

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

Monday, December 20, 2010

GRANTS

STYLE/APPEAL NUMBER	COUNTY TRIAL JUDGE TRIAL COURT NO.	APPELLATE JUDGE JUDGMENT	NATURE OF APPEAL	ACTION
<u>Nashville</u>				
State of Tennessee v. William C. Howse M2008-01827-SC-R11-CD	Davidson County Criminal Court Judge Cheryl Blackburn No. 2006-A-450	Woodall, J., Affirmed	Rule 11	Granted and Remanded to trial court to consider a correction of the judgment and sentence - Application of William C. Howse (Order filed 12-14-2010; copy attached)
<u>Knoxville</u>				
NONE				
<u>Jackson</u>				
NONE				

**SUPREME COURT OF TENNESSEE
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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. Norman Eugene Banks M2008-01823-SC-R11-CD	Coffee County Circuit Court Judge Charles Lee No. 35,1868	Woodall, J., Affirmed	Rule 11	Denied - Application of Norman Eugene Banks (Order filed 12-14-2010)
State of Tennessee v. Linda M. Moran M2009-00171-SC-R11-CD	Lincoln County Circuit Court Judge robert Crigler No. S0800053	Ogle, J., Affirmed	Rule 11	Denied - Application of Linda M. Moran (Order filed 12-15-2010)

Knoxville

NONE				
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Jackson

NONE				
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IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. WILLIAM C. HOWSE

**Criminal Court for Davidson County
No. 2006-A-450**

No. M2008-01827-SC-R11-CD

ORDER

The appellant, William C. Howse, filed an application for permission to appeal from the judgment of the Court of Criminal Appeals affirming his conviction for violation of the Sexual Offender Registration, Verification, and Tracking Act of 2004. The trial court sentenced the defendant as a Range I standard offender to one year, with ninety days to be served in confinement and the remainder on probation.

On April 22, 1993, the defendant was convicted of rape, a Class B felony and sentenced as a Range I offender to eight years. The record indicates that the defendant served one year in the county workhouse and was placed in a community corrections program. As a result of the conviction, the defendant was required to register as a sexual offender with the Tennessee Bureau of Investigation under the Sexual Offender Registration and Monitoring Act of 1994. Tenn. Code Ann. §§ 40-39-102, -103 (2003), repealed by 2004 Tenn. Pub. Acts p. 2125.

From September of 2000 until his recent registration with the sexual offender registry under a new address in February of 2006, the defendant apparently did not have any contact with the Tennessee Bureau of Investigation. During this period, he was indicted under the Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification, and Tracking Act of 2004 for violating the provisions of Tennessee Code Annotated sections 40-39-203 and -204 “on or about the first day of October, 2004.” Failure to comply with the sexual offender registration requirements is a continuing offense. Tenn. Code Ann. § 40-39-208(f) (2010); State v. Flatt, 227 S.W.3d 615, 620-21 (Tenn. Crim. App. 2006). On April 22, 2008, the trial court found the defendant guilty and, in June 2008, sentenced the defendant to one year, suspended after service of ninety days, day for day. The Court of Criminal Appeals affirmed.

The 2004 Act provides that “[a] violation of this part is a Class E felony. No person

violating this part shall be eligible for suspension of sentence, diversion or probation until the minimum sentence is served in its entirety.” Tenn. Code Ann. § 40-39-208(b). In this application for permission to appeal, the defendant argues that the judgment is illegal based upon the language of the statute. A sentence is illegal if in direct contravention of a statute in existence at the time the sentence is imposed. Taylor v. State, 995 S.W.2d 78, 84 (Tenn. 1999). Further, an illegal sentence may be corrected at anytime. State v. Burkhart, 566 S.W.2d 871, 873 (Tenn. 1978).

Because the sentence imposed appears to be in contravention of the statute, the application for permission to appeal is granted. The cause is remanded to the trial court to consider a correction of the judgment and sentence.

PER CURIAM