HOW TO MAKE BETTER SESSIONS JUDGES:  
APPELLATE REVIEW

A PROPOSAL TO REFORM TENNESSEE’S GENERAL SESSIONS COURTS FOR THE 21ST CENTURY

Willie Santana

I. INTRODUCTION

In the past several years, general sessions judges have made headlines for illegal behavior such as bribery,\(^1\) obstruction of justice and witness tampering,\(^2\) judicial ethics


violations,\textsuperscript{3} obvious lapses of judgment,\textsuperscript{4} and even suspect\textsuperscript{5} and unconstitutional behavior.\textsuperscript{6} This misconduct from the bench hurts society’s trust in the judiciary, but the damage is not merely academic. Judicial misconduct also does very real and immediately applicable damage to the people directly involved in criminal cases: victims who may never see justice, and those accused of crimes whose very future depends on an impartial administration of justice. That is an unfortunate state of affairs


for Tennessee’s general sessions courts because they serve several important functions, particularly in criminal cases.\(^7\)

Tennessee, like many states and the national government, operates a four-tier justice system.\(^8\) The Tennessee Supreme Court and the intermediate appellate courts occupy the top two tiers. These are followed in the third tier by the courts of record, which are made up of the chancery courts, the circuit courts and, in a few judicial districts with heavy criminal dockets, the criminal courts. Finally, the fourth tier is made up of courts of limited jurisdiction, with the general sessions courts as well as the juvenile courts and municipal courts.\(^9\)

The fourth-tier description does not reflect the volume or importance of these courts to the criminal justice system. General sessions courts make initial bail decisions, hold preliminary hearings, evidentiary hearings, and are responsible for adjudicating the vast majority of misdemeanor cases. These courts are not considered courts of record, and despite the importance of these courts to the judicial system, they are largely insulated from appellate review.\(^10\)

\(^7\) Although general sessions courts have equally critical functions in the context of civil law, such as landlord-tenant law decisions, the collection of debts, the recovery of personal property, and, in many counties, exercising juvenile justice and domestic relations jurisdiction, this article will focus primarily on the courts’ criminal justice functions.


\(^9\) See id. The other fourth-tier courts noted here are more restricted in terms of territorial and subject matter jurisdiction than the general sessions courts, so the similarities between these courts are few.

II. APPELLATE REVIEW

Appellate review is a crucial function of common law jurisprudence. Appellate review provides consistency in decision making as an oversight function over lower courts. By affirming, reversing, or remanding cases, appellate courts police the conduct of the lower courts and signal proper legal policies.\textsuperscript{11} Thus, “[a]ppellate oversight [of] the lower tiers of the . . . judicial hierarchy . . . promote legal rules that will guide decision making” within the bounds of the law.\textsuperscript{12} Tennessee general sessions courts, in present form, defy the norm because any and all appeals of decisions made by a general sessions court result in a de novo proceeding;\textsuperscript{13} thus, these courts lack any corrective oversight. When a higher court reverses or otherwise alters a general sessions court decision, there is no communication to the lower court that its process, procedure, or rationale was erroneous, improper, or misguided.\textsuperscript{14} The general sessions judge continues using the same incorrect process, procedure, or rationale in future cases, harming ever more litigants. The current appeals process may remedy an individual case, but it does nothing to remedy systemic issues with the administration of justice. Whether related to the lack of appellate review or not, appeals from general sessions court decisions are exceedingly rare.\textsuperscript{15}


\textsuperscript{12} Id. at 145.


III. TENNESSEE GENERAL SESSIONS COURTS

a. HISTORY

General sessions courts are relatively young in Tennessee. Although their jurisdiction can vary slightly from county to county, these courts are critical to the administration of justice. As designed, these courts facilitate the speedy adjudication of cases alleging misdemeanors. In felony cases, the general sessions courts ideally serve as the first set of checks against baseless or weak prosecutions, and can preserve scarce judicial resources by quickly and efficiently ruling on evidentiary and search and seizure issues. As discussed later in this article, when exercising those functions, general sessions courts look and act more like federal magistrate judges.

