

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

AMENDED
 Monday, April 26, 2010

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
NONE				
<u>Knoxville</u>				
NONE				
<u>Jackson</u>				
Corey Finley v. State of Tennessee W2009-01725-SC-R11-PC	Shelby County Criminal Court Judge W. Otis Higgs, Jr. No. 03-05912	Williams, J., Appeal Denied	Rule 11	Granted - Application of Corey Finley and Corey Finley's motion to proceed as indigent; Case remanded to the Court of Criminal Appeals for appointment of counsel and further proceedings under the Rules of Appellate Procedure. (Order filed 4-23-2010; attached hereto)

**SUPREME COURT OF TENNESSEE
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*** AMENDED ***

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DENIALS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
State of Tennessee v. David Anthony Avery, et al. M2008-01809-SC-R11-CD	Davidson County Criminal Court Judge Cheryl Blackburn No. 2006-C-2451	Wedemeyer, J., Affirmed	Rule 11	Denied - Application of David Anthony Avery (Order filed 4-23-2010)
Deja Vu of Nashville, Inc. Et al. v. The Metropolitan Government of Nashville and Davidson County et al. M2008-01393-SC-R11-CV	Davidson County Circuit Court Judge Walter C. Kurtz No. 06C-197	Clement, J., Affirmed in Part; Reversed in Part, Remanded	Rule 11	Denied - Application of Deja Vu of Nashville, Inc., d/b/a Deja Vu, Meroney Entertainment, Inc., d/b/a Ken's Gold Club, D.F. Group, Inc. d/b/a Anthony's Showplace, and Stephanie's Cabaret of Tennessee, LLC d/b/a Stephanie's Cabaret, Jane Doe I, and Jane Doe II (Order filed 4-23-2010)

Marcel Eluhu, M.D. v. HCA Health Services of Tennessee, Inc., d/b/a Centennial Medical Center M2008-01152-SC-R11-CV	Davidson County Chancery Court Chancellor Claudia Bonnyman No. 05-1012-I	Bennett, J., Affirmed in Part, Reversed in Part and Remanded	Rule 11	Denied - Application of Marcel Eluhu, M.D. (Order filed 4-23-2010)
Matthew Jackson v. State of Tennessee M2009-01846-SC-R11-CO	Robertson County Circuit Court Judge Michael R. Jones Nos. 01-0022, 01-0086	Smith, J., Woodall, J., Wedemeyer, J., Denied	Rule 11	Denied - Matthew Jackson's Petition to Rehear order denying Application for Permission to Appeal (Order filed 4-20-2010)
Donald Ray Mathis v. Marschella June Mathis M2008-01357-SC-R11-CV	Rutherford County Chancery Court Judge Royce Taylor No. 03-6160DR	Bennett, J., Affirmed in Part, Vacated in Part and Remanded	Rule 11	Denied - Application of Donald Ray Mathis; Denied - Marschella June Mathis' requests to declare the application for permission to appeal frivolous and to award her attorney's fees associated with preparing the response to the application. (Order filed 4-23-2010)
Mario Pisani v. State of Tennessee M2008-02206-SC-R11-PC	Rutherford County Circuit Court Judge Don R. Ash No. F-61243	McLin, J., Affirmed	Rule 11	Denied - Application of Mario Pisani (Order filed 4-23-2010)
In Re Radar Bonding Company, Inc. M2008-01161-SC-R11-CD	Davidson County Criminal Court Judge J. Randall Wyatt, Jr. No. 2005-C-2589	Woodall, J., Affirmed	Rule 11	Denied - Application of Radar Bonding Company, Inc. (Order filed 4-23-2010)
In the Matter of: The Estate of Lucille Annetta Schisler M2008-02479-SC-R11-CV	Lawrence County Chancery Court Judge Robert L. Jones No. 13861-08	Clement, J., Affirmed and Remanded	Rule 11	Denied - Application of Carroll Lynn Schisler, Sr. (Order filed 4-23-2010)

State of Tennessee v. Cyrus Randy Whitson M2007-02197-SC-R11-CD	Davidson County Criminal Court Judge Mark J. Fishburn No. 2005-D-3215	McMullen, J., Affirmed	Rule 11	Denied - Application of Cyrus Randy Whitson (Order filed 4-23-2010)
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Knoxville

Edgar Bailey, Jr. v. State of Tennessee E2009-00203-SC-R11-PC	Hamilton County Criminal Court Judge Rebecca J. Stern No. 270239	Witt, J., Affirmed	Rule 11	Denied - Application of Edgar Bailey, Jr. (Order filed 4-23-2010)
Tippy Lynn Bailey v. Roger Vall Grooms et al. E2008-01520-SC-R11-CV	Cocke County Circuit Court Judge Rex Henry Ogle No. 29,323-11	McClarty, J., Affirmed	Rule 11	Denied - Application of Tippy Lynn Bailey (Order filed 4-20-2010)
State of Tennessee v. Gabriel Cordova Delarosa E2008-01940-SC-R11-CD	Knox County Criminal Court Judge Mary B. Leibowitz No. 88414	Ogle, J., Affirmed	Rule 11	Dismissed - Application of Gabriel Cordova Delarosa (Order filed 4-22-2010)
Chivous S. Robinson v. State of Tennessee E2008-02257-SC-R11-PC	Knox County Criminal Court Judge Richard Baumgartner No. 78353	Thomas, J., Tipton, J., and Ogle, J., Denied	Rule 11	Denied - Application of Chivous S. Robinson (Order filed 4-20-2010)
Roy Allen Scott v. Jim Worthington, Warden E2008-02234-SC-R11-HC	Morgan County Circuit Court Judge E. Eugene Eblen No. 9417	Ogle, J., Affirmed pursuant to Rule 20	Rule 11	Denied - Application of Roy Allen Scott (Order filed 4-23-2010)

