

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
July 21, 2026 Session

FILED

09/24/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JAMES EDWARD ALLEN

**Appeal from the Criminal Court for Knox County
No. 117637 Steven W. Sword, Judge**

No. E2025-00441-CCA-R3-CD

The Defendant, James Edward Allen, was convicted by a Knox County Criminal Court jury of two counts of first degree felony murder; two counts of especially aggravated robbery, a Class A felony; aggravated assault, a Class C felony; and possession of a firearm by a convicted felon, a Class B felony, for which he received an effective two consecutive life sentences plus thirty years. *See* T.C.A. §§ 39-13-202 (2018) (subsequently amended) (first degree murder), 39-13-403 (2025) (especially aggravated robbery), 39-13-102 (Suppl. 2019) (subsequently amended) (aggravated assault), 39-17-1307 (2018) (subsequently amended) (unlawful possession of a firearm). On appeal, the Defendant contends that the trial court erred by failing to (1) grant his motion to suppress his statements to law enforcement, (2) grant a continuance of the trial due to the unavailability of a defense expert witness, and (3) instruct the jury on voluntary manslaughter as a lesser included offense of first degree murder. We affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

ROBERT H. MONTGOMERY, JR., J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and STACY L. STREET, JJ., joined.

Gerald L. Gulley, Jr., Knoxville, Tennessee, for the appellant, James Edward Allen.

Jonathan Skrmetti, Attorney General and Reporter; Garrett D. Ward, Senior Assistant Attorney General; Charme P. Allen, District Attorney General; and Cameron Williams and Danielle Jones, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

This case relates to a shooting that occurred in a Knoxville apartment on December

29, 2019, during which two victims, Christian and Joshua Haley,¹ were killed. On July 1, 2020, the Knox County Grand Jury indicted the Defendant for six counts of first degree felony murder, two counts of first degree premeditated murder, two counts of especially aggravated robbery, employing a firearm during a dangerous felony, tampering with evidence, aggravated assault, unlawful possession of a firearm, and two counts of aggravated burglary.² The Defendant proceeded to trial for felony murder of Christian Haley, felony murder of Joshua Haley, especially aggravated robbery of Christian Haley, especially aggravated robbery of Joshua Haley, aggravated assault of Courtney Stiles, and possession of a firearm by a convicted felon. All other indictment counts were dismissed before the trial.

I

Pretrial Suppression Hearing

At an August 4, 2023 pretrial suppression hearing, and as relevant to this appeal, the Defendant moved to suppress all statements made by the Defendant during a police interview after his arrest because he did not waive his *Miranda* rights. *See Miranda v. Arizona*, 384 U.S. 436, 445 (1966).

Knoxville Police Department (KPD) Officer Caleb Coffey testified regarding the circumstances of the Defendant's arrest, which occurred one-half mile from the scene of the shooting. Officer Coffey said that on December 29, 2019, he received information that two homicide suspects, "a white male wearing a black shirt and . . . shorts" and "a black male wearing [a] white shirt and dreads," were in a grassy area near Interstate 640. Officer Coffey said that he saw two individuals matching those descriptions walking along Interstate 640, that they began running when the police car approached them, and that they did not stop running when Officer Coffey asked them to stop. Officer Coffey stated that he apprehended the Defendant in a muddy culvert after a foot chase.

KPD Detective Tim Riddle testified that guns and marijuana were found in a backpack in the culvert near where the Defendant was arrested. Detective Riddle said that the Defendant was brought to the police station after his arrest and that Detective Riddle and Detective Brandon Wardlaw interviewed the Defendant. Detective Riddle recalled that the Defendant stayed alone in the interview room while Detective Riddle conducted other interviews. Detective Riddle said that he read the *Miranda* waiver form to the Defendant, that he did not ask the Defendant to sign the form, and that the Defendant acknowledged that the Defendant understood his rights. Detective Riddle explained that

¹ The victims are brothers. For clarity, we will refer to them by their first names, as they have the same last name. No disrespect is intended.

² The Defendant was indicted and tried separately from his four codefendants.

he purposely did not ask the Defendant to sign the waiver form because “sometimes it deters people from . . . giving up their right.” Detective Riddle recalled that the interview was brief and that it ceased when the Defendant requested an attorney. Detective Riddle acknowledged that the interview was video recorded. Detective Riddle said that the Defendant and Detective Wardlaw engaged in “small talk” about the Defendant’s recent release from prison and that Detective Riddle assumed from the Defendant’s history of incarceration that the Defendant was familiar with his *Miranda* rights. The recording of the Defendant’s interview was played for the court. Detective Riddle acknowledged that the Defendant lay on the floor of the interview room when Detective Riddle entered the room and that the Defendant said he was “high.”

