

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs June 2, 2026

**FILED**

08/13/2026

Clerk of the  
Appellate Courts

**STATE OF TENNESSEE v. JOSE MURILLO-SALGADO**

**Appeal from the Criminal Court for Shelby County**  
**No. C2404563      Carlyn L. Addison, Judge**

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**No. W2025-00450-CCA-R3-CD**

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A Shelby County jury convicted Defendant, Jose Murillo-Salgado, of two counts of first degree premeditated murder (counts one and three), two counts of first degree felony murder (counts two and four), and one count of especially aggravated burglary (count five). The trial court sentenced Defendant to life sentences for the murder convictions and merged counts one and three with counts two and four, and sentenced Defendant to an additional twelve years at 100% for the especially aggravated burglary conviction. All counts were ordered to be served consecutively. On appeal, Defendant argues the evidence was insufficient to support his convictions. After a thorough review of the record, the parties' briefs, and the applicable law, we conclude that the evidence was legally sufficient to support his convictions. However, under the facts of this case, Tennessee Code Annotated section 39-13-1004(d) prohibits Defendant from being convicted of both especially aggravated burglary and felony murder, we reduce Defendant's conviction for especially aggravated burglary to aggravated burglary and modify his sentence for that conviction to a six-year term as a Range I Standard offender to be served consecutively. Accordingly, we affirm the judgments as to the murder convictions and modify the judgment for especially aggravated robbery.

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

JILL BARTEE AYERS, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and JOHN W. CAMPBELL, SR., JJ., joined.

Alexander D. Camp, Jackson, Tennessee, (on appeal); and Joseph McClusky, Memphis, Tennessee, (at trial) for the appellant, Jose Murillo-Salgado.

Jonathan Skrmetti, Attorney General and Reporter; Benjamin A. Ball, Senior Assistant Attorney General; Michael J. Hurst, Qualified Law Student Approved Under Tenn. Sup. Ct. R. 7, Sec. 10.03; Steven J. Mulroy, District Attorney General; and Monica Timmerman

and Alyssa Hennig, Assistant District Attorneys General, for the appellee, State of Tennessee.

## **OPINION**

### **Factual and Procedural Background**

Defendant, Jose Murillo-Salgado, was indicted by a Shelby County grand jury for two counts of first degree premeditated murder, two counts of first degree felony murder, and one count of especially aggravated burglary arising from the July 28, 2022 stabbing deaths of his ex-girlfriend, Claudia Nunez, and her fourteen-year-old son, Kevin Nunez.

The proof at trial established that Defendant had been involved in a romantic relationship with Claudia<sup>1</sup> in the months preceding the murders. Claudia's brother-in-law, Daniel Vargas, testified that Defendant was "controlling" and "possessive" and that the relationship was not one the family "really liked." Mr. Vargas identified photographs of Claudia and Kevin. Mr. Vargas said he and Kevin were very close and Kevin regarded him as a father figure.

Claudia's cousin, Sonia Rubi, testified about an April 9, 2022 incident in which Defendant and Claudia were arguing because Defendant refused to give Claudia her car keys. Defendant forced Ms. Rubi and Claudia into the car and told them, "that was the day [they] were all going to die." Defendant then drove Ms. Rubi and Claudia to a gas station, where he parked before pulling out a gun and pointing it at the two women. Ms. Rubi did not report the incident because she feared Defendant would harm her or her son. She testified that Defendant routinely carried a firearm.

