

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

FILED

09/23/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JACK CAMERON BILLER

**Criminal Court for Sumner County
No. 2025CR196**

No. M2026-01020-CCA-R9-CO

ORDER

The Defendant, Jack Cameron Biller, requests permission to pursue an interlocutory appeal. Tenn. R. App. P. 9. The Defendant seeks review of the trial court's order denying his motion to suppress evidence. The State opposes the application. The Court previously granted the Defendant's request to file a limited reply to the State's answer. Upon initial review of those filings, the Court ordered a limited remand to the trial court for further consideration. The trial court has since amended its order granting the interlocutory appeal. Having now reconsidered the matter in light of that amended order, the Court hereby denies the application for permission to appeal for the reasons stated below.

Background

The Defendant is charged with driving under the influence, first offense. Tenn. Code Ann. § 55-10-401. He filed a motion to suppress evidence seized following the traffic stop that led to his arrest. The Defendant summarized the facts related to that stop in his motion:

On or about December 31, 2024, after midnight, [the] Defendant . . . was driving down Brookhaven Drive in Gallatin, Tennessee. An officer, responding to an unrelated call regarding a person yelling in the neighborhood on New Year's Eve, observed [the Defendant's] vehicle. The officer, standing beside his patrol car, stepped into the road, raised his hand to signal [the Defendant] to stop, and repeatedly flashed his flashlight at [the Defendant's] vehicle, waving it to indicate a command to pull over. This interaction was captured on Officer Chartier's body camera.

The officer's first words were an inquiry about the yelling call. [The

Defendant] informed the officer that he possessed no information relevant to the inquiry. Instead of allowing [the Defendant] to leave, law enforcement officers detained him, arrested him for Driving Under the Influence (DUI), and subjected him to a warrantless blood test.

Following a hearing, the transcript of which the Defendant did not attach to his application, the trial court denied the Defendant's motion to suppress:

The court found that under the totality of the circumstances that the [D]efendant . . . was not seized. That the [D]efendant stopped on his own accord. . . . Based on this ruling, the argument presented by the State concerning community caretaker was not addressed.

As to the reason for the eventual detention of the Defendant, the trial court noted in its order that, after inquiring if the Defendant heard anyone yelling in the area, "[t]he officer immediately smelled alcohol from the [D]efendant's person and identified an open container in the vehicle." According to the State's response to the motion to dismiss, the Defendant apparently consented to a blood test, which revealed a blood alcohol concentration of .10%.

Thereafter, the Defendant moved the trial court for permission to pursue an interlocutory appeal. The Defendant acknowledged "Tennessee law distinguishes between consensual encounters and seizures by asking whether, under the totality of the circumstances, a reasonable person would have believed that he or she was not free to leave or otherwise terminate the encounter," but he disagreed with the trial court's application of the law to the facts presented in this case. To that end, he argued "immediate review therefore may avoid needless, expensive, and protracted litigation by resolving a threshold constitutional issue before the parties incur the burden and expense of trial and post-judgment appeal." The Defendant asserted that, "[b]ecause the Court's order rests on the conclusion that Defendant stopped voluntarily rather than in submission to authority, review now would provide guidance on the application of the free-to-leave test to facts of this kind."

The trial court agreed and granted the Defendant's request for an interlocutory appeal. The court recognized its "suppression ruling turns on a controlling question of constitutional law concerning whether Defendant was seized before any further investigation began." It framed the issue it certified for appeal as follows:

Whether, under the Fourth Amendment to the United States Constitution and Article I, Section 7 of the Tennessee Constitution, a law-enforcement officer effects a seizure when, while positioned in or at the roadway near a marked

patrol vehicle, he raises his hand in a stop signal and uses flashlight and hand motions to direct an oncoming vehicle to stop, whether a reasonable motorist would feel free to continue driving past the officer.

The court acknowledged “[s]ubstantial grounds exist for difference of opinion on that question.” The court then stated “[i]mmediate review may prevent needless, expensive, and protracted litigation because the suppression issue materially affects the evidence available to the State and the future course of this prosecution” and that “[i]mmediate review will also assist in the uniform development of Tennessee law concerning when an officer’s conduct directed toward a moving vehicle constitutes a consensual encounter or a seizure.”

As noted in this Court’s prior remand order, the overarching concern is whether an interlocutory appeal will result in a net reduction in the duration and expense of this litigation. As further noted, however, a reversal of the trial court’s order on the suppression motion would only result in a remand for further proceedings, not an outright dismissal, because the trial court did not address the State’s alternative argument that, assuming a seizure occurred, the officer was performing a community caretaking function. Thus, on remand, the trial court was directed to determine whether the parties presented sufficient proof and argument during the suppression hearing for it to issue a ruling whether, in the alternative, the officer was performing a community caretaking function at the time of the stop of the Defendant’s vehicle. On remand, the trial court determined sufficient proof was previously presented and it found that, “assuming a seizure occurred, the officer was indeed performing a community caretaking function.” The court “found the testimony of the officer to be credible and thus credited the officer’s stated motive for waving the defendant’s vehicle over. The officer was performing a community caretaking function seeking to respond to the disturbance.”