From the very beginning of the Tennessee judiciary, there was a need for a court of convenience where small disputes and misdemeanors could be resolved relatively quickly if a circuit court was not available. Originally, the justices of the peace filled this need. Over time, different counties vested justices of the peace with different jurisdictional mandates with respect to misdemeanors. The end result was a byzantine morass where a criminal defendant’s ability to resolve a misdemeanor varied greatly by geography. Largely however, the justices of the peace, often non-lawyers, could accept misdemeanor plea agreements and determine whether a person should continue to be held on felony charges until a

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17 See id.
18 See Waugh v. State, 564 S.W.2d 654, 659 (Tenn. 1978) (noting that the preliminary hearing is not a “judicial rubber stamp for prosecutorial discretion”) (quoting Kenneth Graham & Leon Letwin, The Preliminary Hearing in Los Angeles, 18 UCLA L. Rev. 636 (1971)); see also infra Part IV.
22 Id.
grand jury could be assembled by the circuit court judge.\textsuperscript{23} The justices of the peace were the court of convenience in Tennessee until the appearance of the general sessions court.

The first general sessions court in Tennessee was established in Nashville in 1937.\textsuperscript{24} Over time, other general sessions courts were established across the state through various private acts.\textsuperscript{25} These courts, then novel, were vested with the same jurisdiction over criminal matters as justices of the peace, but their exact mandate varied from county to county.\textsuperscript{26} Then, in 1959, the Tennessee General Assembly, the state’s bicameral legislature, enacted legislation calling for the creation of a general sessions court in each county.\textsuperscript{27} The legislature formalized the importance of preliminary examinations in 1971\textsuperscript{28} and 1974\textsuperscript{29} and, by implication, reaffirmed the importance of the general sessions courts in the criminal justice system. A recording requirement for preliminary examinations and pleas was introduced in 1979,\textsuperscript{30} and the preliminary hearing is now recognized as a critical phase of a criminal proceeding affording a defendant the right to counsel.\textsuperscript{31} The general sessions courts took another step in dignity and importance when the General Assembly required all general sessions judges to be licensed to practice law in the state in 1990.\textsuperscript{32} Interestingly, although general sessions courts slowly subsumed the jurisdiction of the justices of the peace, these justices retained limited judicial jurisdiction until 2003.

\textsuperscript{23} Robert Little, \textit{Don't Miss a Move: Making Rules 5 and 5.1 Work for Your Clients in General Sessions Court}, 2001 TENN. B.J. 12, 13.
\textsuperscript{25} Ellis, \textit{supra} note 21 at 459.
\textsuperscript{26} See id.
\textsuperscript{28} Tenn. Pub. Act of 1971, ch. 245.
\textsuperscript{30} Prior to 1979, the “unwieldy, unworkable and unrealistic” requirement was that the magistrate reduce all testimony taken during a preliminary hearing to writing. Wright v. State, 549 S.W.2d 682, 683 (Tenn. 1977).
\textsuperscript{31} See generally McKeldin v. State, 516 S.W.2d 82 (Tenn. 1974).
\textsuperscript{32} Tenn. Code Ann. § 16-15-5005 (2020) (grandfathering in nonlawyer judges in office at the time the statute came into effect). Presumably, a nonlawyer general sessions judge may still be in office.
when the General Assembly entirely divested justices of the peace of their remaining judicial authority.\footnote{33}{Tenn. Pub. Act of 2003, ch. 310.}

b. Present

The role of the general sessions court in our criminal justice system has changed over time. The number of general sessions courts have grown as have their caseloads and functions.\footnote{34}{See generally TENN. ADMIN. OFF. CT. ANN. REP. supra note 15.} In the past several decades, the proliferation of economical and accurate recording technology has allowed general sessions courts to operate as quasi-courts of record.\footnote{35}{Preliminary hearings in General Sessions Court are preserved “by electronic recording or its equivalent.” Tenn. R. Crim. P. 5.1.} However, because “Tennessee lacks standard caseload data from general sessions courts,”\footnote{36}{INDIGENT REPRESENTATION TASK FORCE, Liberty & Justice for All: Providing Right to Counsel Services in Tennessee 10 (April 2017) (citing Denise Denton et. al., The Need for Standardized Caseload Data in Tennessee Courts, TENN. DEPT. TREASURY (May 2001), available at www.comptroller.tn.gov/Repository/RE/judcase2001.pdf).} it is impractical to fully analyze the work of these courts in the system. In a 2011 report to the Tennessee General Assembly, the Administrative Office of the Courts wrote:

