

IN THE COURT OF APPEALS OF TENNESSEE  
AT JACKSON  
February 20, 2014 Session

**TONIE V. PETERSON v. GLENN E. LEPARD ET AL.**

**Circuit Court for Shelby County  
No. CT002421**

---

**No. W2013-00367-COA-R3-CV - Filed March 20, 2014**

---

**SEPARATE CONCURRENCE**

---

ALAN E. HIGHERS, P.J., W.S., concurring separately

Because the requirements of Tennessee Code Annotated section 27-5-103 were clearly not met in this case, I concur fully in the result reached in this case. However, I write separately again to express my disagreement with this Court's holding in *Bernatsky v. Designer Baths & Kitchens, L.L.C.*, No. W2012-00803-COA-R3, 2013 WL 593911 (Tenn. Ct. App. Feb. 15, 2013) namely, that the statutory requirement of giving "bond with good security" for "the cost of the cause on appeal" is not satisfied by paying an initial filing fee. I find the statute unambiguous, and therefore, there is no need to attempt to discern legislative intent based upon the less than compelling legislative history of various statutory schemes relied upon by the majority in *Bernatsky*.

---

ALAN E. HIGHERS, P.J., W.S.