

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON
April 8, 2003 Session

STATE OF TENNESSEE v. PRESTON CARTER

**Automatic Appeal from the Court of Criminal Appeals
Criminal Court for Shelby County
No. 93-09760 and 93-09761 Jon Kerry Blackwood, Judge**

No. W2000-02204-SC-DDT-DD - Filed September 18, 2003

ADOLPHO A. BIRCH, JR., J., dissenting.

I continue to adhere to the views expressed in a long line of dissents beginning with *State v. Chalmers*, 28 S.W.3d 913, 923-25 (Tenn. 2000) (Birch, Jr., J., concurring and dissenting), and elaborated upon in *State v. Godsey*, 60 S.W.3d 759, 793-800 (Tenn. 2001) (Birch, Jr., J., concurring and dissenting), expressing my view that the comparative proportionality review protocol currently embraced by the majority is inadequate to insulate defendants from the arbitrary and disproportionate imposition of the death penalty. See Tenn. Code Ann. § 39-13-206(C) (1997). Accordingly, I cannot, for the reasons stated in my previous dissents, concur in the imposition of the death penalty in this case.

ADOLPHO A. BIRCH, JR., JUSTICE