On cross-examination, Detective Riddle testified that he believed the Defendant to be “normal and coherent” during the interview, although the Defendant mumbled when answering questions. Detective Riddle believed that the Defendant pretended to be intoxicated and agreed that the Defendant was detained at the time of the interview. Detective Riddle acknowledged that he could not be sure that the Defendant was not intoxicated.

Two video recordings of the Defendant in the interview room were played for the trial court. In the first recording, the Defendant sat upright in a chair and asked multiple times for an “officer” until someone opened the door to the room. The Defendant asked to go to the restroom and left the room. The Defendant spoke clearly, did not mumble, and walked without apparent difficulty. In the second recording, the Defendant sat on a chair before his interview. Eventually, the Defendant lay on his side on the floor and appeared to sleep for more than an hour before Detective Riddle entered the room and woke him. Detective Riddle asked the Defendant to place his clothes in a bag and provided him with a jumpsuit and booties. The Defendant complied and undressed without assistance. Detective Riddle remarked that the Defendant was wet and muddy. The Defendant admitted that he ran from police officers and said that he was “high” from drinking alcohol, using marijuana and cocaine, and taking “pills.” The Defendant said that he had recently been released from prison in Lee County, Virginia. The Defendant provided his cell phone number, address, and Social Security number. Detective Riddle read the *Miranda* waiver form to the Defendant and asked if the Defendant understood it. The Defendant responded that he understood. Detective Riddle asked the Defendant to tell the Defendant’s side of the story. The Defendant recalled that he spent the previous night at “Walter P.” but did not recall the circumstances of his arrest. When Detective Riddle told the Defendant that the police were investigating a shooting and murder, the Defendant asked for an attorney. The interview ended. Approximately six minutes elapsed from the time the Defendant said he understood his rights until he invoked his right to an attorney.

Regarding whether the Defendant made any inculpatory statements, the prosecutor acknowledged that the Defendant’s admission about where he spent the night before the

shooting corroborated accomplice statements and that the Defendant's admission that he ran from the police was evidence of consciousness of guilt.³

The trial court denied the Defendant's motion to suppress his statements, finding that Detective Riddle read the *Miranda* rights to the Defendant at the beginning of the interview, that the Defendant acknowledged he understood his rights, and that the Defendant had an extensive prior criminal history at the time of the interview. The court noted that the Defendant had a "clear cogent discussion" with the officers, who allowed him to use the restroom, and that the Defendant did not appear to be under the influence of an intoxicant. Although the court noted that Detective Riddle did not ask the Defendant if he wanted to waive his rights, the court concluded that the Defendant implicitly waived his *Miranda* rights. The court found it significant that the Defendant invoked his right to an attorney as soon as he was told the investigation regarded a murder.

II

Trial Evidence

Trial testimony established that on December 29, 2019, the Defendant, codefendant Anthony Lua⁴ and codefendant Isaiah Grigsby were at an apartment in the Walter P. Taylor housing complex in Knoxville. Codefendant Grigsby saw Snapchat photographs of victim Christian Haley's firearms and suggested that they rob Christian, whom codefendant Grigsby said he had previously robbed. The Defendant agreed to this plan because he needed a "come-up," meaning that he wanted to obtain firearms and drugs. Codefendant Grigsby, the Defendant, and codefendant Lua were joined by codefendants Eric Fairchild and Narrada Saffell, and they drove together to meet Christian, who was at his girlfriend's mother's apartment. Once there, they decided that codefendant Lua and the Defendant would go to the apartment. Codefendant Lua was armed with a Glock 23 gun, and the Defendant possessed a .40-caliber Smith & Wesson gun. However, codefendant Lua said that codefendant Grigsby told him and the Defendant not to shoot anyone. The evidence showed that Christian and codefendants Lua, Grigsby, Fairchild, and Saffell were all affiliated with the same gang.

³ At oral argument on appeal, the State noted that the Defendant's only inculpatory statements were that he ran from the police and confessed to consuming unlawful narcotics. The State asserted that this evidence was corroborated by the arresting officers, who found marijuana in a backpack located in the area where the Defendant was arrested.

