

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

NOV 21 2012

Clerk of the Courts

STATE OF TENNESSEE v. JEREMY KEETON

Circuit Court for Wayne County
No. 14050

No. M2009-01928-SC-R11-CD - Filed: November 21, 2012

ORDER

Upon consideration of the application for permission to appeal of Jeremy Keeton, and the record before us, the application is summarily granted for the purpose of vacating the judgment of the Court of Criminal Appeals and remanding the case to the trial court for supplementation of the record with a statement of the evidence regarding the missing portion of the trial transcript. *See* Tenn. R. App. P. 24(c). We acknowledge the trial court's findings that counsel for the parties, as well as former trial counsel for the defendant, have made diligent and exhaustive efforts to compile and prepare a statement of the evidence and that their efforts were unsuccessful due to the length of time since the trial of the matter and the fact that the only notes available were those of the trial court. Pursuant to Tenn. R. App. P. 24(e), however, the trial court has the responsibility to correct or modify the record to conform to the truth. Therefore, the trial court may use its notes to correct or modify a statement of the evidence in this case. Within sixty days of the filing of this order, the trial court clerk shall transmit to the Court of Criminal Appeals as a supplemental record a statement of the evidence prepared pursuant to Tenn. R. App. P. 24(c) and (e). Upon the filing of the supplemental record, the Court of Criminal Appeals may order additional briefing, if appropriate, and thereafter shall reconsider the case.

PER CURIAM