Rule of Appellate Procedure 9

Rule 9 outlines the procedure for obtaining interlocutory appellate review of a trial court order. Both the trial and appellate court must approve the appeal. To that end, a party must first file a motion in the trial court requesting the appeal within thirty days of the order being appealed. Tenn. R. App. P. 9(b). If the trial court determines the interlocutory appeal shall be allowed to proceed, the party must then file an application for permission to appeal in this Court within ten days of the trial court’s order granting the appeal. Tenn. R. App. P. 9(c). The application must be accompanied by copies of the trial court order from which appellate review is being sought, the trial court’s statement of reasons for granting the appeal, and the other parts of the record necessary for consideration of the application. Tenn. R. App. P. 9(d). Thus, and because there is generally no record already on file when a party seeks a Rule 9 appeal, it is that party’s responsibility to provide

this Court with an *ad hoc* record of the proceeding below. Despite the fact the Defendant did not supplement his application with a copy of the trial court's amended order, or the transcript of the suppression hearing, as previously directed, the Defendant's original application is otherwise sufficient for this Court's review.

This Court's review of an application for an interlocutory appeal must begin with the supreme court's caution: "[I]nterlocutory appeals to review pretrial orders or rulings, i.e., those entered before a final judgment, are 'disfavored,' *particularly in criminal cases*." *State v. Gilley*, 173 S.W.3d 1, 5 (Tenn. 2005) (emphasis added). Again, Rule 9 requires permission from both the trial court and this Court to pursue an interlocutory appeal. Tenn. R. App. P. 9(a). To that end, Rule 9(a) sets forth the "character of reasons" the courts should consider when ruling on a request for an interlocutory appeal. "[W]hile neither controlling nor fully measuring the courts' discretion," an interlocutory appeal may be granted if both the trial and appellate court determine:

(1) the need to prevent irreparable injury, giving consideration to the severity of the potential injury, the probability of its occurrence, and the probability that review upon entry of final judgment will be ineffective; (2) the need to prevent needless, expensive, and protracted litigation, giving consideration to whether the challenged order would be a basis for reversal upon entry of a final judgment, the probability of reversal, and whether an interlocutory appeal will result in a net reduction in the duration and expense of the litigation if the challenged order is reversed; and (3) the need to develop a uniform body of law, giving consideration to the existence of inconsistent orders of other courts and whether the question presented by the challenged order will not otherwise be reviewable upon entry of final judgment.

Tenn. R. App. P. 9(a).

Rule 9(b) requires a trial court to "specify: (1) the legal criteria making the order appealable, as provided in subdivision (a) of this rule; (2) the factors leading the trial court to the opinion those criteria are satisfied; and (3) any other factors leading the trial court to exercise its discretion in favor of permitting an appeal." Tenn. R. App. P. 9(b). The rule also requires a trial court to also "state in writing the specific issue or issues the court is certifying for appeal and the reasons for its opinion." *Id.*

Discussion

In his application before this Court, the Defendant does not expressly identify any irreparable injury on his part. Instead, he emphasizes the need to prevent needless, extended and protracted litigation. To that end, he argues the suppression issue is

dispositive of this case. The Defendant also argues there is a need to develop a uniform body of law. According to the Defendant, “[r]easonable jurists can disagree over whether a uniformed officer positioned in or at a roadway, raising a hand and using flashlight motions toward an approaching vehicle, communicates a command to stop rather than a request for consensual conversation.” The Defendant is asking this Court to interrupt trial court proceedings at this stage of the prosecution to obtain “guidance” as to whether the trial court correctly applied the law to the facts presented.

Upon review, this Court disagrees with the Defendant and the trial court that interrupting further proceedings at this stage of the prosecution is warranted. The underlying issue here involves a search and seizure analysis. First and foremost, it is apparent the order of the trial court denying the motion to suppress is merely a step towards final disposition of the merits of this case and the rights of the Defendant will not be lost if review of the issue is delayed until entry of final judgment. If the Defendant is acquitted, the question becomes moot. If convicted, he may appeal the issue to this Court pursuant to Rule of Appellate Procedure 3. In other words, the Defendant will not be denied the opportunity to appeal the issue at a later date, if necessary.

Similarly, this Court disagrees that an interlocutory appeal will result in a net reduction in the duration and expense of this litigation. The trial court did not adequately explain why immediate review is necessary, especially when the suppression issue presented is one which is typically raised on direct appeal. The trial court surmised only that review now *may* prevent needless, expensive, and protracted litigation. However, if this Court affirms the trial court’s ruling in an interlocutory appeal, the case will become even more prolonged. Neither the trial court nor the Defendant identify anything especially unique about the nature of the litigation in this case. The trial court and the Defendant both suggest there is no factual dispute and that the suppression issue is likely dispositive of the case. If that is so, and to obtain quicker review, nothing prevents the Defendant from utilizing the procedure set forth in Rule of Criminal Procedure 37(b)(2)(A) for appealing a certified question of law. *See State v. Bishop*, -- S.W.3d. --, 2026 WL 2329478 (Tenn. 2026) (discussing procedure for obtaining such review).

Rule 9 further contemplates “the need to develop a uniform body of law, giving consideration to the existence of inconsistent orders of other courts and whether the question presented by the challenged order will not otherwise be reviewable upon entry of final judgment.” Tenn. R. App. P. 9(a). Neither the trial court nor the Defendant highlights any inconsistent orders or opinions on the issue, however. Instead, the trial court summarily stated interlocutory review will assist in the uniform development of law. Again, appellate review of the trial court’s ruling can occur upon entry of final judgment, if necessary. This Court has repeatedly held that Rule 9 is not an appropriate vehicle for obtaining an advisory opinion on an issue which would otherwise be available for review

later on direct appeal.

By granting the application in this instance, interlocutory review would be reduced to the standard rather than the exceptional procedural avenue it is meant to be. The Defendant merely wants an answer to the question now. Having to wait for appellate review of an issue raised in a pretrial motion to suppress is common in criminal cases.

Conclusion

For these reasons, the Defendant's application is hereby denied.

Ayers, J., Wedemeyer, P.J., Holloway, J.