

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

**PAUL T. DAVIS v. STATE OF TENNESSEE**

**Criminal Court for Davidson County  
No. 2001-A-483**

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**No. M2006-01831-CCA-R3-HC - Filed January 31, 2008**

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**ORDER ON PETITION TO REHEAR**

The State of Tennessee has filed a petition requesting this court to rehear its opinion filed on December 3, 2007. In its petition, the State requests that the court reconsider our holding that Tennessee Rule of Civil Procedure 59 is not applicable to State habeas corpus proceedings brought by petitioners who are incarcerated as a result of criminal convictions in state courts. The State also takes issue with this Court's direction that upon remand, the trial court should appoint counsel to represent the petitioner during further proceedings.

Upon careful consideration of the petition to rehear, this Court has determined that the holdings in the opinion previously filed in this case shall stand. However, the petition to rehear is granted for the purpose of allowing this Court to substitute a new page 5 which essentially deletes two sentences which, upon further consideration, we deem to be misleading.

It is, therefore, ordered that the petition to rehear is granted for the purpose of withdrawing the opinion filed on December 3, 2007, and filing in its place the opinion filed this date. In all other respects, the petition to rehear is respectfully denied.

Costs are assessed against the State of Tennessee.

Per curiam  
(Welles, Witt, Thomas)