

STATE OF TENNESSEE
OFFICE OF THE
ATTORNEY GENERAL
425 FIFTH AVENUE NORTH
NASHVILLE, TENNESSEE 37243

December 21, 2000

Opinion No. 00-192

Right to a Jury Trial for Class C Misdemeanant

QUESTIONS

1. Whether a defendant charged with a class C misdemeanor has a right to a jury trial?
2. If yes, is there any way to restrict this right through a court policy?

OPINION

1. It is the opinion of this Office that a defendant charged with a class C misdemeanor has a constitutionally protected right to a jury trial that may be relinquished only by a valid written waiver.
2. No. The right to trial by jury cannot be restricted by a court policy.

ANALYSIS

1. A defendant has a constitutional right to a jury trial “For violations of general criminal statutes...where a fine of more than \$50.00 or any confinement of the accused may be imposed.” *State v. Dusina*, 764 S.W.2d 766, 768 (Tenn. 1989); *Willard v. State*, 174 Tenn. 642, 645, 130 S.W.2d 99, 100 (1939). This right is guaranteed by both the federal and state constitutions, and may be relinquished only by a valid written waiver. U.S. Const., Amend. 6; Tenn. Const. Art. I, §6; *See also* Tenn. R. Crim. P. 5(c)(2).

Under Tenn. Code Ann. § 40-35-111(e)(3), a class C misdemeanor carries a possible term of imprisonment of not more than thirty (30) days and/or a fine not to exceed \$50.00. Since a defendant charged with a class C misdemeanor could potentially receive a term of confinement, the right to a trial by jury is constitutionally mandated. Any attempt to restrict this fundamental right would violate both the United States and Tennessee Constitutions.

It is therefore our opinion that a defendant charged with a class C misdemeanor has a

constitutionally protected right to a jury trial negated only by a valid written waiver.

2. As explained above, a defendant has a constitutional right to a jury trial where a fine of more than \$50.00 or any confinement of the accused may be imposed. *State v. Dusina*, 764 S.W.2d 766, 768 (Tenn. 1989)(emphasis added). The scope of punishment for an offense is set by the legislature. *See, State v. Davis*, 940 S.W.2d 558, 561 (Tenn. 1997). For class C misdemeanors, the legislature has established a possible term of imprisonment of not more than 30 days. Tenn. Code Ann. §40-35-111(e)(3). It is that potential for incarceration that entitles a defendant to a jury trial. A court cannot, by court rule or otherwise, interfere with the legislature's authority to set out the scope of punishment.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

GLEN C. WATSON
Assistant Attorney General

Requested by:

James Ramsey
District Attorney General
149 N. Main Street
Clinton, TN, TN 37716