⁴ Prior to the trial, co-defendant Lua pleaded guilty to two counts of second degree murder and one count of especially aggravated robbery related to the victims' deaths.

Codefendant Lua and the Defendant spoke with Christian outside the apartment building before entering the apartment. The apartment's living room contained two couches. Victim Joshua Haley, Christian's brother, whom the Defendant and codefendant Lua did not expect to see, sat on one of the two couches and held a Taurus nine-millimeter gun on his lap. Christian also had a gun and sat on the other couch. Bagged marijuana, an AR-15 rifle, and a black bag were in the living room. After examining the marijuana and each other's firearms, codefendant Lua went to the bathroom, sent a text message to codefendant Grigsby, who was in the car, and stated that Joshua was present and armed and that codefendant Lua and the Defendant planned to take Christian's and Joshua's guns.

Codefendant Lua testified that he returned to the living room and nodded to the Defendant. The Defendant drew his gun and pointed it at Christian. Joshua then drew his gun. Codefendant Lua said that, in response, he drew his gun and began firing at the victims. The Defendant also fired his gun at the victims. Codefendant Lua believed he shot both victims. Codefendant Lua did not recall the number of shots fired but believed that at least one of the victims fired a gun. Joshua sustained five gunshot wounds, and Christian sustained eight. After the shooting, codefendant Lua said that the Defendant went through the victims' pockets and gave codefendant Lua a black bag, into which codefendant Lua placed marijuana, the AR-15 rifle, and an AR-15 magazine.

Courtney Stiles, Christian's girlfriend, testified that she was in a back bedroom during the shooting. Ms. Stiles went to the living room after hearing the gunshots. She saw the Defendant and codefendant Lua in the apartment. Ms. Stiles testified that the Defendant pointed his gun at her head and threatened to shoot her unless she returned to the bedroom. Ms. Stiles said she heard the Defendant tell codefendant Lua to "get the bag." She ran to a bedroom, called 9-1-1, reported the shooting, and provided a description of the Defendant and codefendant Lua. Ms. Stiles later identified the Defendant as the man in the apartment who threatened to shoot her.

Codefendant Lua testified that he and the Defendant left the apartment and discovered that the car in which they arrived was gone. The Defendant and codefendant Lua then fled the scene, heading toward the interstate. Along the way, the Defendant dropped his gun and codefendant Lua picked it up. Codefendant Lua left the Defendant's gun, his gun, and the black bag in a drainpipe beside the interstate. Officers apprehended the Defendant and codefendant Lua near an interstate culvert, not far from the scene of the shooting, and found nearby a black bag, the Glock 23 gun, the .40-caliber Smith & Wesson, the AR-15 rifle, and marijuana.

At the apartment, KPD officers recovered numerous cartridge casings, some of which were from a Glock 23 and some from a .40-caliber Smith & Wesson. Photographs of the shooting scene were received as exhibits. The Knox County Assistant Medical

Examiner concluded that the victims died of multiple gunshot wounds and that their manner of death was homicide.

KPD Sergeant Brian Dalton testified as a firearms expert that two firearms were fired at the scene. Sergeant Dalton stated that the evidence was inconclusive as to whether a third firearm was fired. He identified seven cartridge casings that had been fired from the recovered Glock 23 gun and nine cartridge casings that had been fired from the recovered .40-caliber Smith & Wesson gun. He could not determine if the three remaining cartridge casings had been fired from either gun. Sergeant Dalton tested eight bullets or bullets fragments found at the scene and said that four were fired from the .40-caliber Smith & Wesson gun and that four were consistent with the Glock 23 gun but could not be matched to it.

Tennessee Bureau of Investigation Agent Lindsey Anderson testified that the Defendant's and codefendant Lua's clothing contained traces of gunshot residue.

A redacted video recording of the Defendant's custodial interview with Detective Riddle was received as an exhibit and played for the jury.

The Defendant did not testify. A defense investigator testified that codefendant Grigsby's cell phone had been used to contact codefendants Lua, Fairchild, and Saffell but not the Defendant.

The jury convicted the Defendant on all counts.