A large majority of criminal cases originate and are disposed of in Tennessee’s general sessions courts. The sheer volume of these cases places one of the greatest demands on the indigent defense fund. Unfortunately, accurate statistics for activities in general sessions courts are not available. Despite recommendations from the Comptroller’s Office and requests from the Administrative Office of the Courts (“AOC”), the legislature has never provided funding to gather and analyze this data. As a result, the typical
general sessions case can be described based only on anecdotal information. However, judges and lawyers from numerous jurisdictions across the state report a similar experience: crowded dockets consisting of numerous defendants . . . 37

Whatever the overall number of cases filed in general sessions courts, the general consensus among court clerks is that the number of filings is growing. 38 The result of all the “phenomenal caseload growth” in the dockets and functions of the general sessions court, as recognized by Nashville’s criminal general sessions on its own website, is an evolution into a modern and dynamic court. 39 In the largest counties in the state, these courts are organized in multiple divisions, have their own rules of court, 40 and some are even organized by


38 This lack of transparency is woefully inadequate, unacceptable, and should be addressed as recommended by the Tennessee Supreme Court’s Indigent Representation Task Force. See id. At a minimum, these courts should report: (1) the total number of cases filed, (2) the class of these charges, (3) whether these were misdemeanors or felonies, (4) how many of these cases were bound over to the grand jury upon a waiver, (5) how many of these cases were bound over to the grand jury after a preliminary hearing, (6) how many of cases were dismissed for want of probable cause after a preliminary hearing, and (7) release conditions set to include the amount of money bail, and the number of signature or recognizance bonds.


subject matter. Today, the general sessions courts are not mere courts of convenience — they are the workhorse of the judiciary. Such workhorses should be able to stand up to scrutiny of their work. It is time that they are invited into the club of courts of record.

IV. ANALOGY TO THE U.S. MAGISTRATE JUDGES

The proposals made here, and the results projected from them, are not mere academic suppositions, but rather educated projections made from studying an analogous fourth-tier court that has already made a similar transition: The United States Magistrate Judge. Like Tennessee’s general sessions courts, these judges can trace their origins back to the earliest judiciary architecture of the nation. Also like the general sessions courts, the precursors to the magistrate judges were very limited in their duties and scope of their responsibilities. These later-named “United States Commissioners” had the authority to issue search and arrest warrants and to administer oaths. Over time, Congress tinkered with the scope of authority and jurisdictional mandates of the judicial commissioners. Eventually, like general sessions courts and the

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41 See, e.g., General Sessions Judges, KNOX COUNTY COURTS, https://www.knoxcounty.org/gsjudges/index.php (last visited Oct. 5, 2020) (In Knox County, the courts are divided in the following subject matters: misdemeanor cases, DUI cases, felony cases, traffic and bonded-arraignment cases, and civil cases).
43 Act of March 2, 1793, ch. 22, § 4, 1 Stat. 334.
44 Act of May 28, 1896, ch. 252, §§ 19, 21, 29 Stat.184; McCabe, supra note 42.
How to Make Better Sessions Judges

former justices of the peace, these commissioners could also try “petty offenses.” The piecemeal tinkering resulted in a “great deal of confusion . . . about the procedures and purpose” of the preliminary hearings presided over by the commissioners similar to the byzantine morass that faced general sessions courts in Tennessee prior to the 1959 general act. However, unlike general sessions courts, the U.S. Magistrate Judge system was reformed in 1979 with the explicit goal “to cull from the ever-growing workload of the U.S. district courts matters that are more desirably performed by a lower tier of judicial officers.” This reform appears to have been successful in this goal. In 2018, U.S. Magistrate Judges tried 116,086 misdemeanors and petty offenses and handled 426,865 preliminary proceedings in felony cases. They disposed of 117,540 non-dispositive motions and issued 3,889 dispositive rulings in felony cases. It is not difficult to imagine the backlog that would result in the U.S. District Courts if the magistrate judges did not dispose of these matters.

Despite the many similarities between the U.S. Magistrate Judges and the general sessions courts, no analogy is perfect. There are fundamental differences between these two fourth-tier courts. The U.S. Magistrate judges are under the direct supervision of the U.S. District Judges and these judges also control the level of discretion the magistrate judge exercises. Magistrate Judges make recommendations in the

45 McCabe, supra note 42 at 4.
49 Id.
50 See Legislative History of the Federal Magistrate Judges System, supra note 47 at 21–22.
form of a report.\textsuperscript{51} That is not the case for general sessions judges. That is a feature of the general sessions courts that should be preserved in any reform effort. In essence, by reforming the general sessions courts as advocated here, the Tennessee judiciary would gain the benefits of the U.S. Magistrate Judge system without any of its limitations.

