

Supreme Court Appeals  
Pending Cases  
(05-15-13)

1.	Style	Andrew K. Armbrister v. Melissa H. Armbrister
2.	Docket Number	E2012-00018-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/armbristeraopn.pdf">http://tncourts.gov/sites/default/files/armbristeraopn.pdf</a> <a href="http://tncourts.gov/sites/default/files/ambristerakdis.pdf">http://tncourts.gov/sites/default/files/ambristerakdis.pdf</a>
4.	Lower Court Summary	The parties were divorced on September 2, 2009, and the Trial Court entered a Permanent Parenting Plan. On February 11, 2011, the father filed a Motion to Modify the PPP, alleging a change in circumstances. Following trial of the issues, the Trial Court increased the number of days the father would have the children and reduced the award of child support. The mother has appealed, we reverse the Trial Court.
5.	Status	To be heard 05/30/13 at the Girls State S.C.A.L.E.S. project

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1.	Style	In re Baby
2.	Docket Number	M2012-01040-SC-R11-JV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/inre_baby_opn.pdf">http://www.tncourts.gov/sites/default/files/inre_baby_opn.pdf</a>
4.	Lower Court Summary	This case involves the status of the parties with respect to a baby conceived pursuant to a surrogacy agreement. The juvenile court determined that there was a valid surrogacy agreement and denied the surrogate's requests for relief from a final order ratifying the surrogacy agreement. We affirm the decision of the juvenile court.
5.	Status	Granted 05/07/13; Appellant's brief due 06/06/13

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1.	Style	Doris Cannon as Conservator for the Use and Benefit of Juanita E. Good v. Bhasker Reddy, M.D.
2.	Docket Number	M2012-01332-SC-S10-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a

5.	Status	Heard 02/06/13 in Nashville
1.	Style	City of Memphis, Tennessee et al. v. Tre Hargett, Secretary of State et al.
2.	Docket Number	M2012-02141-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/cityofmemphisopnjudorder.pdf">http://www.tncourts.gov/sites/default/files/cityofmemphisopnjudorder.pdf</a>
4.	Lower Court Summary	The City of Memphis and two persons who had to cast provisional ballots in the August 2012 election because they lacked sufficient photographic identification filed a declaratory judgment action seeking to have the photographic identification requirement for voting declared unconstitutional, or to have the Memphis library photographic identification card declared sufficient identification for purposes of the voting law. The trial court found that the plaintiffs did not have standing, that the photographic identification requirement was constitutional and that the Memphis library photographic identification card was not acceptable under the law as sufficient identification for voting. The plaintiffs appealed. We find that the plaintiffs have standing, that the law is constitutional and that the Memphis library photographic identification card is acceptable under the law as sufficient proof of identification for voting.
5.	Status	Heard 02/06/13 in Nashville
1.	Style	Jeffrey R. Cooper v. Phillip Glasser, et al.
2.	Docket Number	M2012-00344-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/cooperjr_opn.pdf">http://www.tncourts.gov/sites/default/files/cooperjr_opn.pdf</a>
4.	Lower Court Summary	Jeffrey R. Cooper (“Cooper”) sued Phillip Glasser, Richard Glasser, and David Glasser (“the Defendants”) in the Circuit Court for Davidson County (“the Trial Court”) 1 for, among other things, breach of contract. Cooper previously had filed two lawsuits arising out of the same underlying facts as those of this lawsuit. Both previous lawsuits, the first in a California state court and the second in a United States District Court in Tennessee, were voluntarily dismissed. The Defendants filed a motion for summary judgment. The Trial Court held that the second voluntary dismissal in federal court was a judgment on the merits under the Federal Rules of Civil Procedure, and, <i>res judicata</i> prevented Cooper from filing suit for a third time in Tennessee. Cooper appeals. We affirm.
5.	Status	To be heard 05/31/13 in Nashville
1.	Style	Jolyn Cullum et al. v. Jan McCool et al.
2.	Docket Number	E2012-00991-SC-R11-CV

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/cullumopn_1.pdf">http://www.tncourts.gov/sites/default/files/cullumopn_1.pdf</a>
4.	Lower Court Summary	This is a negligence case in which Jolyn Cullum and Andrew Cullum sued Jan McCool, William H. McCool, and Wal-Mart for injuries arising in a Wal-Mart parking lot. Wal-Mart filed a motion to dismiss, alleging that the Cullums had failed to state a claim upon which relief could be granted. The trial court dismissed the suit against Wal-Mart. The Cullums appeal. We reverse the decision of the trial court and remand the case.
5.	Status	Granted 05/14/13; Appellant's brief due 06/13/13

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1.	Style	Walter Ray Culp, III v. Board of Professional Responsibility
2.	Docket Number	M2012-01816-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 02/06/13 in Nashville

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1.	Style	Cristy Irene Fair v. Stephen Lynn Cochran
2.	Docket Number	E2011-00831-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://tncourts.gov/sites/default/files/fairciopn.pdf">http://tncourts.gov/sites/default/files/fairciopn.pdf</a> <a href="http://tncourts.gov/sites/default/files/faircidis.pdf">http://tncourts.gov/sites/default/files/faircidis.pdf</a>
4.	Lower Court Summary	The Trial Court dismissed this case based upon its finding that although plaintiff's Summons was issued the day she filed her Complaint, proof of service was not made to the clerk until 412 days later, and, because plaintiff had failed to comply with Tenn. R. Civ. P. 4, plaintiff was not entitled to rely on Tenn. R. Civ. P. 3 to toll the statute of limitations. Plaintiff appeals. We affirm.
5.	Status	Heard 01/03/13 in Knoxville

