

SUPREME COURT OF TENNESSEE

State of Tennessee v. Randall C. Johnson

No. M2024-00959-SC-R10-CO · No. No. M2024-00959-SC-R10-CO · Decided May 21, 2026

SUMMARY

This is a separate opinion by Chief Justice Jeffrey S. Bivins of the Supreme Court of Tennessee, concurring in part and dissenting in part in State of Tennessee v. Randall C. Johnson, also captioned In re: Nashville Banner. The opinion argues that the court need not resolve whether a good-cause or compelling-interest standard governs sealing of records because the records should not have been sealed under either standard. It criticizes the majority’s decision to adopt the compelling-interest standard as unnecessary and potentially consequential in future cases.

CASE DETAILS

COURT	Supreme Court of Tennessee
WRITING FOR THE COURT	Chief Justice Jeffrey S. Bivins
JURISDICTION	Supreme Court of Tennessee
DECIDED	May 21, 2026
DOCKET	No. M2024-00959-SC-R10-CO
DISPOSITION	other
PROCEDURAL POSTURE	Extraordinary appeal by permission from the Court of Criminal Appeals, arising from the Criminal Court for Davidson County.
STANDARD OF REVIEW	The separate opinion discusses whether a good-cause or compelling-interest standard should govern sealing of the records, but concludes that the choice of standard is unnecessary to the disposition because the records should not have been sealed under either standard.
PRECEDENTIAL VALUE	Published separate opinion; nonbinding concurrence and partial dissent
PARTIES	State of Tennessee v. Randall C. Johnson

TOPICS

- appellate procedure
- standard of review
- criminal procedure
- constitutional law

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Tennessee Supreme Court should adopt or resolve the applicable standard for sealing the records at issue when the records should not have remained sealed under either a good-cause or compelling-interest standard.
2. Whether it was prudent for the majority to resolve the applicable standard of review when that standard was not determinative of the case.

KEY QUOTATIONS

“Here the simple answer is that under either a good cause standard or a compelling interest standard the records at issue in this case should not have been sealed and should not have remained sealed. End of case.”
(-2-)

“However, possessing that authority and discretion and the wisdom in exercising that authority and discretion are two very different matters.” (-2-)

FACTUAL BACKGROUND

The case concerns the sealing and continued sealing of records in an appeal involving Nashville Banner. The separate opinion states that the records at issue should not have been sealed under either a good-cause standard or a compelling-interest standard. The opinion focuses on the majority's decision to resolve the standard-of-review issue despite viewing that resolution as unnecessary to the outcome.

PROCEDURAL HISTORY

The appeal was before the Tennessee Supreme Court by extraordinary appeal by permission. Nashville Banner moved to submit the appeal for decision on the record and briefs, and the court granted that motion on June 25, 2025. Chief Justice Bivins concurred in part and dissented in part, joining Justice Kirby's separate opinion while separately objecting to the majority's adoption of the compelling-interest standard.

DISPOSITION

other

CASES CITED

- City of Memphis v. Hargett, 414 S.W.3d 88, 102 (Tenn. 2013)
- Wright v. West, 505 U.S. 277, 295 (1992)
- State v. Spurlock, 874 S.W.2d 602, 619 (Tenn. Crim. App. 1993)
- Clardy v. State, 691 S.W.3d 390, 412 (Tenn. 2024) (Bivins, J., concurring)

OPINION

CHIEF JUSTICE JEFFREY S. BIVINS, J, concurring in part and dissenting in part.

05/21/2026 IN THE SUPREME COURT OF TENNESSEE AT NASHVILLE Assigned on Briefs
June 25, 20251 STATE OF TENNESSEE v. RANDALL C. JOHNSON IN RE: NASHVILLE
BANNER Extraordinary Appeal by Permission from the Court of Criminal Appeals Criminal
Court for Davidson County No. 2021-C-1591 Angelita Dalton, Judge

No. M2024-00959-SC-R10-CO

JEFFREY S. BIVINS, C.J., concurring in part and
dissenting in part.

I join in Justice Kirby’s separate opinion. I briefly write separately to emphasize my specific concern with the majority’s unnecessary adoption of the compelling interest standard in this case. Mine is a simple mind.

To me, if we have a simple answer in our cases that avoids possible unintended consequences in the future and avoids the creation of more questions than answers going forward, we almost always should take that option.

Here the simple answer is that under either a good cause standard or a compelling interest standard the records at issue in this case should not have been sealed and should not have remained sealed. End of case.² 1 Nashville Banner filed a motion to submit this appeal for decision on the record and briefs.

We granted that motion on June 25, 2025. ² The majority effectively admits that the resolution of this issue is not necessary to decide this case. “To be sure, the manner in which this Court resolves an issue is a prudential matter left to the Court’s discretion....” Indeed, prior case law from this and other courts make clear that this discretion should be exercised in a cautious manner.

See, e.g., *City of Memphis v. Hargett*, 414 S.W.3d 88, 102 (Tenn. 2013) (assuming that strict scrutiny applied when the parties had not specifically addressed which standard of review should apply and where the level of scrutiny was not determinative of the issues); *Wright v. West*, 505 U.S. 277, 295 (1992) (declining to decide the appropriate standard of review in a criminal case where there was “more than enough evidence” to support the conviction); *State v. Spurlock*, 874 S.W.2d 602, 619 (Tenn.

Crim. App. 1993) (stating that the court need not determine which of two competing standards should apply where the “result reached would be the same” under either). To be clear, I do not dispute that the Justice Kirby does an excellent job of spelling out a number of the future issues created and not resolved by the majority’s opinion in this case. Justice Kirby also correctly points out the anomaly this case presents and the lack of vigorous opposing arguments on the issue of the appropriate standard to apply.

I continue to express my concern that I voiced in *Clardy v. State*, 691 S.W.3d 390, 412 (Tenn. 2024) (Bivins, J., concurring). Just as the majority did in that case, the majority here resolves an issue that is wholly unnecessary to decide this case.

To my simple mind, that was not prudent in *Clardy* and is not prudent in this case. S/JEFFREY S. BIVINS, CHIEF JUSTICE JEFFREY S. BIVINS, CHIEF JUSTICE majority has the authority and the discretion to resolve this issue in this appeal.

However, possessing that authority and discretion and the wisdom in exercising that authority and discretion are two very different matters. -2-