Jackson

Faye Black v. City of Memphis W2007-02562-SC-R11-CV	Shelby County Circuit Court Judge Rita L. Stotts No. 52438 TD	Kirby, J., Affirmed	Rule 11	Denied - Application of Faye Black; Granted - Motion to Appear <i>Pro Hac Vice</i> filed on behalf of Ernest Jarrett (Order filed 4-23-2010)
State of Tennessee v. Gayle Thomas Crawford W2009-00263-SC-R11-CD	Gibson County Circuit Court Judge Clayburn L. Peoples No. 8310	Glenn, J., Affirmed in Part; Reversed and Dismissed in Part	Rule 11	Denied - Application of Gayle Thomas Crawford (Order filed 4-23-2010)
Oliver J. Higgins v. State of Tennessee W2008-02693-SC-R11-PC	Hardin County Circuit Court Judge C. Creed McGinley No. 6755	Smith, J., Appeal Dismissed	Rule 11	Denied - Application of Oliver J. Higgins (Order filed 4-23-2010)
State of Tennessee v. Jason Scott Lomax et al. W2008-01615-SC-R11-CD	Lauderdale County Circuit Court Judge Joe H. Walker No. 8203-A	McLin, J., Affirmed	Rule 11	Denied - Application of Ophelia Lomax (Order filed 4-23-2010)
Derrick McClure v. State of Tennessee W2008-00444-SC-R11-PC	Shelby County Criminal Court Judge John P. Colton, Jr. No. P-26083	McLin, J., Affirmed	Rule 11	Denied - Application of Derrick McClure (Order filed 4-23-2010)
Jimmy Lee Taylor, Jr. v. State of Tennessee W2008-01890-SC-R11-PC	Lauderdale County Circuit Court Judge Joseph H. Walker, Jr. No. 8218	McMullen, J., Affirmed	Rule 11	Denied - Application of Jimmy Lee Taylor, Jr. (Order filed 4-23-2010)
Marcus Terry v. Tony Parker, Warden W2009-00710-SC-R11-HC	Lake County Circuit Court Judge Lee Moore No. 09-CR-9271	Glenn, J., Affirmed	Rule 11	Denied - Application of Marcus Terry (Order filed 4-19-2010)

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

COREY FINLEY v. STATE OF TENNESSEE

No. W2009-01725-SC-R11-PC

ORDER

The appellant, Corey Finley, has filed an application for permission to appeal. The sparse record before this Court indicates that the appellant was convicted of attempted first degree murder and aggravated assault and was sentenced to twenty-three (23) years. The convictions and the sentences were upheld on direct appeal. State v. Finley, 2008 WL 726527 (Tenn. Crim. App., March 18, 2008), appeal denied, (Tenn., Sept. 29, 2008). On May 21, 2009, the appellant filed a petition for post-conviction relief alleging, among other things, that he was denied the effective assistance of counsel. The petition alleged various facts in support of his claim of ineffective assistance of counsel. The appellant also sought the appointment of counsel. The state responded to the petition on June 11, 2009 asserting that the petition failed to state any specific grounds for relief. The trial court dismissed the petition without the appointment of counsel and without an evidentiary hearing on the same date that the state filed its response. On June 23, 2009, the appellant filed a motion to reconsider alleging that he did not receive a copy of the state's answer to the motion to dismiss so that he could file a proper response prior to the court's action on the petition. Further, he alleged that the court failed to enter an order specifying its findings of fact and conclusions of law in support of its decision. On August 24, 2009, the appellant filed a motion with the Court of Criminal Appeals to accept a late notice of appeal. The Court of Criminal Appeals entered an order on September 9, 2009 denying the motion. The court noted that the appellant had failed to attach the petition for post-conviction relief and the motion to reconsider the denial of post-conviction relief filed in the trial court to his memorandum of law. The court declined to waive the requirement of a timely notice of appeal in the interest of justice. Thereafter, the trial court entered an order on September 18, 2009 denying the motion to reconsider.

After due consideration of the application and the record as a whole, it is ORDERED that the application for permission to appeal is granted. It is also ORDERED that the timely filing of a notice of appeal is waived in the interest of justice and that the record shall be certified through the trial court and transmitted to the Clerk of the Appellate Court. Tenn. R. App. 24 and 25. The appellant's motion to proceed as indigent is granted, and the case is remanded to the Court of Criminal Appeals for the appointment of counsel and further proceedings under the Rules of Appellate Procedure.

PER CURIAM