Claudia's daughter, Natalie, who was sixteen years old at the time of the murders, testified that on July 28, 2022, she was at home with her younger sister, Melany Hernandez, her mother and her brother, Kevin. Defendant had moved out of the home months earlier and no longer had permission to enter. She said that Defendant arrived around 3:00 a.m. and began pounding on the front door and the windows. Claudia refused to let him inside and pushed a large couch against the front door. Defendant beat on Claudia's bedroom window to distract her. When she went to the bedroom, Defendant was able to push open the front door and enter the home. Once inside, Defendant argued with Claudia in her bedroom before going into the kitchen where he opened a drawer, retrieved a knife, and stabbed Kevin. Natalie saw Kevin run outside and she ran after him. Once outside, Natalie

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<sup>1</sup> For clarity, we use the first names of the victims and witnesses who have the same last name. In doing so, we intend no disrespect.

began to knock on doors and ring doorbells of nearby houses to find help. A video recording from a Ring camera was played for the jury and showed Natalie pounding on a neighbor's door and ringing the doorbell while begging for help. The video also showed Natalie looking over her shoulder multiple times; she testified she was afraid Defendant would come "looking for [her]." When police arrived, Natalie was outside standing beside Kevin who was wounded and lying on the ground. She returned to the house with an officer; Defendant was no longer at the house. Natalie gave police Defendant's identification documents found in a drawer in her mother's bedroom and his cell phone number. She also gave police a description of Defendant's vehicle and later identified Defendant in a photographic lineup.

Teresa Onry, a forensic interviewer at the Memphis Child Advocacy Center ("MCAC"), authenticated the forensic interview of Melany Hernandez which was conducted later in the morning on the day of the murders. She explained that traumatized children often omit details shortly after an event. Her testimony confirmed that Melany's recorded interview adhered to the protocol used by MCAC when interviewing children.

Melany Hernandez, who was twelve years old at the time of the murders, testified that she and her mother barricaded the front door with the couch because her mother believed Defendant would try to get into the house. She heard Defendant banging on the front door and her mother's bedroom window; she knew it was him because she recognized his voice. After forcing his way inside, Defendant argued with Claudia in her bedroom, then searched the cabinets in the dark kitchen, turned on the lights, got a kitchen knife, and said that he was "going to kill everybody." At that time, Claudia, Kevin, and Melany were in the kitchen with Defendant. Melany saw Defendant stab Kevin and then Kevin and Natalie ran outside. Melany ran to her mother's bedroom to call 911. While on the phone, she heard Defendant's attack on her mother taking place in the kitchen. At one point, she opened the door and called out for her mother, and Defendant inserted the knife through the cracked bedroom door as she attempted to hold it shut. The 911 call was played for the jury; Melany can be heard screaming at the beginning of the call, whispering answers to the dispatcher's questions, and calling out for her mother. She remained on the call until law enforcement officers arrived on scene.

Regarding her forensic interview, Melany identified the disc containing the recorded interview and her initials on the disc, which she added after she watched the recording. She testified that she told the truth in the interview. However, she admitted that she did not tell the forensic interviewer about Defendant coming to the door while she was in her mother's bedroom because she "had a lot of things on [her] mind. It didn't cross [her] mind. [She] was focused on what happened with [her] mom and [her] brother." She did tell her aunt about Defendant coming to the bedroom door later that same day.

Multiple officers from the Memphis Police Department (“MPD”) responded to the scene. Officer Caleb Rhinehart testified that he had to put his “whole body weight into getting through the door” because there was a couch that had been used to block the front door. Upon entering the residence, he found the interior in disarray, with furniture displaced and blood throughout the home. Claudia’s body was found in the kitchen and there was “a lot of blood” along with “[f]ootprints, boot prints . . . next to her head” that Officer Rhinehart noted did not belong to him.

Officer Denzel Flenorl testified that when he arrived on the scene, an officer was tending to Kevin who was lying “in the street.” He then went to the house where he encountered Natalie and Melany and obtained Defendant’s identifying documents, which Natalie found in a drawer in her mother’s bedroom. Officer Flenorl entered Defendant’s information into the MPD’s Watson system and passed the information obtained along to his Lieutenant.