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1.	Style	Jim Hammond, Sheriff of Hamilton County et al. v. Chris Harvey et al.
2.	Docket Number	No. E2011-01700-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/hammondj.pdf">http://www.tncourts.gov/sites/default/files/hammondj.pdf</a>
4.	Lower Court Summary	Six sergeants (collectively "the Sergeants") employed by Jim Hammond, the

Sheriff of Hamilton County (“the Sheriff”), filed a grievance with the Hamilton County Sheriff’s Office Civil Service Board (“the Board”) complaining that there is an unlawful disparity in pay among the 19 sergeants on the force. The Board found a disparity and ordered the Sheriff “to equalize their pay and if all [s]ergeants do the same job that they should be paid the same if there is no written criteria to establish standards.” The Sheriff appealed to the trial court by petition for a writ of certiorari. The court (1) held that the Board was without authority to order the Sheriff to equalize the pay of the 19 sergeants and (2) declared the Board’s decision “null and void.” The Sergeants appeal. We modify the trial court’s judgment and remand to the Board with instructions.

5.	Status	Heard 01/03/13 in Knoxville
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1.	Style	Erik Hood v. Casey Jenkins, et al.
2.	Docket Number	E2011-02749-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/hoodopn.pdf">http://www.tncourts.gov/sites/default/files/hoodopn.pdf</a>
4.	Lower Court Summary	This appeal involves a claim for breach of a life insurance contract issued by Old Line. Father named his son, a minor, as the beneficiary of his life insurance policy. When Father died, the proceeds of the policy were issued to minor’s older sister, who depleted the funds. Beneficiary filed suit against Sister and Old Line, alleging that Sister misappropriated the life insurance proceeds and that Old Line erroneously awarded the proceeds to Sister without proper documentation. A default judgment was entered against Sister. Following a trial on Beneficiary’s claim against Old Line, the court ordered Old Line to re-issue a portion of the proceeds to Beneficiary. Old Line appeals. We affirm the decision of the trial court.
5.	Status	Granted 02/13/13; Appellant’s brief filed 03/15/13; Appellee’s notice of election filed 04/16/13
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1.	Style	Roger David Hyman v. Board of Professional Responsibility
2.	Docket Number	E2012-02091-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Appellant’s brief filed 03/25/13; Appellee’s brief filed 04/24/13
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1.	Style	Edith Johnson, et al. v. Mark C. Hopkins, et al.
2.	Docket Number	M2012-02468-SC-S09-CV

3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Granted 03/07/13; Appellant's brief filed 04/08/13; Appellee's brief due 06/17/13, after extension

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1.	Style	Kenneth E. King v. Anderson County
2.	Docket Number	E2012-00386-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/kingke.pdf">http://www.tncourts.gov/sites/default/files/kingke.pdf</a>
4.	Lower Court Summary	Kenneth E. King was arrested for driving on a revoked license. He was put in a cell with several violent criminals. At his arraignment, the court ordered him released. The person charged with processing the release delayed his release by simply doing nothing. While awaiting his release, Mr. King was assaulted by one of his cellmates. He sustained serious injuries, including partial loss of vision in one eye. He filed this action against Anderson County ("the County"). After a bench trial, the court found the County 55% at fault and King 45% at fault for provoking the assault. It determined that the total damages were \$170,000 reduced to \$93,500 to account for King's comparative fault. The County appeals. We affirm.
5.	Status	Granted 04/09/13; Appellant's brief filed 05/09/13; Appellee's brief due 06/10/13

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1.	Style	Fletcher Whaley Long v. Board of Professional Responsibility
2.	Docket Number	M2013-010420SC-R3-BP
3.	Lower Court Decision Link	N/A
4.	Lower Court Summary	N/A
5.	Status	Notice of Appeals Filed 05/01/13

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1.	Style	Neal Lovlace, et al v. Timothy K. Copley, et al.
2.	Docket Number	M2011-00170-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/lovlacenopncorr.pdf">http://www.tncourts.gov/sites/default/files/lovlacenopncorr.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/lovlacen.concurrence.dissent.pdf">http://www.tncourts.gov/sites/default/files/lovlacen.concurrence.dissent.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/lovlacevcopleysepcor.pdf">http://www.tncourts.gov/sites/default/files/lovlacevcopleysepcor.pdf</a>