V. PROPOSALS FOR REFORM

Clearly, general sessions courts have outgrown their humble beginnings. In many ways, these courts are best suited to hear misdemeanors and evidentiary hearings in felony matters. Due to the short timeframes involved in general sessions criminal litigation, cases can be adjudicated more quickly in general sessions courts, thus achieving procedural justice not just for criminal defendants, but also for victims of crime. This speed is a benefit to both the criminal justice system and a society that “cares about delay because of the effect of a backlog in public perception.”\textsuperscript{52} In order for general sessions courts to achieve their full potential as full-fledged courts, and afford the Tennessee justice system the full benefit of these valuable tribunals, some minor statutory and procedural changes are needed.

\textsuperscript{51} Id. at 19.

\textsuperscript{52} See Eisenberg & Clermont, infra note 56 at 177.
a. Make General Sessions Courts the Courts of Record for Misdemeanor Trials and Evidentiary Hearings

General sessions courts make countless decisions that are critical to the rights of victims and criminal defendants, yet these decisions are not preserved for review.53 These courts make bail decisions, hold probation revocation hearings, and are more than capable of hearing pretrial motions to suppress illegally obtained evidence.54 Unfortunately, only specifically enumerated rules of the Tennessee Rules of Criminal Procedure are applicable to the general sessions courts.55 That means that the rules governing discovery56 and pretrial motions57 are not applicable to the general sessions courts. If they were, then these hearings would be required to be preserved verbatim.58 Thus, the only hearing in general sessions court that must be recorded under current rules are those involving guilty pleas59 and preliminary hearings.60 Perplexingly, there does not appear to be a requirement that misdemeanor bench trials heard in general sessions courts in accordance with Tenn. Code Ann. § 40-1-109 be recorded.

In order to transform general sessions courts into courts of record, Rule 16 and 12(b) of the Tennessee Rules of Criminal Procedure should be made applicable to the general sessions courts.61 Additionally, Tenn. Code Ann. § 40-1-109 should be amended to require a verbatim record by electronic recording or its equivalent. In fact, this change would more accurately reflect the present status of recording in the state’s general sessions courts. An informal survey of a half dozen criminal law practitioners from across the state revealed that most general sessions courts already record these types of proceedings.62

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55 Tenn. R. Crim. P. 1.
56 Tenn. R. Crim. P. 16.
57 Tenn. R. Crim. P. 12(b).
59 State v. Mackey, 553 S.W.2d 337, 341 (Tenn. 1977).
60 See Little, supra note 23.
61 Rule 16 relates to discovery and inspection and Rule 12(b) governs the timing of pretrial motions.
Making Rule 16 applicable to general sessions courts would aid in judicial economy by alerting the state and criminal defendants to potential issues much earlier in the process and would better achieve the result the legislature intended when it formalized the preliminary hearing in the 1970s. This general sessions discovery disclosure should not, and would not, preclude the state from investigating further in more serious cases, it would merely require the state to turn over what it has in its possession at the time of the general sessions proceeding. This change should also have the added benefit of improving police work in the state by encouraging law enforcement to be more judicious in making charging decisions, because the basis of their arrests would be more stringently tested earlier in the process. The exclusionary rule creates a similar positive effect on policing. Finally, disclosure of discovery at this stage would improve the quality of both preliminary hearings and misdemeanor bench trials fulfilling the Crawford requirement of meaningful cross-examinations under oath for the preservation of testimony.

For very similar reasons, making Rule 12(b) applicable in the general sessions court would encourage defendants to address evidentiary issues much earlier in the process than it is


65 Id.

66 See Crawford v. Washington, 541 U.S. 36 (2004) (holding that hearsay statements deemed testimonial may only be admitted at trial if the declarant is unavailable and the defendant has had a meaningful prior opportunity to cross-examine the declarant).