III

Motion to Suppress

The Defendant contends that the trial court erred by failing to suppress his inculpatory custodial statements because he did not waive his right to remain silent. The Defendant avers that he was intoxicated while in custody and that Detective Riddle's failure to ask the Defendant to sign the *Miranda* waiver form rendered the Defendant's waiver involuntary. The Defendant does not dispute that he was advised of his *Miranda* rights by Detective Riddle. The State counters that the Defendant implicitly waived his *Miranda* rights, and that the court did not err by denying the Defendant's motion to suppress. Specifically, the State asserts that the Defendant was advised of his rights, that he understood his rights, that he was not intoxicated at the time he was read his rights, and that he demonstrated his understanding by immediately invoking his right to counsel when Detective Riddle informed him that this was a murder investigation. Alternatively, the State asserts that any error in denying the motion to suppress was harmless. We agree with the State that the court did not err by denying the Defendant's motion to suppress.

A trial court's findings of fact on a motion to suppress are conclusive on appeal unless the evidence preponderates against them. *State v. Odom*, 928 S.W.2d 18, 23 (Tenn. 1996); *State v. Jones*, 802 S.W.2d 221, 223 (Tenn. Crim. App. 1990). Questions about the "credibility of the witnesses, the weight and value of the evidence, and resolution of conflicts in the evidence are matters entrusted to the trial judge as the trier of fact." *Odom*, 928 S.W.2d at 23. The prevailing party is entitled to the "strongest legitimate view of the evidence and all reasonable and legitimate inferences that may be drawn from that evidence." *State v. Keith*, 978 S.W.2d 861, 864 (Tenn. 1998); see *State v. Hicks*, 55 S.W.3d 515, 521 (Tenn. 2001). A trial court's application of the law to its factual findings is a question of law and is reviewed de novo on appeal. *State v. Yeargan*, 958 S.W.2d 626, 629 (Tenn. 1997). In reviewing a trial court's ruling on a motion to suppress, this court may consider the trial evidence as well as the evidence presented at the suppression hearing. See *State v. Henning*, 975 S.W.2d 290, 297-99 (Tenn. 1998); see also *State v. Williamson*, 368 S.W.3d 468, 473 (Tenn. 2012).

The Fifth Amendment of the United States Constitution, which applies to the states via the Fourteenth Amendment, provides that "no person . . . shall be compelled in any criminal case to be a witness against himself." U.S. Const. amend. V. Similarly, Article I, section 9 of the Tennessee Constitution states that "in all criminal prosecutions, the accused . . . shall not be compelled to give evidence against himself." Tenn. Const. art. I, § 9. To protect an individual's right against self-incrimination, law enforcement must warn an accused individual before questioning in a custodial interrogation "that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed." *Miranda*, 384 U.S. at 444.

An accused individual may waive the constitutional rights as addressed in *Miranda* if "the waiver is made voluntarily, knowingly and intelligently." *Id.* at 445. To determine if an accused individual's waiver is valid, the waiver "must be 'voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception'" and made "'with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.'" *State v. McKinney*, 669 S.W.3d 753, 768 (Tenn. 2023) (quoting *Moran v. Burbine*, 475 U.S. 412, 421 (1986)). An express waiver, however, is not required. *State v. Climer*, 400 S.W.3d 537, 565 (Tenn. 2013) (citations omitted).

"The State may establish an implicit waiver of *Miranda* rights by showing that the suspect received and understood *Miranda* warnings, did not invoke *Miranda* rights, and gave an uncoerced statement to the police." *Id.* (citation omitted). "As a general proposition, the law can presume that an individual who, *with a full understanding* of his or her rights, acts in a manner inconsistent with their exercise has made a deliberate choice

to relinquish the protection those rights afford.” *Id.* (emphasis in original) (quoting *Berghuis v. Thompkins*, 560 U.S. 370, 385 (2010) (citing *Mays v. State*, 495 S.W.2d 833, 836 (Tenn. Crim. App. 1972) (“The rule is that once a defendant has been informed of his rights and indicates he understands them, his choosing to speak and not requesting a lawyer is sufficient evidence that he knows his rights and chooses not to exercise them.”))). The State must prove a defendant waived his *Miranda* rights by a preponderance of the evidence. *McKinney*, 669 S.W.3d at 768. The totality of the circumstances must be considered when determining the validity of a *Miranda* waiver. *Id.* at 765.