Lieutenant Milton Bonds, supervisor of MPD’s Digital Forensics Unit, testified that he extracted data from Claudia’s cell phone after receiving the passcode from her daughter. Lieutenant Bonds recovered numerous hostile, jealous, and profane text messages sent by Defendant in the two days leading up to the murders, accusing Claudia of infidelity, and demonstrating escalating anger. He also recovered a security system notification timestamped at 3:32 a.m. indicating that the “front door has remained open for five minutes,” corroborating the daughters’ testimony that Defendant forced entry around that time. The phone logs showed repeated calls from Defendant to Claudia in the hours immediately preceding the killings.

Sergeant Jacoba Boyd, a homicide investigator, processed the crime scene and received information from family members identifying Defendant as the perpetrator. Sergeant Boyd was able to obtain a description of Defendant’s vehicle and his license plate number, and a BOLO (“be on the lookout”) for Defendant was sent out. She learned from law enforcement that Defendant had fled Memphis and was “in Arkansas headed towards Texas.” Defendant was subsequently stopped and detained and Sergeant Boyd traveled to Hope, Arkansas, where she interviewed Defendant. Sergeant Boyd informed Defendant of his *Miranda*<sup>2</sup> rights and Defendant signed a waiver of rights form. Sergeant Boyd then interviewed Defendant and recorded his statement in which he referenced the cartel and suggested they compelled him to commit the murders. Sergeant Boyd testified that she received no evidence that Defendant or the victims had any cartel connections.

The State presented extensive digital forensics evidence through Special Agent Michael Garner of the Tennessee Bureau of Investigation. Special Agent Garner analyzed

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<sup>2</sup> *Miranda v. Arizona*, 384 US 436 (1966).

call detail records associated with Defendant's phone number and testified that between 3:16 a.m. and 3:36 a.m., Defendant's phone connected repeatedly to cell towers providing coverage for Claudia's residence. Later that afternoon, the phone connected to a tower in Hope, Arkansas, consistent with Defendant's location at the time of his arrest. Special Agent Garner explained that the cell tower data demonstrated Defendant's presence at the scene during the time of forced entry and stabbing.

Lieutenant Jamie Gravier of the Arkansas State Police testified that he received a BOLO for Defendant's vehicle and located it traveling westbound on Interstate 30. Lieutenant Gravier detained Defendant at a gas station near Hope. Lieutenant Gravier observed what appeared to be dried blood on Defendant's pants, shoes, and elbow, and a small blood spot on the exterior of the vehicle. Lieutenant Gravier and additional officers took Defendant into custody and issued a *Miranda* warning. Without any questioning, Defendant spontaneously said "I didn't want to do it. I had to do it, the [c]artel made me do it." Lieutenant Gravier continued,

[Defendant] went into elaborate detail about how his girlfriend had borrowed money from the [c]artel and had displayed pictures of her with the money on a social media platform, which one, I don't recall, and they were upset and had told him to go get the money back. And he told us that he couldn't because she had spent it, and that the [c]artel told him that he could either kill her and the son or they were going to kill him and his daughter.

Special Agent Adam Pinner of the Arkansas State Police Criminal Investigation Division responded to assist. Special Agent Pinner observed apparent blood on Defendant's clothing; he seized Defendant's jeans, shirt, and shoes, each of which bore visible bloodstains. Special Agent Pinner transferred the items to Memphis authorities. Additionally, citing exigent circumstances, Special Agent Pinner testified that he swabbed the blood on Defendant's elbow, stating, "Once [Defendant] gets arrested . . . the evidence could be destroyed . . . so I preserved that evidence by going ahead swabbing, collecting the evidence." Within a few hours, Special Agent Pinner obtained a search warrant for the blood swab.

MPD crime scene specialist William Watson testified that Claudia's home showed signs of forced entry and extensive blood evidence. Mr. Watson documented blood trails, smears, and pooling throughout the living room, hallway, bathroom, and kitchen. He recovered a bent kitchen knife from the sink area; the blade appeared to have been washed but there was reddening on both sides and in the wood which appeared to be blood. Photographs also showed what appeared to be blood on a plate in the sink where the knife was found and in the sink itself. Mr. Watson also testified that he performed a presumptive blood test on Defendant's jeans, which was positive for the presence of blood.