4.	Lower Court Summary	<p>This is a modification of child visitation case, involving grandparent visitation. The Appellant grandparents appeal the trial court's order, denying their request for more visitation with the minor child, as well as the failure of the trial court to find the Appellee/Mother guilty of all alleged incidents of civil contempt. In the posture of Appellees, the mother and her husband (the child's adoptive father) argue that the Appellants are not entitled to any visitation. We conclude that in modification of grandparent visitation cases, if the parent is the movant, his or her burden is to show, by a preponderance of the evidence, that there has been a material change in circumstance affecting the child's best interest. However, where the movant is the non-parent, we hold that the grandparent visitation statute provides that the burden is on the non-parent to show, by a preponderance of the evidence, that there has been a material change in circumstance that would present a substantial risk of harm to the child if modification is denied. Because the trial court incorrectly applied the best interest standard, we vacate its order modifying the visitation arrangement. We also conclude that the trial court did not abuse its discretion in finding the mother in civil contempt on five counts; however, we conclude that the award of attorney's fees for that contempt is not clear as to what portion, if any, of those fees was expended for prosecution of the contempts, and what portion, if any, was expended in pursuit of the Appellees' attempt to modify the visitation order. Therefore, we also vacate the award of attorney's fees and remand for an award of those fees associated only with the prosecution of the contempts. Vacated in part, affirmed in part, and remanded.</p>
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5.	Status	Heard 02/07/13 in Nashville
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1.	Style	H. Owen Maddux v. Board of Professional Responsibility
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2.	Docket Number	E2012-01809-SC-R3-BP
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3.	Lower Court Decision Link	n/a
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4.	Lower Court Summary	n/a
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5.	Status	Heard 05/01/13 in Knoxville
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1.	Style	William H. Mansell v. Bridgestone Firestone North American Tire, LLC
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2.	Docket Number	M2012-02394-WC-R3-WC
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3.	Lower Court Decision Link	n/a
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4.	Lower Court Summary	n/a
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5.	Status	Heard 05/01/13 in Knoxville
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1.	Style	Aundrey Meals et al. v. Ford Motor Company
2.	Docket Number	W2010-01493-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/mealsaundreyopn.pdf">http://www.tncourts.gov/sites/default/files/mealsaundreyopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/mealsadis.pdf">http://www.tncourts.gov/sites/default/files/mealsadis.pdf</a>
4.	Lower Court Summary	Following a seven week trial, the jury returned a verdict in favor of Plaintiff in this products liability action. The jury awarded compensatory damages in excess of \$43 million, and assessed 15 percent fault against Defendant car manufacturer. Defendant appeals. We affirm the jury verdict with respect to liability but remand with a suggestion of remittitur.
5.	Status	Heard 04/03/13 in Jackson

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1.	Style	Herbert S. Moncier v. Board of Professional Responsibility
2.	Docket Number	E2012-00340-SC-R3-BP
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Heard 01/03/13 in Knoxville

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1.	Style	E. Ron Pickard, et al. v. Tennessee Water Quality Control Board, et al.
2.	Docket Number	M2011-02600-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/pickard_e_ronopn.pdf">http://www.tncourts.gov/sites/default/files/pickard_e_ronopn.pdf</a>
4.	Lower Court Summary	The Tennessee Department of Environment and Conservation issued a draft permit allowing a proposed rock quarry to discharge storm water and wastewater into a nearby creek. Owners of property allegedly affected by the discharge filed a declaratory order petition with the Water Quality Control Board, seeking a declaration construing the rules regarding the protection of existing uses of waters. The Water Quality Control Board dismissed the petition as not ripe. The Tennessee Department of Environment and Conservation subsequently issued a final permit to the quarry and the property owners filed both a permit appeal and another declaratory order petition with the Water Quality Control Board. The Water Quality Control Board again dismissed the declaratory order petition. The property owners subsequently filed a petition for a declaratory judgment in the Davidson County Chancery Court. The Water Quality Control Board and the Tennessee Department of Environment and Conservation argued that the petition was not ripe and that the property owners had not exhausted their administrative

remedies. In addition, the Water Quality Control Board and the Tennessee Department of Environment and Conservation argued that Tennessee Code Annotated Section 69-3-105(i) precluded the property owners from bringing a declaratory order petition prior to issuance of a permit. The trial court ruled in favor of the property owners and issued a declaratory judgment on the construction of Tennessee Compiled Rule and Regulation 1200-04-03-.06. We affirm the trial court's rulings with regard to ripeness, exhaustion of administrative remedies, and Tennessee Code Annotated Section 69-3-105(I), but reverse the grant of summary judgment on the construction of Tennessee Compiled Rule and Regulation 1200-04-03-.06 and remand for further proceedings.

5. Status To be heard 05/31/13 in Nashville

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1. Style Eddie C. Pratcher, Jr. v. Consultants in Anesthesia, Inc. et al.

2. Docket Number W2011-01576-SC-S09-CV

3. Lower Court Decision Link n/a

4. Lower Court Summary n/a

5. Status Heard 11/08/12 in Memphis

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1. Style Hong Samouth (Sam) Rajvongs v. Dr. Anthony Wright

2. Docket Number M2011-01889-SC-S09-CV

3. Lower Court Decision Link [http://www.tncourts.gov/sites/default/files/rajvongsh\\_opn\\_corr.pdf](http://www.tncourts.gov/sites/default/files/rajvongsh_opn_corr.pdf)

4. Lower Court Summary A patient who alleged that he had been negligently injured by his podiatrist filed a complaint against him for malpractice, and then voluntarily dismissed the complaint without prejudice. Less than a year later, he furnished the defendant podiatrist with the sixty day notice of potential claim required by a recently enacted statute, Tenn. Code Ann. § 29-26- 121(a). He subsequently refiled his complaint in reliance on his rights under the saving statute, Tenn. Code Ann. § 28-1-105. The defendant filed a motion for summary judgment, arguing that the complaint was time-barred under the saving statute because it was filed more than one year after the dismissal of the original complaint. The plaintiff contended, however, that he was entitled to the benefit of Tenn. Code Ann. § 29-26-121(c), which extends the statute of limitations on medical malpractice claims by 120 days if the plaintiff has complied with the sixty day notice requirement. The defendant responded by arguing that Tenn. Code Ann. § 29-26-121(c) does not apply to complaints filed under the saving statute. The trial court dismissed the defendant's motion for summary judgment, but allowed him to file an application for interlocutory appeal because of the novelty of the legal question involved. After careful consideration of the relevant statutes, we hold that Tenn.

Code Ann. § 29-26- 121(c) does apply to the saving statute, and we affirm.

5. Status Heard 02/07/13 in Nashville

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1. Style Velda J. Shore v. Maple Lane Farms, LLC et al.