The Defendant does not contest that he was advised of his *Miranda* rights. The issue is whether he understood his *Miranda* rights and voluntarily chose not to exercise his right to remain silent. *See Climer*, 400 S.W.3d at 565. The trial court credited Detective Riddle’s testimony that the Defendant was not intoxicated. The record reflects that the Defendant had a lengthy prior criminal history, that he had previously been advised of the *Miranda* rights in other criminal cases, and that he said he understood his *Miranda* rights before being interviewed in this case. In the video recordings of the Defendant in the interview room, he spoke cogently when he asked to use the restroom. He stood easily on his feet and walked without apparent difficulty, undressed and stepped into a jumpsuit without aid, and provided personal information such as his Social Security number, current address, and his prior convictions. The record reflects that the Defendant was not threatened, deceived, or deprived of basic necessities while waiting to be interviewed and that he demonstrated his understanding of the *Miranda* rights by clearly exercising his right to counsel when informed that the police were investigating a murder. Although the Defendant argues that he was “high” at the time of the interview, the totality of the circumstances demonstrates that he understood his *Miranda* rights and chose to make a statement to the police. The fact that the Defendant did not sign a *Miranda* waiver form, standing alone, does not preclude a finding of a waiver. *Id.* The record did not preponderate against the court’s findings. The court did not err by denying the Defendant’s motion to suppress.

IV

Motion to Continue

The Defendant contends that the trial court erred by failing to grant his motion to continue the trial when his defense expert witness unexpectedly died shortly before the trial date. The Defendant asserts that he needed additional time to obtain a substitute expert witness who could explain that the Defendant did not possess or fire a gun during the robbery. The State argues that this issue is waived because the appellate record is inadequate for review. Specifically, the State asserts that the record does not contain key communications between the court and counsel regarding the continuance motion. Alternatively, the State argues that the court acted within its discretion because the

potential testimony would have been immaterial and cumulative. We agree with the State that the court acted within its discretion by denying the Defendant's motion.

The trial court's order denying the motion for a continuance contains the only information in the record regarding the Defendant's request for a continuance. In this order, the court noted that it had appointed six attorneys to represent the Defendant until he retained counsel, who filed a notice of appearance on May 22, 2023. The court granted retained counsel's motion to continue the trial date and continued the trial until August 7. According to the court's order, counsel made an oral motion for a continuance on August 4, during pretrial motions. The court denied the motion.

The trial court's order further reflects that on the afternoon of August 4, 2023, defense counsel learned that the Defendant's ballistics expert died unexpectedly at the beginning of the week. Defense counsel then sent the court an email⁵ asserting that the expert would say (1) that "only two guns were used in the shooting" and (2) that "the crossfire at the scene would be consistent with one of the victims firing toward the position of another person who was firing back in their direction." Although the parties discussed a possible stipulation regarding the proffer, the court stated that it would not grant the request for a continuance regardless of whether the parties could agree on a stipulation. The trial court concluded the following:

In this case, the unexpected death of the witness is beyond the control of defense counsel. However, the court will note that had the case proceeded to trial on the July 2023 date as originally scheduled, the witness would have been available. This factor cannot be considered outside of the greater context of the history of this case as outlined in this order and the court record. A continuance at this point would be ineffectual to cure the loss of the witness due to his death. The allegations in this case are that the defendant and co-defendants were robbing the victims and death occurred. The lead counts are felony murder. Whether or not the alleged victims fired back at their robbers is not a defense to felony murder. If the State agrees to stipulate that scene evidence is consistent with someone firing from the area of the couches, or if this information is elicited from other witnesses, the expert's testimony would not add any information for the fact finder.

"[A] motion for a continuance is addressed to the sole discretion of the trial judge," and the judge's decision will not be reversed on appeal absent "a clear showing of gross abuse of discretion" and prejudice to the defendant. *Baxter v. State*, 503 S.W.2d 226, 230 (Tenn. Crim. App. 1973); *State v. Willis*, 496 S.W.3d 653, 744 (Tenn. 2016); *see State v.*

⁵ No electronic communications were attached to the trial court's order.

Goodwin, 909 S.W.2d 35, 44 (Tenn. 1995). It is the appealing party’s burden to show how the trial court’s decision was prejudicial. *Baxter*, 503 S.W.2d at 230. The critical inquiry “is whether one has been deprived of his rights and whether an injustice has been done.” *Id.* As a result, the record must reflect that “the denial of the requested continuance ‘denied the defendant a fair trial or that the result of the trial would have been different.’” *State v. Vaughn*, 279 S.W.3d 584, 598 (Tenn. Crim. App. 2008) (quoting *State v. Odom*, 137 S.W.3d 572, 589 (Tenn. 2004)); see *Willis*, 496 S.W.3d at 744; *Goodwin*, 909 S.W.2d at 44.

