

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

Assigned on Briefs December 14, 2011

**MICHAEL BRANDON ADAMS v. MORGAN COUNTY CORRECTIONAL
COMPLEX ET AL.**

**Appeal from the Chancery Court for Morgan County
No. 1064 Frank V. Williams, III, Chancellor**

No. E2010-02346-COA-R3-CV - FILED-MARCH 7, 2012

CHARLES D. SUSANO, JR., J., dissenting.

I cannot concur in the majority opinion. The petitioner alleges that he entered his guilty plea and signed the waiver of right of appeal as a part of an agreement with prison officials that his punishment would be five days of punitive segregation and a five dollar fine. He alleges that, instead of the promised punishment, his visitation privileges were suspended for six months. It seems to me that, if he can prove all of this, his plea and waiver of right of appeal would be rendered invalid. If this be the case, his right to appeal would remain intact. I also believe his petition filed July 13, 2010, was timely as I believe the time for filing did not begin to run until Commissioner Ray's May 20, 2010, decision.

I would reverse the trial court's judgment and remand to the trial court for a hearing on the petitioner's allegations with respect to his promised punishment.

Accordingly, I respectfully dissent.

CHARLES D. SUSANO, JR., JUDGE