67 Improving the quality of preliminary hearings this way would not just be a benefit to defendants, but also to prosecutions. The exchange of discovery prior to a preliminary hearing all but eliminates the possible objections to the use of this prior testimony in a jury trial when a state witness becomes unavailable after the preliminary hearing.
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practicable under the status quo. With lawyers sitting on the bench in all, if not most, of the general sessions courts in the state, there is no longer a necessity to establish a de novo record in criminal or circuit court that could yield a better result. What benefit is it to the judicial system, victims, and defendants for a case to be bound over to the grand jury for indictment if it has serious, dispositive evidentiary problems? With adequate discovery and proper preservation, evidentiary issues can be litigated earlier in the process. Finally, through the addition of appellate review, the quality of decisions by the general sessions bench would be more uniform and within the bounds of the law.68

b. MAKE MISDEMEANOR BENCH TRIALS APPEALABLE AS OF RIGHT TO THE COURT OF CRIMINAL APPEALS

Currently, all appeals from general sessions courts are de novo proceedings in circuit or criminal court.69 That made sense prior to economical digital recording technology and before the requirement that licensed lawyers assumed the bench. However, should general sessions courts more uniformly keep records of trials and other proceedings, it becomes possible for direct appeals to the court of criminal appeals from those matters. In that situation, a de novo appeal to criminal or circuit court makes no sense and wastes scarce judicial resources. There is no benefit to the criminal justice system in holding a duplicate, expensive proceeding in circuit court.70

68 See Haire, supra note 11.
70 See Theodore Eisenberg & Kevin M. Clermont, Trial by Jury or Judge: Which is Speedier?, 79 JUDICATURE 176 (1996), available at https://scholarship.law.cornell.edu/facpub/228 (last visited Oct. 5, 2020). Although the analysis here is geared specifically to federal civil trials, the basic rationale that jury trials take longer, and are more expensive, is not confined to the civil context.
71 Of course, a defendant may want a jury trial for a myriad of reasons, that option is not foreclosed. However, even in the current state of the law, defendants are required to waive their rights to a jury trial and grand jury presentment and obtain consent from the state prior to having a misdemeanor bench trial. See Tenn. Code Ann. § 40-1-109 (2020).
In conjunction with the other reforms proposed, convictions from misdemeanor bench trials should be appealable as of right in the court of criminal appeals. This change would encourage defendants to try more cases in general sessions court and shorten the time from arrest to disposition, relieving criminal courts of a significant proportion of misdemeanor cases. History supports this function for fourth-tier courts like the general sessions court. Even prior to the twentieth century, this practice “resulted in a more effective disposition of small claims” and was viewed as “cheaper and more convenient” than jury trials. The practice waxed and waned in American criminal practice but made a significant comeback in the twentieth century perhaps due to its benefits to judicial economy and growing criminal dockets. Of course, a defendant would still have a right to a jury trial if she chose to have one. The federal and state constitutions guarantee a jury trial for a person accused of committing a crime. For reasons of expediency, convenience, or strategy such a person may choose to have a bench trial on a misdemeanor. That is the status quo in the State of Tennessee. The change proposed here is intended to improve the quality of litigation in general sessions courts and the quality of the courts themselves. By eliminating the de novo appeal, the corrective policing functions of appellate review will affect the general sessions courts in the same way it affects other courts. It is important to note here that this change should not result in an avalanche of appeals to the Court of

72 In order to comply with the rules of appellate procedure, the defendant can cause a transcript to be created from the electronic recording. Cf. Beasley v. State, 539 S.W.2d 820 (Tenn. Crim. App. 1976) (finding no authority for indigents being furnished a transcript of a preliminary hearing).

73 In 2019, a total of 10,658 misdemeanor cases and 2,844 DUI cases, most of which are also misdemeanors, were filed in the circuit and criminal courts of Tennessee. See Juan Napoles, TENN. COMPTROLLER OF THE TREASURY, FY 2018-19 TENNESSEE JUDICIAL WEIGHTED CASELOAD STUDY UPDATE 5 (April 2020), available at http://www.tncourts.gov/sites/default/files/docs/weighted_caseload_3.26.pdf.