As the State notes, the Defendant failed to include in the appellate record his communications with the trial court regarding his request for a continuance, leaving this court to rely solely on information contained in the trial court’s order. Because the court set forth the Defendant’s assertions in its order, we conclude that the record is sufficient for appellate review of this issue.

The record reflects that the Defendant and codefendant Lua were both armed, that they went to the apartment to commit a robbery, and that Christian and Joshua were fatally shot as a result. The Defendant argues that a ballistics expert could have established that the Defendant did not fire a gun during the robbery.⁶ The Defendant’s argument is unavailing because “[w]hen one enters into a scheme with another to commit one of the felonies enumerated in the felony murder statutes, and death ensues, both defendants are responsible for the death regardless of who actually committed the murder and whether the killing was specifically contemplated by the other.” See *State v. Hinton*, 42 S.W.3d 113, 119 (Tenn. Crim. App. 2000); see also *State v. Joe A. Gallaher*, No. E2001-01876-CCA-R3-CD, 2003 WL 21463017, at *6 (Tenn. Crim. App. June 25, 2003). As the trial court found, whether the Defendant fired a gun during the robbery was immaterial to his felony murder convictions. The court did not abuse its discretion by denying the Defendant’s motion for a continuance. The Defendant is not entitled to relief on this basis.

V

Jury Instruction

The Defendant argues that the trial court erred in failing to instruct the jury on the offense of voluntary manslaughter as a lesser included offense of felony murder. The Defendant avers that the evidence was sufficient for the jury to conclude that he shot his gun in a heightened emotional state. The State counters that this issue is statutorily waived because the Defendant failed to make a written request for a voluntary manslaughter jury instruction. See T.C.A. § 40-18-110(c) (2025). Alternatively, the State asserts that the

⁶ At oral argument, appellate counsel did not contest that the Defendant was armed with a gun during the robbery.

Defendant is not entitled to plain error review and that no plain error has been shown. The Defendant did not ask for plain error review in his appellate brief but requested plain error relief at oral argument.

Tennessee Code Annotated section 40-18-110 (2025) provides in relevant part:

(a) When requested by a party in writing prior to the trial judge's instructions to the jury in a criminal case, the trial judge shall instruct the jury as to the law of each offense specifically identified in the request that is a lesser included offense of the offense charged in the indictment

(b) In the absence of a written request from a party specifically identifying the particular lesser included offense or offenses on which a jury instruction is sought, the trial judge may charge the jury on any lesser included offense or offenses, but no party shall be entitled to any such charge.

(c) Notwithstanding any other provision of law to the contrary, when the defendant fails to request the instruction of a lesser included offense as required by this section, such instruction is waived. Absent a written request, the failure of a trial judge to instruct the jury on any lesser included offense may not be presented as a ground for relief either in a motion for a new trial or on appeal.

This statute “places on the defendant the burden of requesting an instruction on any lesser included offense.” *State v. Fayne*, 451 S.W.3d 362, 371 (Tenn. 2014). Accordingly, “if a defendant fails to request an instruction on a lesser-included offense in writing at trial, the issue will be waived for purposes of plenary appellate review and cannot be cited as error in a motion for new trial or on appeal.” *State v. Page*, 184 S.W.3d 223, 229 (Tenn. 2006); *see State v. Morgan*, 271 S.W.3d 217, 226 (Tenn. Crim. App. 2008).

Although the Defendant orally requested that the trial court include a jury instruction for voluntary manslaughter, he did not make a written request for the instruction as required by sections 40-18-110(a) and (c). This issue is waived.

At oral argument, the Defendant requested plain error relief on this issue. The State asserts in its brief that the Defendant cannot meet the requirements for plain error relief and that, should we find the court erred, such error was harmless. Although the Defendant requested plain error review at oral argument, he had not addressed this issue in his brief nor had he asked to file supplemental briefing. Tennessee Rule of Appellate Procedure 27(a)(7)(A) requires that an appellant's argument contain “citations to the authorities and appropriate references to the record . . . relied on.” The rules of this court provide, “Issues which are not supported by argument, citation to authorities, or appropriate references to

the record will be treated as waived[.]” Tenn. Ct. Crim. App. R. 10(b). Accordingly, as the Defendant’s argument is deficient, we decline to review for plain error. The Defendant is not entitled to relief regarding this issue.

In consideration of the foregoing and the record as a whole, the judgments of the trial court are affirmed.

s/Robert H. Montgomery, Jr.
ROBERT H. MONTGOMERY, JR., JUDGE