The State concluded its proof with Dr. Danielle Harrell, a forensic pathologist at the West Tennessee Regional Forensic Center, who performed the autopsies on both victims. Dr. Harrell testified that Kevin sustained two stab wounds, including a seven-and-a-half-inch-deep stab wound to his torso that penetrated three ribs and caused devastating internal injuries, including transection of the splenic artery and vein. She determined that Kevin's cause of death was a stab wound to the torso and that the manner of death was homicide.

Dr. Harrell testified that Claudia sustained thirty-one sharp force injuries, including twelve stab wounds, four incised wounds, and fifteen superficial incised wounds, as well as multiple blunt force injuries. The most significant injury was a deep incised wound across the front of the neck that completely transected both carotid arteries, the right internal jugular vein, the airway, the esophagus, and produced damage to the cervical spine. Dr. Harrell testified that the neck wound was "devastating," "lethal," and "non-reparative." Claudia also sustained stab wounds to the chest, back, and shoulders, several of which penetrated the lungs and caused additional hemorrhaging. Dr. Harrell determined that Claudia's cause of death was multiple sharp force injuries and that the manner of death was homicide. She testified that the wound characteristics were consistent with a non-serrated blade similar to the kitchen knife recovered at the scene.

Defendant elected not to testify, and the defense offered no proof. The jury found Defendant guilty on all counts: two counts of first degree premeditated murder, two counts of first degree felony murder committed in the perpetration of aggravated burglary, and one count of especially aggravated burglary. The trial court sentenced Defendant to life for each of the murder convictions and an additional term of twelve years at 100% for the especially aggravated burglary. All sentences were ordered to be served consecutively. The court merged count one into count three and count two into count four. Defendant filed a timely motion for new trial, which was denied. This appeal followed.

### **Analysis**

On appeal, Defendant contends that the evidence is legally insufficient to support each conviction. Specifically, he argues that the State failed to prove premeditation for either homicide, the State failed to prove unlawful entry or felonious intent necessary for especially aggravated burglary, and because the evidence was insufficient for the especially aggravated burglary conviction, the felony murder convictions must also be reversed. The State argues that the evidence is legally sufficient to support Defendant's convictions. We agree with the State.

When evaluating the sufficiency of the evidence on appeal, the relevant question is whether "*any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *State v. Wagner*, 382 S.W.3d 289, 297 (Tenn. 2012) (quoting

*Jackson v. Virginia*, 443 U.S. 307, 319 (1979)); see Tenn. R. App. P. 13(e). The State is entitled to the strongest legitimate view of the evidence presented at trial and to all reasonable and legitimate inferences that may be drawn from the evidence. *State v. Gibson*, 506 S.W.3d 450, 458 (Tenn. 2016). This court will not reweigh or reevaluate the evidence, and it may not substitute its inferences drawn from circumstantial evidence for those drawn by the trier of fact. *State v. Davis*, 466 S.W.3d 49, 70 (Tenn. 2015). A jury’s verdict of guilt, approved by the trial court, resolves conflicts of evidence in the State’s favor and accredits the testimony of the State’s witnesses. *State v. Smith*, 436 S.W.3d 751, 764 (Tenn. 2014). “Questions concerning the credibility of witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact.” *State v. Bland*, 958 S.W.2d 651, 659 (Tenn. 1997).

A guilty verdict replaces the presumption of innocence with one of guilt, and on appeal, the burden of demonstrating that the evidence is insufficient to support the conviction is on the defendant. *State v. Cole*, 155 S.W.3d 885, 897 (Tenn. 2005). This standard of review applies to guilty verdicts based upon direct or circumstantial evidence. *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011) (citing *State v. Hanson*, 279 S.W.3d 265, 275 (Tenn. 2009)). In *Dorantes*, our supreme court held that “direct and circumstantial evidence should be treated the same when weighing the sufficiency of such evidence.” *Id.* at 381.

