

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON
November 8, 2005 Session

STATE OF TENNESSEE v. CHARLES RICE

**Automatic Appeal from the Court of Criminal Appeals
Circuit Court for Shelby County
No. 01-00035 Joseph B. Dailey, Judge**

No. W2002-00471-SC-DDT-DD - Filed February 22, 2006

ADOLPHO A. BIRCH, JR., J., concurring in part and dissenting in part.

I concur in the conclusion of the majority that Rice's convictions should be affirmed. As to the sentence of death, however, I respectfully dissent. I continue to adhere to my view that the comparative proportionality review protocol currently embraced by the majority is inadequate to shield defendants from the arbitrary and disproportionate imposition of the death penalty. See State v. Reid, 164 S.W.3d 286, 323-325 (Tenn. 2005)(Birch, J., concurring and dissenting), and cases cited therein. Accordingly, I respectfully dissent from that portion of the majority opinion affirming the imposition of the death penalty in this case.

ADOLPHO A. BIRCH, JR.