2. Docket Number E2011-00158-SC-R11-CV

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/shoreopncorrected.pdf>

4. Lower Court Summary  
The plaintiff homeowner appeals from the trial court's dismissal of her complaint, in which the court found the defendants' farm activities were protected from the application of the local zoning laws by the Tennessee Right-to-Farm Act, Tennessee Code Annotated section 43-26-101, et seq. We affirm the judgment of the trial court.

5. Status Heard 01/03/13 in Knoxville

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1. Style State v. Prince Adams

2. Docket Number W2009-01492-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/adamspopn.pdf>

4. Lower Court Summary  
The defendant, Prince Adams, was convicted by a Shelby County jury of premeditated first degree murder and subsequently sentenced to life in the Tennessee Department of Correction. He now appeals his conviction, presenting five issues for our review: (1) whether the evidence is sufficient to support the conviction; (2) whether the trial court properly allowed into evidence photographs of the victim (a) while she was alive and (b) of her body at the crime scene; (3) whether the court properly denied the defendant's motion in limine with regard to the admission of his prior domestic violence charge; (4) whether the defendant is entitled to a new trial because an alternate juror left a note expressing his position with regard to the defendant's guilt, which was found by the jury foreperson prior to jury deliberations; and (5) whether the court correctly denied the defendant's request for a special jury instruction on diminished capacity. Following review of the record, we find no issue that would entitle the defendant to relief. As such, the conviction and sentence are affirmed.

5. Status Heard 11/08/12 in Memphis

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1. Style Tracy Rose Baker v. State

2. Docket Number M2011-01381-SC-R11-PC

3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/bakertropn.pdf">http://www.tncourts.gov/sites/default/files/bakertropn.pdf</a>
4.	Lower Court Summary	The Appellant, Tracy Rose Baker, appeals the post-conviction court's dismissal of her petition for post-conviction relief. The Appellant asserts that her guilty plea to criminal contempt charges is void due to constitutional infirmities stemming from the chancery court's failure to conduct an in-court guilty plea acceptance hearing at the time of her guilty plea. Because we conclude that the Post-Conviction Procedure Act is not applicable to the Petitioner's criminal contempt convictions, we affirm the post-conviction court's dismissal of the Appellant's petition.
5.	Status	To be heard 05/30/13 in Nashville

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1.	Style	State v. David Dwayne Bell
2.	Docket Number	E2011-01241-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/pcbellopn.pdf">http://www.tncourts.gov/sites/default/files/pcbellopn.pdf</a>
4.	Lower Court Summary	The defendant was indicted on one count of driving under the influence (DUI) and one alternative count of driving with a blood alcohol content of .08 or higher. Prior to trial, the defendant filed a motion to suppress certain evidence obtained by the police on the grounds that the defendant was arrested without probable cause. The trial judge granted this motion and ultimately dismissed both counts. On appeal, the State argues that the trial court erred by determining that the arresting officer did not have probable cause. After reviewing the record and the arguments of the parties, we conclude that the trial court committed no error and affirm its judgment accordingly.
5.	Status	Granted 03/05/13; State's Appellant brief filed 05/08/13; Appellee's brief due 06/07/13

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1.	Style	State v. Courtney Bishop
2.	Docket Number	W2010-01207-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/bishopcourtneyopn.pdf">http://www.tncourts.gov/sites/default/files/bishopcourtneyopn.pdf</a>
4.	Lower Court Summary	The defendant, Courtney Bishop, appeals his Shelby County Criminal Court jury convictions for felony murder and attempted aggravated robbery, challenging the sufficiency of the convicting evidence and the trial court's refusal to suppress his pretrial statement to police. Because the trial court erred by failing to suppress the defendant's statement, the defendant is entitled to a new trial. Because the evidence was insufficient to support the defendant's convictions for attempted aggravated robbery and first degree murder in the perpetration of attempted

aggravated robbery, those convictions are reversed. The conviction for attempted aggravated robbery is dismissed. The conviction for first degree murder is modified to one for second degree murder. Accordingly, the case is remanded for a new trial on the modified charge of second degree murder.

5. Status Heard 04/03/13 in Jackson

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1. Style Derrick Brandon Bush v. State

2. Docket Number M2011-02133-SC-R11-PC

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/bushdopn.pdf>

4. Lower Court Summary Derrick Brandon Bush (“the Petitioner”) pled guilty to two counts of attempt to commit rape in December 2000. On April 25, 2011, the Petitioner filed for post-conviction relief, alleging that his guilty plea was unconstitutional in light of *Ward v. State*, 315 S.W.3d 461 (Tenn. 2010), and that the one-year post-conviction statute of limitations should be tolled. After a hearing, the post-conviction court granted relief. The State appealed. Upon our thorough review of the record, we hold that the rule announced in *Ward* does not apply retroactively. Therefore, the Petitioner is not entitled to tolling of the statute of limitations pursuant to Tennessee Code Annotated section 40-30-102(b)(1). We also hold that the Petitioner is not entitled to tolling on due process grounds. Thus, the Petitioner’s claim for relief is barred by the statute of limitations. Accordingly, we reverse the judgment of the post-conviction court.

5. Status Heard 05/01/13 in Knoxville

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1. Style State v. Terrance Antonio Cecil

2. Docket Number M2011-01210-SC-R11-CD

3. Lower Court Decision Link [http://www.tncourts.gov/sites/default/files/cecilterranceopn\\_0.pdf](http://www.tncourts.gov/sites/default/files/cecilterranceopn_0.pdf)

4. Lower Court Summary A Maury County jury convicted the Defendant, Terrance Antonio Cecil, of assault and false imprisonment, both Class A misdemeanors. The trial court sentenced the Defendant to concurrent sentences of six months incarceration, with all but sixty days on each suspended, followed by ten months on probation. On appeal, the Defendant contends: (1) the evidence is insufficient to sustain his convictions; (2) the trial court erred when it considered his prior arrest record in sentencing; and (3) the trial court committed plain error by failing to instruct the jury on the lesser-included offenses of attempted false imprisonment and attempted assault. After a thorough review of the record and relevant authorities, we affirm the trial court’s judgments.

