

**HOPKINS V. BRADLEY COUNTY, TENNESSEE, COURT OF APPEALS OF
TENNESSEE, NO. E2010-00832-COA-R9-CV, 11/19/10**

Tennessee law states that magistrates may order persons arrested for domestic abuse offenses to be held for 12 hours before being allowed to post bail. (Tenn. Code Ann. § 40-11-150 (h).) The purpose of the law is to allow alleged victims time to arrange for their protection. The law also requires that to invoke the 12 hour hold, the magistrate must make a written finding at the time of bail setting that immediate release poses a threat to the alleged victim.

In this case, a magistrate signed an arrest warrant for Jeremy Hopkins for an alleged domestic violence offense, and set bond at \$1,500 – without making any finding regarding dangerousness. The next day, Hopkins surrendered to police on the warrant. He was taken to the Bradley County Jail and booked on the charge. Even though Hopkins had the bail money on him and was ready to pay it, Sheriff Department officials refused to allow him to post the bail until the expiration of 12 hours after his arrival. Hopkins later sued the Sheriff's Department, alleging that the department had deprived him of his liberty without due process of law, in violation of the Fourth and Fourteenth Amendments of the U.S. Constitution. The trial court handling the suit ruled that the Sheriff's Department did violate the statute on the 12-hour hold because the magistrate had not made any finding to invoke the hold, and that this violation amounted to a constitutional violation entitling Hopkins to damages.

The Sheriff's Department appealed this ruling to the Tennessee Court of Appeals. The appeals court agreed with the trial court that the Sheriff's Department, absent any finding from the magistrate, had no authority to refuse to accept Hopkins bail immediately upon completion of the booking process, which took about three hours. The court ruled, however, that this error by the Sheriff's Department did not rise to the level of a constitutional violation. In doing so, the court cited the U.S. Supreme Court decision in *City of Riverside v. McLaughlin*, 500 U.S. 44, which held that jurisdictions that hold initial appearances within 48 hours of arrests are "immune from systemic challenges." Reasoning that since a defendant can be held up to 48 hours before having a bail hearing, a 12-hour delay in releasing Hopkins does not amount to a constitutional deprivation.