75 Id. at 127.

76 Id. at 146.

77 Id. at 124.

78 U.S. CONST. amend. VI; TENN. CONST. art. I, § 6.
Criminal Appeals. What is more likely to happen is that some cases that would have been appealed after a jury trial will be appealed after a bench trial in a general sessions court instead. Over time, because the courts will be held more accountable, there should be a reduction in appeals. Very few litigants afford themselves of the current appeals process, thus a new appeals process is not likely to change that dramatically.\textsuperscript{79} Ultimately, the changes advocated here are not completely novel. Tennessee already has a fourth-tier court that operates in a similar fashion: juvenile courts when terminating parental rights. Appeals from juvenile court decisions on termination of parental rights are appealable to the court of appeals and not the circuit court.\textsuperscript{80}

c. Make Appeals From Rulings On Motions To Suppress Appealable By Permission To The Court Of Criminal Appeals

Time does not cure defective prosecutions from the taint of constitutional violations. Criminal prosecutions born with defects related to warrantless searches, that rely on admissions obtained in violation of a person’s right against self-incrimination, or that suffer fatal flaws associated with shoddy police work will suffer from those flaws from cradle to grave. There is nothing gained by anyone involved in allowing prosecutions with such fatal flaws to continue past the general sessions court level. In fact, the opposite is true. The effects are deleterious all around. Allowing flawed prosecutions to continue is harmful to victims, most of whom have little experience with the criminal justice system, in that it gives them hope for a resolution that will never come. It is harmful to criminal defendants who will be subject to pretrial incarceration

\textsuperscript{79} See Tenn. Admin. Off. Ct. Ann. Rep. supra note 15. The 184 appeals listed there are not segregated between juvenile, civil, or criminal. It is very unlikely all 184 were appeals from misdemeanor bench trials.

\textsuperscript{80} Tennessee Code Annotated § 36-1-113 governs termination of parental rights proceedings and discusses appellate rights; Tennessee Code Annotated § 36-1-124 expedites review by appellate court; Tennessee Rule of Appellate Procedure Rule 8 discusses appellate rights and procedure in termination of parental rights cases specifically.
or to release conditions based on a prosecution that will never lead to a conviction. Finally, allowing a defective prosecution to continue wastes the resources of the district attorney general, the courts, and law enforcement.

As noted above in section (a), making Rule 12(b) applicable in the general sessions court would seize on the tremendous opportunities presented by the modern general sessions court. Better utilizing general sessions courts with respect to early and prompt evidentiary rulings will be a boon to the speedy resolution of criminal cases in the state. General sessions courts have the expertise to hear and rule on search and seizure issues, among other evidentiary issues. General sessions courts are already competent to sign search warrants,\(^81\) make probable cause determinations,\(^82\) and try misdemeanors upon a written waiver and with the consent of the state.\(^83\)

The question is not if these evidence issues will be litigated, but rather, when. In general, evidentiary issues skew “criminal trials and criminal appeals into a path separate from the question whether the defendant did the crime” but, like constitutional violations, such diversions are not averted by the passage of time.\(^84\) It is better to cross that path sooner rather than later in the litigation process, when possible. Such prompt resolution of potentially fatal prosecution issues can “result in a net reduction in the duration and expense of the litigation.”\(^85\)

That is not to say that all evidentiary issues are created equal and that all can or should be litigated without the proper context of a trial on the merits. In fact, such interlocutory review is “generally ‘disfavored,’ especially in criminal cases.”\(^86\) The Tennessee Court of Criminal Appeals has the institutional expertise and competence to determine whether interlocutory review of an evidentiary ruling made by the general sessions court is appropriate. “Interlocutory appeals are appropriate where there is a need to prevent needless, expensive, and protracted litigation and a need to develop a uniform body of

\(^{81}\) See Tenn. R. Crim P. 41(a) (empowering “magistrate[s] with jurisdiction in the county where the property is sought” to issue search warrants), and Tenn. Code Ann. § 40-1-106 (defining magistrates to include general sessions judges).

\(^{82}\) See Jurisdiction of criminal cases, 9 TENN. CRIM. PRAC. & P. § 7:1.


\(^{84}\) See Stuntz, supra note 64.

\(^{85}\) State v. McKim, 215 S.W.3d 781, 790 (Tenn. 2007).

\(^{86}\) Id. (quoting Reid v. State, 197 S.W.3d 694, 699 (Tenn. 2006)).
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Thus, if general sessions courts are empowered to make evidentiary rulings under Rule 12(b), these rulings should be appealable by permission, pursuant to Rules 9 and 10 of the Tennessee Rules of Appellate Procedure. If the State prevails on these appeals, the trial on the merits can continue without further diversions. If the defendant prevails, the prosecution will fail closer in time to the arrest, minimizing deprivations of liberty incident to an arrest as well as the stigma, stress, and other collateral consequences that follow. The result is a net benefit to the criminal justice system by avoiding “needless, expensive, and protracted litigation” that benefits no one and hurts everyone involved.

