

**SUPREME COURT OF TENNESSEE  
 SUPREME COURT DISCRETIONARY APPEALS  
Grants & Denials List**

**Monday, May 4, 2009**

**GRANTS**

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<b><u>Nashville</u></b>				
Smith County Regional Planning Commission v. Hiwassee Village Mobile Home Park, LLC M2007-02048-SC-R11-CV	Smith County Circuit Court Judge John D. Wootten, Jr. No. 5013-W	Bennett, J., Affirmed and Remanded	Rule 11	<b>Granted</b> - Application of Hiwassee Village Mobile Home Park, LLC  <b>(Order attached hereto)</b>
<b><u>Knoxville</u></b>				
State of Tennessee v. Timothy P. Russell E2007-01477-SC-R11-CD	Knox County Criminal Court James B. Scott, Sp. J. and Judge Ray L. Jenkins Nos. 80135A, 84456, 84457 and 84458	Tipton, J., Appeal Dismissed	Rule 11	<b>Granted</b> - Application of Timothy P. Russell and Remanded to Court of Criminal Appeals; <b>Granted</b> - Motions of Timothy P. Russell  <b>(Order attached hereto)</b>
<b><u>Jackson</u></b>				

NONE				
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**SUPREME COURT OF TENNESSEE  
SUPREME COURT DISCRETIONARY APPEALS**

**Monday, May 4, 2009**

**DENIALS**

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<b><u>Nashville</u></b>				
Manfred Polk v. Tim Dunckle, et al M2008-00792-SC-R11-CV	Davidson County Circuit Court Judge Amanda McClendon No. 07C-1099	Per Curiam, Appeal Dismissed	Rule 11	<b>Dismissed</b> - Application of Manfred Polk  <b>(Order filed 04-28-2009)</b>
State of Tennessee v. Phillip Anthony Farris M207-02686-SC-R11-CD	Davidson County Criminal Court Judge Seth Norman No. 2006-A-748	Welles, J., Affirmed	Rule 11	<b>Denied</b> - Application of Phillip Anthony Farris
State of Tennessee v. Whitney Ann Gravs M2007-02415-SC-R11-CD	Sumner County Criminal Court Judge Dee David Gay No. CR284-20Q7	Smith, J., Affirmed	Rule 11	<b>Denied</b> - Application of Whitney Ann Graves

State of Tennessee v. Jovan Xavier Moore M2007-02515-SC-R11-CD	Bedford County Circuit Court Judge Robert G. Crigler Nos. 16059-16063	Witt, J., Affirmed in Part; Reversed in Part and Remanded	Rule 11	<b>Denied</b> - Application of Jovan Xavier Moore
State of Tennessee v. Kenneth Paul Vanderpool M207-00726-SC-R11-CD	Bedford County Circuit Court Judge Lee Russell Nos. 15390, 15399, 15414 and 15415	Woodall, J., Affirmed	Rule 11	<b>Denied</b> - Application of Kenneth Paul Vanderpool
Danny A. Stewart v. State of Tennessee M2007-02395-SC-R11-PC	Davidson County Criminal Court Nos. 2000-A-431, 2000-C-1395, 2002-I-11191	Witt, J., Affirmed	Rule 11	<b>Denied</b> - Application of Danny A. Stewart
<b><u>Knoxville</u></b>				
Allen P. Blye v. State of Tennessee E2007-02091-SC-R11-PC	Sullivan County Criminal Court Judge R. Jerry Beck No. C50328	McMullen, J., Affirmed	Rule 11	<b>Denied</b> - Application of Allen P. Blye
Daniel Lee Draper v. State of Tennessee E2007-01485-SC-R11-PC	Sullivan County Criminal Court Judge R. Jerry Beck No. C53,688	Tipton, J., Affirmed	Rule 11	<b>Denied</b> - Petition of Daniel Lee Draper
High Country Adventures, Inc., et al v. Polk County, Tennessee E2007-02678-SC-R11-CV	Polk County Chancery Court Judge Jerri Bryant No. 6924	Lee, J., Affirmed in Part, Reversed in Part	Rule 11	<b>Denied</b> - Application of Polk County, Tennessee <b>(Lee, J., not participating)</b>