5. Status To be heard 05/29/13 at the Boys State S.C.A.L.E.S. project

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1.	Style	State v. Fred Chad Clark, II
2.	Docket Number	M2010-00570-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/clarkfredchadopn.pdf">http://www.tncourts.gov/sites/default/files/clarkfredchadopn.pdf</a>
4.	Lower Court Summary	<p>The Defendant, Fred Chad Clark, II, was found guilty by a Davidson County Criminal Court jury of seven counts of rape of a child and two counts of aggravated sexual battery. <i>See</i> T.C.A. §§ 39-13-522 (Supp. 2005, 2006) (amended 2007, 2011) (rape of a child), -504 (2006) (aggravated sexual battery). He was sentenced as a Range I offender to seventeen years for each rape of a child conviction and to ten years for each aggravated sexual battery conviction, to be served at 100% as a child rapist. The trial court ordered partial consecutive sentencing, for an effective thirty-four year sentence. On appeal, the Defendant contends that (1) the evidence is insufficient to support the convictions because the State failed to establish the corpus delicti; (2) there was a material variance between the proof and the State's election of offenses; (3) the trial court erred in admitting surreptitiously recorded conversations he had with his wife on January 18, 2007; (4) the trial court erred in admitting evidence of the Defendant's use of pornography; (5) the trial court erred in allowing a detective to offer opinion testimony about the Defendant's truthfulness; (6) the trial court erred in instructing the jury on the mental state of recklessness for the counts involving rape of a child; and (7) the trial court erred in sentencing by using an inapplicable enhancement factor and in imposing consecutive sentences. We affirm the judgments of the trial court in Counts V, VI, VII, IX, and X. Due to deficiencies in the election of offenses relative to Counts I, II, III, and IV, we reverse those convictions and remand the case for a new trial for those counts.</p>
5.	Status	Granted 02/13/13; Appellant's brief due 05/24/13, after extension

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1.	Style	State v. DeWayne Collier
2.	Docket Number	W2010-01606-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/collierdewayneopn.pdf">http://www.tncourts.gov/sites/default/files/collierdewayneopn.pdf</a>
4.	Lower Court Summary	<p>Following a Shelby County jury trial, the Defendant, DeWayne Collier, was convicted of aggravated statutory rape. At the time of the crime, the Defendant was forty-two years old and the victim was fourteen years old. The trial court sentenced the Defendant to four years as a Range II, multiple offender. On appeal, the Defendant argues that the trial court erred in denying his motion for judgment of acquittal and that the evidence was insufficient to support his conviction because the fourteen-year-old victim was an accomplice and there was not sufficient corroborating evidence. After a thorough review of the record</p>

on appeal, we conclude that the victim is legally an accomplice regardless of the fact that she cannot be indicted for her own statutory rape. However, we also determine that there is additional evidence to adequately corroborate her testimony. Therefore, we conclude that the evidence is sufficient to support the Defendant's conviction. We affirm the judgment of the trial court.

5. Status Heard 05/01/13 in Knoxville

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1. Style State v. Kevin Anthony Dickson

2. Docket Number E2010-01781-SC-R11-CD

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/dicksonkevinanthonyopn.pdf>  
<http://tncourts.gov/sites/default/files/dicksondissent2.pdf>

4. Lower Court Summary The Defendant, Kevin Anthony Dickson, Jr., was found guilty by the Sevier County Circuit Court of two counts of attempted first degree murder, a Class A felony, especially aggravated burglary, a Class B felony, two counts of aggravated assault, a Class C felony, and attempted aggravated robbery, a Class C felony. See T.C.A. §§ 39-13-202 (2010), 39-14-404 (2010), 39-13-102 (2006) (amended 2009, 2010, 2011), 39-13-402 (2010), 39-12-101 (2010). The trial court merged one count of aggravated assault into an attempted first degree murder conviction. The Defendant was sentenced as a Range I, standard offender to twenty-five years for each attempted first degree murder conviction, twelve years for especially aggravated burglary, and six years each for the aggravated assault and attempted aggravated robbery convictions. The trial court ordered the attempted first degree murder convictions to be served consecutively, for an effective sentence of fifty years. On appeal, the Defendant contends that (1) the evidence is insufficient to support his attempted first degree murder convictions, (2) his conviction for especially aggravated burglary is barred by Tennessee Code Annotated section 39-14-404(d), and (3) the trial court erred by applying improper sentencing enhancement factors and ordering partially consecutive sentences. We affirm the judgments for the attempted first degree murder of Christopher Lyons, aggravated assault, and attempted aggravated robbery. We reverse the judgments for the attempted first degree murder of Rodney Hardin and especially aggravated burglary and remand the case for sentencing and entry of judgments of conviction for attempted second degree murder and aggravated burglary.

5. Status To be heard 05/29/13 at the Boys State S.C.A.L.E.S. project

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1. Style Juan Alberto Blanco Garcia v. State

2. Docket Number M2012-01058-SC-R11-PC

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/garciajuanopn.pdf>

4. Lower Court Summary The petitioner, Juan Alberto Blanco Garcia, appeals the denial of his petition for

postconviction relief, arguing that he received the ineffective assistance of trial counsel and that his guilty pleas were unknowing and involuntary. Following our review, we affirm the postconviction court's denial of the petition.