### I. First Degree Premeditated Murder

Tennessee Code Annotated section 39-13-202(a)(1) defines first degree murder as: “A premeditated and intentional killing of another.” Premeditation is defined as “an act committed after the exercise of reflection and judgment,” and “means that the intent to kill must have been formed prior to the act itself,” though no specific period of time is required. T.C.A. § 39-13-202(e). “The existence of premeditation is a question of fact to be determined by considering all of the evidence.” *State v. Reynolds*, 635 S.W.3d 893, 916 (Tenn. 2021) (first citing *State v. Clayton*, 535 S.W.3d 829, 845 (Tenn. 2017); and then, *State v. Dickson*, 413 S.W.3d 735, 746 (Tenn. 2013)). Premeditation may be inferred from circumstances of the killing, such as prior threats or hostility; declarations of intent to kill; use of a deadly weapon on an unarmed victim; infliction of multiple or particularly cruel wounds; efforts to destroy or conceal evidence; failure to render aid; lack of provocation or motive. *Id.* at 916–17; see also *State v. Young*, 196 S.W.3d 85, 108 (Tenn. 2006).

Viewed in the light most favorable to the State, the evidence is sufficient to support the jury’s finding of intentional and premeditated killings of both Claudia and Kevin Nunez. The proof established that Defendant arrived at the victims’ home at approximately 3:00 a.m., uninvited, pounding on doors and windows. Claudia had barricaded the front door with a couch to keep him out. Defendant forced his way inside, walked into the

kitchen, opened the knife drawer, selected a kitchen knife, turned on the lights, and declared that he was “going to kill everybody.” He first stabbed Kevin with significant force, causing a seven and a half inch deep wound transecting vital organs and blood vessels. He then stabbed Claudia repeatedly, inflicting thirty-one sharp-force wounds, including a catastrophic neck wound that alone was fatal.

Additionally, the jury heard proof of the prior April 2022 incident where Defendant threatened Claudia and Ms. Rubi, pointed a gun at them and said, “this is the day we are all going to die,” along with hostile text messages sent by Defendant to Claudia in the days leading up to the murders. This evidence showed motive, hostility, and a pattern of escalating domestic violence consistent with premeditation. A rational trier of fact could conclude that the killings were intentional and committed with premeditation, as defined by statute. Defendant is not entitled to relief.

## II. Especially Aggravated Burglary

Especially aggravated burglary occurs when a defendant commits the burglary of a habitation and, in doing so, the victim suffers serious bodily injury. T.C.A. § 39-13-1004(a). Burglary of a habitation requires proof that the defendant entered the habitation without the effective consent of the property owner and with the intent to commit a felony, theft, or assault. *Id.* § 39-14-402(a)(1); *State v. Tolbert*, 507 S.W.3d 197, 214 (Tenn. Crim. App. 2016). The statute defining “serious bodily injury,” provides that such injury includes a substantial risk of death, protracted unconsciousness, extreme physical pain, protracted or obvious disfigurement, or protracted loss or substantial impairment of a bodily member, organ, or mental faculty. T.C.A. § 39-11-106(a)(34).

Viewed in the light most favorable to the State, the evidence is sufficient to support the jury’s finding that Defendant committed a burglary of the habitation. Defendant arrived at the victims’ home at approximately 3:00 a.m., pounding on doors and windows while demanding entry despite having no permission to enter. Claudia and her daughters actively attempted to prevent his entry by pushing a couch against the front door, and both girls testified that Defendant no longer lived in the home. Defendant forced his way into the home by pushing the barricaded door open. Once inside, he immediately confronted Claudia, declared he was “going to kill everybody,” and proceeded directly to the kitchen where he opened a drawer, retrieved a knife, and began the fatal attack.

