

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE

FILED

09/10/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DAEKWON KADERIUS DODD

Circuit Court for Sevier County
No. 2022-CR-271

No. E2026-00606-CCA-R10-CD

ORDER

The State of Tennessee has filed an application for extraordinary appeal pursuant to Tennessee Rule of Appellate Procedure 10, seeking review of the trial court's November 19, 2025 bench ruling granting the Defendant's request for a jury trial on the issue of his competency to stand trial. *See* Tenn. Code Ann. § 33-7-301(b)(2). The State asserts that immediate review is warranted because the ruling departs from the accepted and usual course of judicial proceedings and because, absent review, the State may lose a right or interest that cannot later be recaptured. *See* Tenn. R. App. P. 10(a); *Gilbert v. Wessels*, 458 S.W.3d 895, 898 (Tenn. 2014).

The Defendant opposes the application. He principally argues that Tennessee Code Annotated section 33-7-301(b)(2), in its present form, permits either party to demand a jury trial on the issue of competency and that intervening amendments to the statute distinguish earlier Tennessee decisions addressing the issue. He further argues that extraordinary review is unnecessary because the State may obtain review in later proceedings and because interlocutory review will further delay a prosecution that has already been pending for several years.

The Defendant has also filed an unopposed motion to supplement the appendix to his answer with the transcript of a June 3, 2026 hearing. That motion is **GRANTED**, and we have considered the supplemental materials in resolving the State's application.

Upon consideration of the State's application, the Defendant's answer and supplemental materials, the attachments, and the authorities submitted by the parties, we conclude that the State has made a sufficient showing to warrant extraordinary review. In reaching that conclusion, however, we do not decide the ultimate merits of the statutory question presented by the State's application. This order decides only whether the issue warrants immediate appellate review under Rule 10. The proper interpretation of section

33-7-301(b)(2) will be determined after the appellate record is filed and the parties have fully briefed the issue.

FACTUAL BACKGROUND

In March 2022, the Defendant was indicted for second-degree murder and aggravated assault arising from the January 2022 shooting death of Tatina Buddington, the mother of the Defendant's child. At the time of the events giving rise to the charges, the Defendant suffered a traumatic brain injury after falling from the third-story balcony of the Sevier County rental cabin where he and Ms. Buddington were staying.

On August 14, 2023, the Defendant filed a demand for a jury trial on the issue of competency to stand trial. The Defendant maintained that his traumatic brain injury caused permanent memory loss and other cognitive impairment that materially affected his ability to assist counsel in preparing and presenting a defense. The defense further asserted that forensic evidence concerning the shooting, including evidence regarding the nature of the gunshot wound and DNA recovered from the firearm, made the Defendant's inability to recall the events particularly significant to the competency inquiry.

The Defendant asserted statutory, constitutional, and common law grounds for a jury trial on competency. As pertinent here, he relied upon Tennessee Code Annotated section 33-7-301(b)(2), which provides that "[e]ither party may demand a jury trial on the issues."

Following a hearing on November 19, 2025, the trial court granted the Defendant's demand on statutory grounds. In explaining its ruling, the trial court observed that "the statute has changed in Tennessee" and stated that "[i]t seems clear to this Court the law does say as of this particular change that you may demand a jury trial on that issue." The trial court did not reach the Defendant's constitutional or common law arguments. Those theories therefore remain unresolved, and nothing in this order should be understood as expressing any view concerning them.

On December 16, 2025, the State moved the trial court to reconsider its ruling. Two days later, the State sought permission to pursue an interlocutory appeal pursuant to Tennessee Rule of Appellate Procedure 9. On March 24, 2026, the trial court denied the State's request for interlocutory review. On April 24, 2026, thirty-one days later, the State filed the present Rule 10 application.

The Defendant's bifurcated jury trial is presently scheduled for December 2, 2026. His supplemental materials identify both that setting and additional delays that have occurred during the prosecution. We have considered the age of the case, the interval between the trial court's March 24 ruling and the State's April 24 application, and the delay necessarily associated with interlocutory review. We do not regard the thirty-one-day interval, standing alone, as making extraordinary review inappropriate under the circumstances presented.

