

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
February 14, 2006 Session

STATE OF TENNESSEE v. MARK A. SCHIEFELBEIN

**Circuit Court for Williamson County
No. I-1102-427**

No. M2005-00166-CCA-R3-CD - Filed March 7, 2007

AMENDED JUDGMENT

Came the defendant, Mark A. Schiefelbein, through counsel, and the State of Tennessee, through the attorney general, upon the defendant's appeal from the judgments of the Williamson County Circuit Court, where a jury convicted the defendant of seven counts of aggravated sexual battery and one count of especially aggravated sexual exploitation of a minor. Following extensive briefing, oral argument, and our review of the record and the applicable law, we modify the imposition of consecutive sentences but otherwise affirm the convictions and sentences.

For the sake of clarity, we express the following chart for equating the dual numbering of the various counts:

Count Number in Indictment and on Judgments (count numbers used herein for modification of judgments	Equivalent Count Numbers Used in Bill of Particulars, State Election of Counts, and the Court's Opinion
2	1
4	2
6	3
7	4
8	5
9	6
10	7
11	8.

(This judgment adjudicates the defendant's direct appeal from trial court case number I-1102-427; the issues in a consolidated but separate Tennessee Rule of Appellate Procedure 10

appeal, number M2005-02370-CCA-R10-CO, are adjudicated in a separate judgment bearing that case's appellate docket number.)

It is, therefore, ORDERED and ADJUDGED that the trial court's judgments be MODIFIED as follows:

(1) The sentences for indictment/judgment counts 2, 7, 8, and 9 shall be imposed to run concurrently with each other and concurrently with the sentence in count 4;

(2) The sentences for indictment/judgment counts 4, 6, 10 and 11 shall run consecutively to each other; and

(3) The judgment in count 11 shall be amended to reflect that the conviction is based upon Tennessee Code Annotated section 39-17-1005 (not section 39-17-105, as stated in the original judgment).

It is further ORDERED and ADJUDGED that, in all other respects, the judgments of the trial court are AFFIRMED.

It is further ORDERED that the judge who presided over the trial is disqualified from conducting further proceedings in this cause.

Further, it is ORDERED that the cause be REMANDED to the trial court for the modification of judgments as herein ordered, the execution of judgments, and the collection of costs below.

The costs of the appeal are taxed one-half (1/2) to the State of Tennessee and one-half (1/2) to the defendant, for which execution may issue if necessary.

This amended judgment shall replace the original judgment filed on February 8, 2007. Upon the entry of this amended judgment in lieu of the original judgment which is vacated, the parties' time for filing a Tennessee Rule of Appellate Procedure 11 application shall commence anew.

PER CURIAM
(Witt, Wedemeyer, JJ.,
Wade, P.J., not participating)