

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs December 10, 2003

STATE OF TENNESSEE v. ROGER V. ALEXANDER

**Direct Appeal from the Circuit Court for Humphreys County
No. 10125 Allen W. Wallace, Judge**

No. M2002-02185-CCA-R3-CD - Filed March 2, 2004

DAVID G. HAYES, Judge, concurring.

I join with the majority in concurring that the Defendant is not entitled to the alternative sentence of Community Corrections. The Defendant is a Range II multiple offender, possessing a criminal history evincing a clear disregard for the law and whose past efforts at rehabilitation have failed. Thus, in the absence of evidence to the contrary, he is not entitled to the presumption in favor of alternative sentencing. Tenn. Code Ann. § 40-35-102(6). For this reason, I would affirm.

David G. Hayes, Judge