RULE 10 STANDARD

Tennessee Rule of Appellate Procedure 10 permits an extraordinary appeal from an interlocutory ruling "on application and in the discretion of the appellate court alone." Tenn. R. App. P. 10(a). Extraordinary review is authorized when "the lower court has so far departed from the accepted and usual course of judicial proceedings as to require immediate review" or when review is "necessary for complete determination of the action on appeal as otherwise provided in these rules." *Id.*

Rule 10 establishes a substantially higher threshold than Rule 9. As our supreme court has explained:

An appellate court should grant a Rule 10 extraordinary appeal only when the challenged ruling represents a fundamental illegality, fails to proceed according to the essential requirements of the law, is tantamount to the denial of a party's day in court, is without legal authority, is a plain and palpable abuse of discretion, or results in either party losing a right or interest that may never be recaptured.

Gilbert, 458 S.W.3d at 898 (citations omitted). "[U]nlike Rule 9 appeals, Rule 10 appeals are reserved only for extraordinary departures from the accepted and usual course of judicial proceedings." *Id.*

The supreme court has likewise cautioned that interlocutory appeals are disfavored, particularly in criminal cases, because interlocutory review may foster piecemeal litigation and delay. *State v. Gilley*, 173 S.W.3d 1, 5 (Tenn. 2005). Where a trial court has denied permission to pursue a Rule 9 appeal, an appellate court generally should respect that discretionary decision unless the alleged error independently satisfies Rule 10's more demanding criteria. *Gilbert*, 458 S.W.3d at 899.

Thus, an allegedly erroneous legal ruling, standing alone, does not necessarily justify extraordinary review. At this stage, the question is whether the State has made a sufficient showing that the character and procedural consequences of the challenged ruling warrant immediate appellate consideration.

ANALYSIS

The State principally contends that the trial court's ruling represents a departure from the accepted and usual course of judicial proceedings because it authorizes a jury to determine competency notwithstanding prior Tennessee authority construing materially similar statutory provisions differently. The Defendant responds that the trial court acted within its authority because no binding appellate decision has construed the current version of section 33-7-301(b)(2) following later amendments to Title 33. He emphasizes the present statutory structure and argues that intervening changes distinguish the earlier cases.

We begin with the premise underlying the trial court's ruling. The trial court expressly relied upon its understanding that the statute had materially changed since the earlier Tennessee decisions. The statutory history presently before us, however, provides substantial reason to question whether the identified changes supply the distinction on which the ruling depends.

In *State v. Johnson*, 673 S.W.2d 877, 880 (Tenn. Crim. App. 1984), this court considered former section 33-708(b). The defendant there argued that he was entitled to a jury trial on restored competency. The court rejected that claim, explaining that the statutory jury-trial provision concerned judicial hospitalization rather than competency to stand trial.

By 1990, section 33-7-301 had been reorganized into substantially the same relevant structure that exists today. Subsection (b)(1)(A) addressed a determination by the trial court that a defendant was incompetent to stand trial; subsection (b)(1)(B) addressed circumstances involving a competent defendant for whom hospitalization might be appropriate; and subsection (b)(2) separately provided that “[e]ither party may demand a jury trial on the issues.”

The following year, in the unpublished decision *State v. Dyer*, No. 4, 1991 WL 44215, at *3 (Tenn. Crim. App. Apr. 3, 1991), this court stated that section 33-7-301 “does

not authorize a jury trial on the issue of competency to stand trial” and relied upon *Johnson*.

The General Assembly later comprehensively reenacted Title 33 in 2000. That enactment deleted the existing title and replaced it with a reorganized statutory scheme. Yet the resulting 2001 version of section 33-7-301 retained the pertinent relationship between subsection (b)(1) and subsection (b)(2): the statute continued to provide that “the court determines” competency and separately provided that either party may demand a jury trial “on the issues.” The 2002 version retained that same relevant structure.

Most recently, in *State v. Holt*, No. E2024-01706-CCA-R9-CO (Tenn. Crim. App. Dec. 19, 2024), *perm. app. denied* (Tenn. Apr. 17, 2025), this court considered a Rule 9 application presenting the same statutory question. The court declined interlocutory review and relied upon *Dyer* in concluding that there was no need to develop a uniform body of law regarding a statutory right to a competency jury. Of particular relevance here, *Holt* expressly observed that former section 33-708 was “identical in substance to the current Code section considered in this case.”

The differing procedural postures of *Holt* and this case are significant. The ruling in *Holt* followed the existing appellate interpretation of the statute and remained reviewable following final judgment. The ruling challenged here, by contrast, authorizes a different decision-making procedure notwithstanding that existing line of authority. Thus, the denial of interlocutory review in *Holt* does not resolve whether the State has made the distinct and more demanding showing required for extraordinary review in this case.