VI. CONCLUSION

Although, in current form, general sessions courts have failed to live up to their potential, these courts are critically important to the administration of justice in Tennessee. The remedy for the aforementioned failings is simple and tested: appellate review. A lack of appellate review has shielded these courts from oversight and created the current situation in which each court is an island unto its own. Injecting appellate review into the general sessions court is necessary for these courts to rise properly to the challenges that currently face our criminal justice system. It would also be the natural progression of these tribunals paralleling the change that has already happened at the federal level. The changes advocated above are intended to improve the quality of these courts and empower Tennessee’s general sessions courts to contribute more to the fair, prompt, and effective adjudication of criminal cases. Full-fledged courts of record can stand the scrutiny of appeal. General sessions courts should be kicked out of their metaphorical nest, and made to fly like songbirds, subject to hawkish appellate review probing for weaknesses that ultimately improve the quality of Tennessee jurisprudence.

87 State v. Scarborough, 201 S.W.3d 607, 612 n.2 (Tenn. 2006).
88 Id.
APPENDIX A:

HAMBLEN COUNTY GENERAL SESSIONS COURT
“PRESUMPTIVE SENTENCES” Sept. 2014

OFFICE OF
Circuit, Criminal, Juvenile and General Sessions
Court

ALEX PEARSON
Circuit Judge
423.639.1731

ROMAS J. WRIGHT
Circuit Judge
423.639.5204

MIKE FAULK
Circuit Judge
423.272.2773

JOHN F. DUGGER
Criminal Judge
423.586.6049

TERRA WEBB, Clerk
Hamblen County
510 Allison Street, Morristown, TN 37814

General Sessions: 423.586.5640 Fax 423.586.2764
Circuit: 423.317.9267 Fax 423.586.4054
General Sessions Civil: 511 W 1st St, Street
Morristown, TN 37814 423.585.4557 Fax 423.585.4558

W. DOUGLAS COLLINS
General Sessions Judge
Division I
423.585.4540

JANICE H. SNIDER
General Sessions Judge
Division II
423.587.1299

DAH ARMSTRONG
District Attorney General
423.581.6700

MEMORANDUM

TO: Office of the District Attorney General
Office of the Public Defender

FROM: The Honorable W. Douglas Collins,
General Sessions Judge, Division I

DATE: September 5, 2014

Effective immediately, the following presumptive sentences are adopted by this Court:

Thief
1st offense 48 hours
2nd offense 10 days
3rd offense or more 30 days

Simple possession: Schedules I, II, III, IV
1st offense 48 hours
2nd offense 10 days
3rd offense or more 30 days

Simple possession of Schedule VI and drug paraphernalia
1st offense all time suspended
2nd or more 48 hours
# Appendix B:

