of the lesser included offense of conspiracy to possess marijuana in an amount over 300 pounds with intent to sell or deliver as well as the charged offenses of conspiracy to commit money laundering, money laundering, and possession of a firearm with the intent to go armed during the commission of a dangerous felony. Following a bench trial on the judicial forfeiture count, the trial court denied the forfeiture of several items seized but ordered the forfeiture of other items, including the \$1,098,050 that is at issue on appeal. After a sentencing hearing on the other counts, the trial court imposed an effective sentence of fifty years with a release eligibility of thirty-five percent. On appeal, the Defendant-Appellant argues: (1) that the search of his property violated his constitutional right against unreasonable searches and seizures because the affidavit in support of the search warrant did not provide probable cause for the issuing judge to believe that evidence of a crime would be found on his property and in his home; (2) the evidence is insufficient to sustain his conspiracy convictions; and (3) he is entitled to the return of the \$1,098,050 because the cash seized was obtained by him more than five years prior to the seizure and because the seizing agent failed to deliver a notice of seizure to him at the time the cash was seized. Upon review, we reverse the Defendant Appellant's convictions. However, we affirm the trial court's judgment in regard to the forfeiture proceedings.

5. Status Heard 10/5/16 in Nashville.

1. Style State of Tennessee v. Susan Jo Walls

2. Docket Number M2014-01972-SC-R11-CD

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

4. Lower Court Summary
 The Defendant, Susan Jo Walls, was convicted by a jury of being criminally responsible for the first-degree premeditated murder of her husband and of conspiring with others to commit said murder. The trial court imposed an effective sentence of life imprisonment for these convictions. In this direct appeal, the Defendant argues that (1) the evidence was insufficient to support her convictions; (2) the trial court erred in allowing late-night jury deliberations; (3) the trial court erred by denying her motion to suppress an involuntary statement made to law enforcement; (4) the trial court failed to properly sanction the State for its untimely disclosure of certain phone records; (5) the trial court abused its discretion by denying her motion for a mistrial or to strike a witness's testimony based on an alleged Jencks Act violation; and (6) the trial court erred by modifying the jury instructions in response to a jury question that was presented after deliberations had commenced. Because we conclude that the trial court erred by allowing jury deliberations to continue into the late-night hours, we reverse the judgments of the trial court and remand this case for a new trial.

5. Status Heard 2/8/17 in Nashville.

1.	Style	In re: Paul Julius Walwyn, BPR #18263
2.	Docket Number	M2016-01507-SC-BAR-BP
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Heard 2/9/17 in Nashville.

1.	Style	State v. Walter H. Webb
2.	Docket Number	M2014-01929-SC-R11-CD
3.	Lower Court Decision Link	http://tncourts.gov/sites/default/files/webbwalteropn.pdf
4.	Lower Court Summary	Defendant, Walter H. Webb, was convicted by a Wilson County jury of one count of aggravated burglary, one count of aggravated assault, four counts of aggravated domestic assault, one count of employing a firearm during the commission of a dangerous felony, and one count of aggravated cruelty to animals. The trial court sentenced Defendant to a total effective sentence of twenty years" incarceration. On appeal, Defendant argues that the trial court erred by failing to dismiss the charge of employing a firearm during the commission of a dangerous felony on the ground that it violated the protection against double jeopardy, that the State failed to prove the requisite mens rea for aggravated assault, and that the trial court erred in determining the length of Defendant's sentences and ordering that some of the sentences run consecutively. Upon our review of the record, we conclude that Defendant's convictions do not violate double jeopardy principles, that the evidence is sufficient to sustain Defendant's convictions, and that the trial court did not err in determining the length of Defendant's sentences. After de novo review of Defendant's consecutive sentences, we affirm the alignment of the sentences imposed by the trial court.
5.	Status	Heard 2/8/17 in Nashville.

1.	Style	Stephen West, et al. v. Derrick Schofield, et al.
2.	Docket Number	M2015-01952-SC-RDM-CV
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	Supreme Court assumed jurisdiction pursuant to Tennessee Code Annotated section 16-3-201(d)(1).
5.	Status	Heard 10/6/16 in Nashville.

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	Application granted 1/18/17.