5. Status Granted 04/09/13; Appellant's brief filed 05/08/13; State's response brief due 06/07/13

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1. Style State v. LeDarren Hawkins

2. Docket Number W2010-01687-SC-R11-CD

3. Lower Court Decision Link <http://tncourts.gov/sites/default/files/hawkinslsopn.pdf>

4. Lower Court Summary A Madison County jury convicted the Defendant, LeDarren S. Hawkins, of first degree murder and tampering with evidence, and the trial court sentenced him to serve an effective life sentence in the Tennessee Department of Correction. On appeal, the Defendant contends that the evidence is insufficient to support his convictions and that the trial court refused to instruct the jury regarding the defense of a third person as an affirmative defense. After a thorough review of the record and the applicable law, we affirm the trial court's judgments.

5. Status Heard 02/06/13 in Nashville

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1. Style State v. Noura Jackson

2. Docket Number W2009-01709-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/jacksonnouraopn.pdf>

4. Lower Court Summary [http://www.tncourts.gov/sites/default/files/jackson\\_noura\\_-\\_jsb\\_second\\_revised\\_concurring\\_opinion.pdf](http://www.tncourts.gov/sites/default/files/jackson_noura_-_jsb_second_revised_concurring_opinion.pdf)

The defendant, Noura Jackson, was convicted of second degree murder for the death of her mother, Jennifer Jackson, and sentenced to twenty years and nine months in the Department of Correction. On appeal, she argues that the trial court erred in the following rulings: (1) concluding that her conversation at the scene with a family friend, who is an attorney, was not subject to the attorney-client privilege; (2) concluding that the searches of the residence she shared with the victim and of a vehicle parked in the driveway were lawful; (3) allowing testimony of lay witnesses as to her use of "drugs"; (4) allowing testimony of her having sexual relations at a time after the murder, as to her eviction from an apartment after the murder, and as to her hospitalization at Lakeside Hospital after the murder; (5) allowing the victim's brother and sisters to testify as to arguments between the defendant and the victim prior to the murder; and (6) allowing certain photographs of the crime scene and the victim's body. Additionally, the defendant argues that she is entitled to a new trial because of (7) prosecutorial conduct consisting of references to the post-arrest silence of the defendant; suppression of the third statement of a State's witness; loudly

beginning its opening statement by saying, “Give me the f\*cking money”; using a misleading PowerPoint presentation during its closing argument; commenting on her right to remain silent; references to the Deity during closing arguments; commenting in closing argument on the length of the trial; treating as established facts which were not proven at trial; making personal attacks during closing statements upon her; and making additional improper statements during closing argument. Further, the defendant argues on appeal that (8) the evidence is insufficient to support her conviction for second degree murder and that (9) the court erred in imposing more than a minimum sentence. We have carefully reviewed the record and conclude that the arguments of the defendant are without merit. Accordingly, we affirm the judgment of the trial court.

5. Status Granted 04/09/13; Appellant’s brief due 07/08/13, after extension

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1. Style State v. Henry Lee Jones

2. Docket Number W2009-01655-SC-DDT-DD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/joneshenryopn.pdf>

4. Lower Court Summary Appellant, Henry Lee Jones, appeals from his convictions of two counts of premeditated first degree murder and two counts of felony murder and his sentences of death resulting from the August 2003 deaths of Clarence and Lillian James. At the conclusion of the penalty phase, the jury unanimously found the presence of four statutory aggravating circumstances relating to the murder of Mrs. James: (1) Appellant was previously convicted of two or more felonies involving the use of violence; (2) the murder was especially heinous, atrocious, or cruel; (3) the murder was committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of Appellant or another; and (4) the murder was knowingly committed while Appellant had a substantial role in committing any robbery. *See* T.C.A. § 39-13-204(i)(2), (5), (6), (7). The jury unanimously found the presence of the same four statutory aggravating circumstances with regard to the murder of Mr. James, as well as an additional statutory aggravating circumstance, that the victim was 70 years of age or older. *See id.* at (i)(14). The jury determined that these aggravating circumstances outweighed any mitigating circumstances and imposed sentences of death. On appeal, the following issues are presented for our review: (1) whether the trial court erred in admitting evidence of a subsequent murder; (2) whether the evidence is sufficient to support the convictions; (3) whether the trial court erred in admitting photographs of the victims; and (4) whether Tennessee’s sentencing statute for first degree murder is unconstitutional. After a review of the record and the applicable law, we affirm Appellant’s convictions and sentences of death and remand this matter to the trial court for entry of a single judgment of conviction for first degree murder with regard to each victim.

5. Status Transferred to Supreme Court 05/02/13

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1. Style Zoyle Jones v. State

2. Docket Number M2012-02546-SC-S09-CV

3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	Granted 04/10/13; Appellant's brief filed 05/09/13; Appellee's brief due 06/10/13

1.	Style	State v. Angela M. Merriman
2.	Docket Number	M2011-01682-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/merrimanangelamopn.pdf">http://www.tncourts.gov/sites/default/files/merrimanangelamopn.pdf</a>
4.	Lower Court Summary	The State of Tennessee appeals as of right the Warren County Circuit Court's dismissal of three counts of an indictment charging the defendant, Angela M. Merriman, with driving under the influence (DUI), second offense; felony reckless endangerment; and reckless driving. Following our review of a destruction of evidence issue under an abuse of discretion rather than a de novo standard, we affirm the judgment of the trial court.
5.	Status	Heard 10/02/12 in Nashville