**Greene County General Sessions Court’s “Guidelines.” Nov. 2007**

## For Official Court Use Only

*(Guidelines Only) November 4, 2007*

<table>
<thead>
<tr>
<th>Bad Checks</th>
<th>P.L.</th>
<th>DUI</th>
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<tbody>
<tr>
<td>1 - 10 checks: prob over 10 checks: 2 days per ck + standard cond.</td>
<td>1. 25+ cred. time serv. 2. 25 + 10 days (w/30 days) 3. 25 + 30</td>
<td>1. 7 days (over .20 or accident with personal injury) 2. 5 days - property damage</td>
</tr>
<tr>
<td>Viol Youth ALC</td>
<td>REV or SUSP LIC</td>
<td>REV or SUSP LIC</td>
</tr>
<tr>
<td>1. dis wi cont. class &amp; essay (after 6 mo)</td>
<td>if not eligible</td>
<td>if not eligible</td>
</tr>
<tr>
<td>2. 100 + 11-29 2 days</td>
<td>2. 100 + 11-29 45 days</td>
<td>2. 100 + 11-29 45 days</td>
</tr>
<tr>
<td>3. 150 + = 10</td>
<td>3. 100 + 11-29 60</td>
<td>3. 100 + 11-29 60</td>
</tr>
<tr>
<td>Possession</td>
<td>Poss. Para.</td>
<td>FTA</td>
</tr>
<tr>
<td>1. 250 + 11/29 4 days</td>
<td>1. 150 + 11-29 4 days</td>
<td>1. 100 + 11/29 10 days</td>
</tr>
<tr>
<td>2. 500 + 11/29 10</td>
<td>2. 250 + = 10</td>
<td>2. 200 + = 30</td>
</tr>
<tr>
<td>3. 1000 + 11/29 30</td>
<td>3. 250 + = 90</td>
<td>3. 250 + = 90</td>
</tr>
<tr>
<td>4. 1000 + 11/29 45</td>
<td>(drug other than marij 750 fine, 10 days (cocaine)</td>
<td>4. 250 + = 120</td>
</tr>
<tr>
<td>Domestic Ass.</td>
<td>No Drivers LIC</td>
<td>Dogs at Large</td>
</tr>
<tr>
<td>1. diminu wi, cont &amp; dom. viol class</td>
<td>1. 25</td>
<td>1. 50 = damage</td>
</tr>
<tr>
<td>2. 50 + 11/29 10 days</td>
<td>2. 50 + 2 days</td>
<td>2. 50 + 10 days &amp; dam.</td>
</tr>
<tr>
<td>3. 100 + = 50</td>
<td>3. 50 + 10</td>
<td></td>
</tr>
<tr>
<td>4. 50 + 20</td>
<td>4. 50 + 20</td>
<td></td>
</tr>
<tr>
<td>Theft</td>
<td>Vandalism</td>
<td>Crim. Trespass</td>
</tr>
<tr>
<td>1. 50 + 11-29 2 days (rest)</td>
<td>SAME AS THEFT</td>
<td>25 + 2 days</td>
</tr>
<tr>
<td>2. 100 + = 10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. 150 + = 30</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. 200 + = 45</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. 250 + = 60</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Going Armed</td>
<td></td>
<td>Crim. Imperson.</td>
</tr>
<tr>
<td>1. 50 + 2 days</td>
<td></td>
<td>50 + 6 mo. 4 days</td>
</tr>
<tr>
<td>2. 50 + 11-29 10 days (poss w/u influence)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------------</td>
<td>------------------</td>
<td></td>
</tr>
<tr>
<td><strong>RESISTING ARREST</strong></td>
<td><strong>EVADING ARREST</strong></td>
<td></td>
</tr>
<tr>
<td>100 + 6 mo 10 days consecutive</td>
<td>100 + 11/29 25 days consecutive</td>
<td></td>
</tr>
<tr>
<td>(with other sentence)</td>
<td>(with other sentence)</td>
<td></td>
</tr>
<tr>
<td><strong>CONTRIBUTING</strong></td>
<td><strong>FEL. EVADING ARR.</strong></td>
<td></td>
</tr>
<tr>
<td>100 + 11/29 10-30 days</td>
<td>100 + 11/29 45 days consec.</td>
<td></td>
</tr>
<tr>
<td>(Depending on facts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CHILD ENDANGERMENT</strong></td>
<td><strong>LEAVING THE SCENE</strong></td>
<td></td>
</tr>
<tr>
<td>1000 + 11-29 30 DAYS</td>
<td>Property Dam 25 + 10 hrs CWS</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Personal Injury 50 + 11/29 10 days</td>
<td></td>
</tr>
<tr>
<td><strong>FEL. RECKLESS, ENDANGE.</strong></td>
<td><strong>VIOLATION OF ORDER OF PROTECTION</strong></td>
<td></td>
</tr>
<tr>
<td>100 + 11/29 60 days</td>
<td>Physical altercation 60 days</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Present 30 days</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(but shouldn't be there)</td>
<td></td>
</tr>
<tr>
<td><strong>RECKLESS DRIVING</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25 + 6 mo. 1-2 days</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(depending on facts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>OTHER CLASS A MISDMEANORS - 1 ST --</strong></td>
<td><strong>100 + 11/29 2 DAYS</strong></td>
<td></td>
</tr>
<tr>
<td><strong>OTHER CLASS B MISDMEANORS - 1 ST--</strong></td>
<td><strong>50 + 6 MO 1 DAY</strong></td>
<td></td>
</tr>
<tr>
<td><strong>OTHER CLASS C MISDMEANORS - 1 ST--</strong></td>
<td><strong>25 +</strong></td>
<td></td>
</tr>
</tbody>
</table>

**SERVICE OF JAIL TIME**

1. F.T.A.'s day for day, may not be served on weekends
2. Sentences of 5 days or less may be served on weekends
3. Sentences of more than 10 days may qualify for work release or otherwise allowed by statute