We do not decide at this stage what ultimate effect these authorities and statutory developments have on the proper construction of section 33-7-301(b)(2). That question belongs to the appeal after full briefing should we grant the State’s application. For present purposes, the significance of these authorities and subsequent statutory developments is narrower: whether they provide a substantial basis to question the trial court’s determination that it was confronting materially new statutory language without meaningful appellate guidance.

The procedural consequence of the ruling also reinforces the need for review. The challenged ruling does not merely govern the admissibility of evidence or the manner in which an otherwise authorized proceeding will be conducted. It determines the lawful decision-maker for the competency question. If the statutory framework assigns that

determination to the trial court rather than a jury, proceeding first with a jury determination would alter the structure of the competency proceeding itself. Conversely, if the Defendant's construction is correct, he is entitled to have a jury determine competency. The issue therefore concerns a threshold feature of the proceeding that this court should resolve.

Taken together, the statutory history, the existing Tennessee authorities, and the procedural consequence of the ruling persuade us that the State has made a sufficient showing that immediate review is warranted under Rule 10. We do not hold in this order that the trial court's statutory interpretation is incorrect. We hold only that the State has demonstrated circumstances sufficiently outside the accepted and usual course of judicial proceedings to justify plenary appellate review before the competency proceeding occurs.

We have also considered the Defendant's argument concerning delay. That concern is substantial. This prosecution has been pending since 2022, the Defendant has asserted an interest in prompt resolution of the competency issue, and trial is presently scheduled for December 2, 2026. As *Gilley* recognizes, interlocutory review in criminal cases is disfavored because piecemeal appellate litigation may itself frustrate the prompt administration of criminal justice. *See Gilley*, 173 S.W.3d at 5. We have likewise considered the thirty-one days between the trial court's denial of Rule 9 review and the filing of the State's Rule 10 application. On this record, however, that interval does not itself indicate such delay or lack of diligence as would counsel against review.

Nor do we disregard the trial court's decision to deny Rule 9 review. Ordinarily, that discretionary determination should be respected. *See Gilbert*, 458 S.W.3d at 899. But Rule 10 expressly permits review when the alleged departure satisfies its own extraordinary criteria. Here, the State has made the required showing because the disputed ruling concerns the lawful decision-maker for competency, arises against an existing line of Tennessee authority and a statutory history that materially bear upon the trial court's stated rationale, and will determine the structure of a proceeding scheduled to occur before any ordinary appellate review could be obtained. Under these circumstances, we conclude that immediate review is warranted despite the additional delay it will occasion.

The State also argues that extraordinary review is warranted because it may otherwise lose a right or interest that cannot later be recaptured. We give this contention more limited weight. A finding of incompetency may not immediately produce a final judgment from which the State can appeal as of right, and subsequent proceedings may instead involve judicial hospitalization, reevaluation, or other dispositions. At the same

time, the availability and adequacy of later review will depend upon the course of those proceedings. We therefore do not rest our decision principally upon this consideration. Rather, uncertainty concerning effective later review provides additional support for immediate consideration of an issue for which the State has otherwise made a sufficient showing under the extraordinary departure standard.

Finally, nothing in this order resolves whether Tennessee Code Annotated section 33-7-301(b)(2) authorizes a jury trial on competency. We likewise express no opinion concerning the Defendant's separate constitutional or common law theories, which the trial court did not reach. Those theories remain open for consideration in the appropriate procedural posture.

CONCLUSION

Upon consideration of the State's application, the Defendant's answer and supplemental materials, and the authorities submitted by the parties, we conclude that the challenged ruling presents circumstances warranting immediate review under Tennessee Rule of Appellate Procedure 10(a). Accordingly, the court hereby **ORDERS** as follows:

1. The State's application for extraordinary appeal is **GRANTED**, and the trial court proceedings are **STAYED** pending further order of this court.
2. No later than thirty days from the date of entry of this order, the trial court clerk shall transmit the record on appeal in accordance with Tennessee Rule of Appellate Procedure 10(d). Upon filing of the appellate record, the parties shall file briefs in accordance with Tennessee Rules of Appellate Procedure 29 and 30.
3. Nothing in this order should be construed as expressing a view concerning the ultimate disposition of the statutory issue presented in the appeal.
4. Oral argument shall be granted upon appropriate request. Tenn. R. App. P. 35(a).

JUDGE TOM GREENHOLTZ
JUDGE ROBERT H. MONTGOMERY, JR.
JUDGE STEVEN W. SWORD