Ordinarily, such proof would sustain a conviction for especially aggravated burglary under Tennessee Code Annotated section 39-13-1004(a). However, Tennessee law imposes an additional constraint that is directly implicated by the facts of this case. Under Tennessee Code Annotated section 39-13-1004(d), “[a]cts which constitute an offense under this section may be prosecuted under this section or any other applicable section, but

not both.” This court has interpreted this provision to mean that the same serious bodily injury cannot be used to support both an especially aggravated burglary conviction and another conviction requiring serious bodily injury. *Tolbert* directly addresses this scenario. There, the court held that because the victim’s killing supplied the serious-bodily-injury element for felony murder and was also used to establish the serious-bodily-injury element of especially aggravated burglary, the especially aggravated burglary conviction “was required to be reduced to aggravated burglary.” *Tolbert*, 507 S.W.3d at 214.

The same rule was applied sua sponte in *State v. Conyers*, No. M2002-01007-CCA-R3-CD, 2003 WL 22068098 (Tenn. Crim. App. Sept. 5, 2003). There, this court recognized plain error and reduced an especially aggravated burglary conviction where serious bodily injury was used for both especially aggravated robbery and especially aggravated burglary, concluding that Tennessee Code Annotated section 39-13-1004(d) forbids dual use of the same injury. *Conyers*, 2003 WL 22068098, at \*8.

Likewise, in *State v. Fykes*, No. M2018-00703-CCA-R3-CD, 2019 WL 3282735 (Tenn. Crim. App. July 22, 2019), this court again reduced an especially aggravated burglary conviction because the same serious bodily injury was used to support both especially aggravated burglary and aggravated assault. As *Fykes* explains, “When serious bodily injury to a victim is used to convict a defendant of both especially aggravated burglary and another offense requiring serious bodily injury, the especially aggravated burglary conviction must be reduced to aggravated burglary.” *Fykes*, 2019 WL 3282735, at \*5; *see also State v. Adams*, No. 02C01-9709-CC-00352, 1998 WL 556174, at \*6 (Tenn. Crim. App. Sept. 1, 1998) (“Defendants may not, however, be convicted of both felony murder and especially aggravated burglary.”); *State v. Holland*, 860 S.W.2d 53, 60 (Tenn. Crim. App. 1993); *State v. Oller*, 851 S.W.2d 841, 843 (Tenn. Crim. App. 1992).

Here, the State relied on the fatal stab wounds inflicted upon Claudia, as well as the stabbing of her son, to establish both felony murder and the serious-bodily-injury element of especially aggravated burglary. These injuries were not distinct; they arose from the same violent acts that formed the basis of the homicide convictions. Under *Tolbert*, *Conyers*, and *Fykes*, the law does not permit the same injury to serve as the element of serious bodily injury for both felony murder and especially aggravated burglary. As in those cases, modification is required.

Although neither party raised this issue on appeal, Tennessee appellate courts retain limited authority to correct an illegally elevated conviction when the record is clear. “When necessary to do substantial justice, an appellate court may consider an error that has affected the substantial rights of a party at any time, even though the error was not raised in the motion for a new trial or assigned as error on appeal.” Tenn. R. App. P. 36(b).

Although *State v. Bristol*, 654 S.W.3d 917 (Tenn. 2022), cautions that courts must exercise restraint when addressing unpreserved issues and ordinarily must provide notice and opportunity for the parties to respond, it also recognizes that Tennessee Rules of Appellate Procedure Rule 13(b) and Rule 36(a), (b) preserve a narrow discretionary power to correct unrepresented issues “in order to achieve fairness and justice.” *Bristol*, 654 S.W.3d at 927 (citations omitted). In this case, we conclude that substantial justice requires our consideration of this issue. See Tenn. R. App. P. 36(b); *Tolbert*, 507 S.W.3d at 214.