1.	Style	State v. James Pollard
2.	Docket Number	M2011-00332-SC-R11-CD
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/pollardjamesopn.pdf">http://www.tncourts.gov/sites/default/files/pollardjamesopn.pdf</a>
4.	Lower Court Summary	Defendant, James Allen Pollard, was indicted by the Davidson County Grand Jury for first degree murder, felony murder, and especially aggravated robbery. Following a jury trial, Defendant was convicted as charged. The trial court merged Defendants' murder convictions and sentenced him to life in prison for first degree murder and to 18 years to be served at 100 percent for his especially aggravated robbery conviction, which was ordered to be served consecutively to his life sentence. Defendant appeals his convictions and asserts the following: 1) that the State violated the requirements of <i>Brady v. Maryland</i> , 373 U.S. 83, 83 S. Ct. 1194 (1963), when it failed to disclose evidence regarding State's witness Anthony Bowers; 2) the trial court erred by refusing to grant Defendant a continuance to investigate Anthony Bowers; 3) the trial court erred by denying Defendant's motion to suppress his statement to police; 4) the trial court erred by allowing Detective Windsor to testify regarding his opinion about whether Defendant acted in self-defense; 5) the trial court committed plain error by allowing an officer to testify regarding blood spatter; 6) the alleged errors constitute cumulative error requiring a reversal of Defendants' convictions; and

7) the trial court erred by ordering Defendant's sentences to run consecutively. After a careful review of the entire record, we affirm Defendant's convictions and the lengths of his individual sentences; however, we reverse the trial court's order of consecutive sentencing and remand for a new sentencing hearing in order for the trial court to state on the record the facts which support consecutive sentencing. *See State v. Wilkerson*, 905 S.W.2d 933, 938 (Tenn. 1995).

5. Status Granted 02/13/13; State's Appellant brief filed 04/19/13; Appellee's brief due 05/20/13

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1. Style State v. Marcus Pope

2. Docket Number W2012-00033-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/popemarcus.pdf>

4. Lower Court Summary Appellant, Marcus Pope, was indicted by a Shelby County grand jury for aggravated robbery, aggravated burglary, and employing a firearm during the commission of a dangerous felony. The trial court granted appellant's motion for judgment of acquittal on the charge of employing a firearm during the commission of a dangerous felony, and a jury convicted him of aggravated robbery and aggravated burglary. The trial court sentenced him to concurrent sentences of ten years for aggravated robbery and six years for aggravated burglary. Appellant challenges the sufficiency of the convicting evidence and the length of his sentences. Discerning no reversible error in the record, we affirm the judgments of the trial court.

5. Status Granted 04/09/13; Appellant's notice of election filed 05/09/13; State's response brief due 06/10/13

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1. Style State v. Corinio Pruitt

2. Docket Number W2009-01255-SC-R3-DD

3. Lower Court Decision Link [http://www.tncourts.gov/sites/default/files/state\\_of\\_tennessee\\_v\\_corinio\\_pruitt.pdf](http://www.tncourts.gov/sites/default/files/state_of_tennessee_v_corinio_pruitt.pdf)

4. Lower Court Summary Capital Appellant, Corinio Pruitt, appeals as of right from his conviction for first degree felony murder and his sentence of death resulting from the August 2005 death of Lawrence Guidroz. On February 29, 2008, a Shelby County jury found the Appellant guilty of one count of second degree murder and one count of first degree felony murder, and the trial court merged the conviction for second degree murder with the first degree murder conviction. At the conclusion of the penalty phase, the jury unanimously found the presence of three statutory aggravating circumstances; specifically, (1) the defendant had previously been convicted of one or more felonies involving the use of violence, (2) the murder was knowingly committed while the defendant had a substantial role in

committing a robbery, and (3) the victim was seventy (70) years of age or older. See T.C.A. § 39-13-204(i)(2), (7), (14). The jury further determined that these three aggravating circumstances outweighed any mitigating circumstances and imposed a sentence of death. The trial court approved the sentencing verdict. On appeal, the Appellant presents the following issues for our review: (1) whether the trial court erred in failing to find the Appellant intellectually disabled and ineligible for the death penalty, (2) whether the evidence is sufficient to support a conviction for first degree felony murder, (3) whether the trial court erred in permitting the introduction of the autopsy photographs of the victim, (4) whether application of the (i)(7) aggravating circumstance is constitutional, (5) whether the evidence is sufficient to support application of the (i)(7) aggravator, and (6) whether the sentence of death is proportionate in the present case. After a thorough review of the record and the applicable law, we affirm the judgment of the trial court.

5. Status Heard 06/14/12 in Nashville; Reargument heard 04/03/13 in Jackson

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1. Style State v. Henry Floyd Sanders

2. Docket Number M2011-00962-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/sandershenryfloyd.pdf>

4. Lower Court Summary Appellant, Henry Floyd Sanders, was indicted for six counts of aggravated sexual battery and four counts of rape of a child. On appellant's motion, the trial court dismissed one count of aggravated sexual battery on the grounds of insufficient evidence. The jury returned verdicts of guilty on all remaining counts. The trial court ordered appellant to serve partial consecutive sentences of ten years each for the aggravated sexual battery convictions and twenty years each for the rape of a child convictions, yielding an effective forty-year sentence. Appellant raises three issues on appeal: (1) whether the trial court erred in denying his motion to suppress his statements to a third party; (2) whether the trial court erred in denying his motion for judgment of acquittal due to a variance between the bill of particulars and the State's election; and (3) whether the trial court erred in ordering partial consecutive sentences. Discerning no error, we affirm the judgments of the trial court.