Martin Charles Jones v. Howard Carlton Warden E2008-01737-SC-R11-HC	Johnson County Criminal Court Judge Lynn W. Brown No. 5252	Thomas, J., Affirmed	Rule 11	<b>Denied</b> - Application of Martin Charles Jones
Manufacturers Acceptance Corporation v. U. S. Bank National Association E2008-00122-SC-R11-CV	Knox County Chancery Court Chancellor Daryl Fansler No. 162477-2	Franks, J., Affirmed, Vacated and Remanded	Rule 11	<b>Denied</b> - Application of Manufacturers Acceptance Corporation <b>(Lee, J., not participating)</b>
Terilynn Nicholson, et al v. Rheubin Taylor, et al E2008-00285-SC-R11-CV	Hamilton County Circuit Court Judge John A. Turnbull No. 04-C-0951	Susano, J., Swiney, J. and Lee, J., Dismissed	Rule 11	<b>Dismissed</b> - Application of Terilynn Nicholson <b>(Lee, J., not participating)</b>
Thomas W. Overbay v. Howard Carlton, Warden E2008-00147-SC-R11-HC	Johnson County Criminal Court Judge Lynn W. Brown No. 5178	Smith, J., Affirmed	Rule 11	<b>Denied</b> - Application of Thomas W. Overbay
Debra A. Ripley v. Andeson County Board of Education E2007-02605-SC-R11-CV	Anderson County Chancery Court Chancellor William Everett Lantrip No. 07CH6804	Lee, J., Affirmed	Rule 11	<b>Denied</b> - Application of Debra A. Ripley <b>(Lee, J., not participating)</b>
State of Tennessee v. Eric R. Hinton E2007-00657-SC-R11-CD	Sevier County Circuit Court Judge Rex Henry Ogle No. 8953-III	Smith, J., Affirmed as Modified	Rule 11	<b>Denied</b> - Application of Eric R. Hinton
State of Tennessee v. Delmar Hugh Laughlin E2007-01988-SC-R11-CD	Sullivan County Criminal Court Judge R. Jerry Beck No. 49994	Wedemeyer, J, Affirmed	Rule 11	<b>Denied</b> - Application of Delmar Hugh Laughlin

State of Tennessee v. Alex Stevino Porter E2007-01101-SC-R11-CD	McMinn County Circuit Court Judge Carroll Ross No. 05-240	Smith, J., Affirmed	Rule 11	<b>Denied</b> - Application of Alex Stevino Porter
<b><u>Jackson</u></b>				
James Carter v. State of Tennessee W2008-01120-SC-R11-CO	Shelby County Criminal Court Judge John P. Colton, Jr. No. 92-04829	Glenn, J., Affirmed	Rule 11	<b>Denied</b> - Application of James Carter
Gerald Pendleton v. State of Tennessee W2007-02273-SC-R11-PC	Shelby County Criminal Court Judge Carolyn Wade Blackett No. 02-00512	Glenn, J., Affirmed	Rule 11	<b>Denied</b> - Application of Gerald Pendleton

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**SMITH COUNTY REGIONAL PLANNING COMMISSION v.  
HIWASSEE VILLAGE MOBILE HOME PARK, LLC**

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**No. M2007-02048-SC-R11-CV**

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**ORDER**

Upon consideration of the application of Hiwassee Village Mobile Home Park, LLC for permission to appeal and the record before us, the application is granted.

The Clerk is directed to place this matter on the docket for oral argument upon the completion of briefing.

PER CURIAM

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE

**STATE OF TENNESSEE v. TIMOTHY P. RUSSELL**

**Criminal Court for Knox County  
Nos. 80135A, 84456, 84457 & 84458**

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**No. E2007-01477-SC-R11-CD**

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**ORDER**

Timothy P. Russell has filed a pro se Tenn. R. App. P. 11 application for permission to appeal seeking review of the opinion filed by the Court of Criminal Appeals on December 4, 2008 dismissing his appeal on the ground that Mr. Russell's motion to withdraw his guilty plea and notice of appeal were untimely. In response to this Court's March 9, 2009 order, Mr. Russell filed a certified copy of the mail room log of the correctional facility where he is housed along with a motion requesting that this certified document be substituted for the uncertified document he had previously filed and a motion requesting the consideration of this document in accordance with Tenn. R. App. P. 14. We have determined that these motions are well-taken. It is, therefore, ordered that Mr. Russell's motion to substitute the certified copy of the mail room log for the uncertified copy of the mail room log and his motion to consider this document under Tenn. R. App. P. 14 are granted.

Having considered the application and the supporting materials, Mr. Russell's application for permission to appeal is hereby granted. The requirements of Tenn. R. App. P. 11(f) relative to briefing and argument are suspended in order to expedite the disposition of this case. *See* Tenn. R. App. P. 2.

The certified copy of the mail room log shows that Mr. Russell delivered a properly addressed piece of outgoing legal mail addressed to the trial court on June 5, 2007. It is undisputed that this outgoing legal mail was Mr. Russell's motion to withdraw his guilty plea. Because the trial court's judgment was entered on May 7, 2007, the delivery of this legal mail to the mail room of the correctional facility on June 5, 2007 was timely under Tenn. R. Crim. P. 49(d)(1). Since Mr. Russell's motion to withdraw his guilty plea was timely, it tolled the thirty-day period for filing the notice of appeal and thereby rendered the filing of Mr. Russell's notice of appeal timely.

It is, therefore, ordered that the December 4, 2008 opinion of the Court of Criminal Appeals dismissing Mr. Russell's appeal on the ground that his motion to withdraw his guilty plea and notice of appeal were untimely be and is hereby reversed. The case is remanded to the Court of Criminal Appeals for consideration of Mr. Russell's appeal on its merits.

**PER CURIAM**