In light of *Tolbert*, *Conyers*, *Fykes*, and consistent with the limited discretionary authority acknowledged in *Bristol*, we conclude that Defendant’s conviction for especially aggravated burglary must be modified. Because the serious bodily injuries underpinning the felony murder convictions cannot also serve as the serious-bodily-injury element necessary to elevate burglary to especially aggravated burglary, we modify this conviction to aggravated burglary under Tennessee Code Annotated section 39-13-1003.

Because we have reduced Defendant’s conviction from especially aggravated burglary, a Class B felony, to aggravated burglary, a Class C felony, we must address his sentence for such. As this court has previously held, “we need not remand this case for the imposition of a sentence for the aggravated burglary conviction because the record before us is sufficient for us to impose an appropriate sentence.” *State v. Zonge*, 973 S.W.2d 250, 255 (Tenn. Crim. App. 1997). While the record does not include a transcript of the sentencing hearing, the trial court’s sentencing findings of fact are included in the technical record. The trial court found Defendant to be a Range I Standard offender and applied enhancement factors (1), (3), (5), (6), (9), (10), (12), and (13) to sentence Defendant to the maximum Class B sentence of twelve years. See T.C.A. § 40-35-114. We therefore reduce Defendant’s sentence from twelve years to six years, which is the maximum Class C sentence for a Range I Standard offender. See *Adams*, 1998 WL 556174, at \*6, n.5 (noting that the trial court found the defendants to be Range I offenders and applied the maximum Class B sentence of twelve years and this court reduced the sentence to the maximum for a Range I Class C felony). The trial court’s order that the sentence be consecutive to Defendant’s life sentences for the murder convictions remains unchanged.

### III. First Degree Felony Murder

As relevant to this appeal, first degree felony murder includes the killing of another committed “in the perpetration of or attempt to perpetrate” burglary. T.C.A. § 39-13-202(a)(2). To establish felony murder, the State must prove a killing, that the killing occurred during the perpetration or attempted perpetration of a burglary, and that the homicide and underlying felony were part of a continuous sequence of events. See *State v. Buggs*, 995 S.W.2d 102, 106 (Tenn. Crim. App. 1999).

Viewed in the light most favorable to the State, the evidence supports the jury's conclusion that Defendant committed burglary of the victims' home and that the killings occurred during the perpetration of the burglary. The proof established that Defendant arrived uninvited at approximately 3:00 a.m., pounded on the doors and windows, and demanded entry despite being told he could not come inside. Claudia and her daughters barricaded the front door with a couch, demonstrating both their desire to exclude Defendant and the absence of effective consent. Defendant forced his way into the home, confronted Claudia in her bedroom, and then proceeded directly to the kitchen where he opened a drawer, retrieved a knife, and declared he was "going to kill everybody." He then fatally stabbed both victims within minutes of entry. This evidence establishes unlawful entry of a habitation, without consent, and with intent to commit an assault—satisfying the elements of aggravated burglary. *See* T.C.A. § 39-13-1002, -1003.

The homicide followed immediately upon the burglary, forming a continuous chain of events in time, place, and action. Multiple witnesses corroborated that Defendant's forced entry, the confrontation inside, the retrieval of the knife, and the fatal stabbings occurred as one uninterrupted episode. Accordingly, the killings occurred "in the perpetration of" burglary within the meaning of Tennessee Code Annotated 39-13-202(a)(2), and the felony-murder convictions are supported by legally sufficient evidence.

The modification of the especially aggravated burglary conviction does not alter the felony murder convictions; burglary, whether aggravated or especially aggravated, remains a statutorily authorized predicate offense under Tennessee Code Annotated section 39-13-202(a)(2). Defendant is not entitled to relief on this issue.

## CONCLUSION

For the foregoing reasons, we affirm the trial court's judgments as to the murder convictions; however, the case is remanded to the Criminal Court for Shelby County for modification of the especially aggravated burglary judgment to reflect a reduction to aggravated burglary and the reduction in Defendant's sentence from twelve years to six years.

s/ *Jill Bartee Ayers*  
JILL BARTEE AYERS, JUDGE