5. Status Granted 02/15/13; Appellant's brief filed 04/16/13; State's response brief due 05/16/13

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1. Style State v. Glover P. Smith

2. Docket Number M2011-00440-SC-R11-CD

3. Lower Court Decision Link <http://www.tncourts.gov/sites/default/files/smithgloverpn.pdf>

4.	Lower Court Summary	<p>A Rutherford County Circuit Court Jury convicted the appellant, Glover P. Smith, of fabricating evidence in counts 1 and 2 and filing a false report in counts 3 through 8. During a sentencing hearing, the trial court merged the appellant's convictions of filing a false report in counts 3, 4, and 5 and ordered that he serve an effective sentence of one year in jail followed by six years of probation. Subsequently, the trial court granted the appellant's motion for judgment of acquittal as to the fabricating evidence convictions based upon insufficient evidence. On appeal, the State contends that the trial court erred by granting the appellant's motion for judgment of acquittal. In a counter-appeal, the appellant maintains that the evidence is insufficient to support the convictions; that the trial court improperly instructed the jury on "knowingly"; that newly discovered evidence warrants a new trial; that the State committed a Brady violation; that his multiple convictions in counts 3, 4, and 5 and in counts 6, 7, and 8 violate double jeopardy; that the trial court improperly enhanced his sentences and improperly denied his request for full probation; and that the cumulative effect of the errors warrants a new trial. Based upon the oral arguments, the record, and the parties' briefs, we conclude that the trial court erred by granting the appellant's motion for judgment of acquittal and reinstate his convictions of fabricating evidence in counts 1 and 2, the merger of the convictions, and the sentence. We also conclude that the trial court should have dismissed the charges of filing a false report in counts 4 and 5 because they were multiplicitous with the charge in count 3. The appellant's remaining convictions and sentences for filing a false report in counts 6, 7, and 8 are affirmed.</p>
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5.	Status	Granted 12/13/12; Appellant's notice of election filed 01/08/13; State's response brief filed 04/22/13
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1.	Style	State v. William Darelle Smith
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2.	Docket Number	M2010-01384-SC-R11-CD
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/smithwilliamopn.pdf">http://www.tncourts.gov/sites/default/files/smithwilliamopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/smithwilliamdarrelcon.pdf">http://www.tncourts.gov/sites/default/files/smithwilliamdarrelcon.pdf</a>
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4.	Lower Court Summary	<p>A Davidson County jury convicted the Defendant, William Darelle Smith, of first degree premeditated murder, and the trial court sentenced the Defendant to serve a life sentence in the Tennessee Department of Correction. The Defendant appeals his conviction, claiming the following: (1) the trial court erred when it allowed the Defendant's girlfriend to testify about threatening statements the Defendant made two or three days before the victim's murder; (2) the evidence is insufficient to support his conviction; and (3) the trial court erred when it failed to inquire into possible juror misconduct. After a thorough review of the record and applicable law, we affirm the trial court's judgment.</p>
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5.	Status	Heard 02/07/13 in Nashville
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1.	Style	State v. Michael Shane Springer
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2.	Docket Number	W2010-02153-SC-R11-CD
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3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/springermopn.pdf">http://www.tncourts.gov/sites/default/files/springermopn.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/springermcon.pdf">http://www.tncourts.gov/sites/default/files/springermcon.pdf</a> <a href="http://www.tncourts.gov/sites/default/files/springermichaelconglenn.pdf">http://www.tncourts.gov/sites/default/files/springermichaelconglenn.pdf</a>
4.	Lower Court Summary	The Defendant pled guilty to two counts of rape of a child and reserved the following certified question: “Whether the Trial Court erred in failing to grant the defendant’s Motion to Dismiss alleging the State violated the provisions of the Interstate Agreement on Detainers (T.C.A. 40-31-101 et seq, U.S. Code Title 18-App) and the anti-shuttling provisions therein pursuant to <i>Alabama v. Bozeman</i> , 5[3]3 U.S. 146 (2001).” For differing reasons, the majority of this panel affirms the Defendant’s convictions.
5.	Status	Heard 02/06/13 in Nashville
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1.	Style	Christine Stevens ex rel. Mark Stevens v. Hickman Community Health Care Services, Inc. et al.
2.	Docket Number	M2012-00582-SC-S09-CV
3.	Lower Court Decision Link	n/a
4.	Lower Court Summary	n/a
5.	Status	To be heard 05/30/13 in Nashville
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1.	Style	Westgate Smoky Mountains at Gatlinburg v. Karla Davis, Commissioner of the Tennessee Department of Labor and Workforce Development et al.
2.	Docket Number	E2011-02538-SC-R11-CV
3.	Lower Court Decision Link	<a href="http://www.tncourts.gov/sites/default/files/westgateopn.pdf">http://www.tncourts.gov/sites/default/files/westgateopn.pdf</a>
4.	Lower Court Summary	This is an unemployment compensation case. Cynthia L. Vukich-Daw filed a claim for unemployment compensation following her termination from Westgate Resorts. The claim was originally granted by the Tennessee Department of Labor and Workforce Development and subsequently upheld by the Appeals Tribunal and the Board of Review. Westgate Resorts filed a petition for judicial review, and the trial court reversed the Board of Review’s decision, finding that Cynthia L. Vukich-Daw was ineligible to receive unemployment compensation benefits because she was a qualified real estate agent pursuant to Tennessee Code Annotated section 50-7-207. Cynthia L. Vukich-Daw and the Tennessee Department of Labor and Workforce Development appeal. We reverse the decision of the trial court.
5.	Status	To be heard 05/30/13 at the Girls State S.C.A.L.E.S. project