

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE: DARYL KEITH HOLTON)
)
) BEDFORD COUNTY
 ORIGINAL APPEAL NO.
 M2000-00735-SC-DDT-DD

MOTION TO RE-SET EXECUTION DATE

The State of Tennessee requests the setting of a new execution date for Daryl Keith Holton for the 1997 first-degree murders of Stephen, Brent, Eric and Kayla Holton. *State v. Holton*, 126 S.W.3d 845 (Tenn.), *cert. denied*, 543 U.S. 816 (2004). This Court previously scheduled Holton's execution for February 28, 2007. *State v. Holton*, No. M2000-00766-SC-DDT-DD (Tenn. Jan. 30, 2007) (copy attached). That date passed, however, when, on February 1, 2007, the governor granted a reprieve until May 2, 2007, after directing the Commissioner of Correction to conduct a comprehensive review of the manner in which death sentences are administered in Tennessee and to provide new protocols and related written procedures for administering death sentences in Tennessee. On April 30, 2007, the Commissioner completed his review and forwarded the revised execution protocols to the governor.

The executive reprieve having now expired by its terms, and there being no legal impediment to Holton's lawful execution, the State of Tennessee requests that the Court

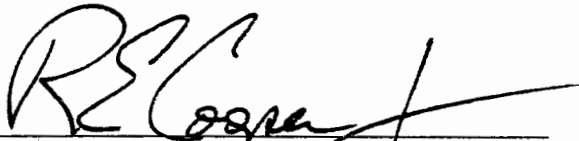
RECEIVED
STATE ATTORNEY GENERAL


MAY 7 - 2007

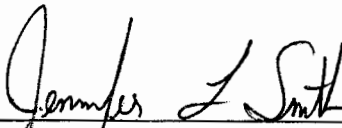
CRIMINAL JUSTICE
DIVISION

set a new execution date forthwith. *See* Tenn. Sup. Ct. R. 12.4(E) (“Where the date set by the Court for execution has passed by reason of a stay or reprieve . . . [a]ny new date of execution shall be no less than seven (7) days from the date of the order setting the new execution date.”).

Respectfully submitted,


ROBERT E. COOPER, JR.
Attorney General & Reporter


MICHAEL E. MOORE
Solicitor General

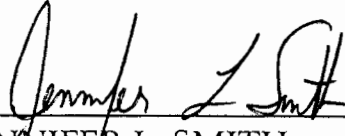

JENNIFER L. SMITH
Associate Deputy Attorney General
Criminal Justice Division
P.O. Box 20207
Nashville, TN 37202-0207
Phone: (615) 741-3487
B.P.R. No. 16514

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent via fax
and by first-class mail, postage prepaid, to:

Daryl Keith Holton, No. 306263
Riverbend Maximum Security Institution
7475 Cockrill Bend Industrial Road
Nashville, TN 37209

on this 4th day of May, 2007.



JENNIFER L. SMITH
Associate Deputy Attorney General

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. DARYL KEITH HOLTON

No. M2000-00766-SC-DDT-DD - Filed: January 30, 2007

ORDER

On May 25, 2006, the Court re-set the execution date in the case of State v. Daryl Keith Holton to September 19, 2006. On September 18, 2006, the United States Court of Appeals for the Sixth Circuit entered an order staying the execution to allow an expedited appeal from an order of the United States District Court for the Eastern District of Tennessee dismissing a petition for writ of habeas corpus filed by the Federal Defender Services of Eastern Tennessee, Inc., in the name of Daryl Keith Holton but without his consent or authorization. On January 9, 2007, the Sixth Circuit affirmed the district court's dismissal of the petition. On January 16, 2007, the State of Tennessee filed a Motion to Re-Set Execution Date in this Court. On January 22, 2007, Daryl Keith Holton filed a Pro Se Response to State's Motion to Re-Set Execution Date, in which he stated that he does not oppose the State's Motion to Re-Set.

Upon due consideration of the Motion to Re-Set Execution Date and the Pro Se Response, the Court hereby GRANTS the State's Motion to Re-Set Execution Date. It is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the twenty-eighth day of February, 2007, unless otherwise ordered by this Court or other appropriate authority.

The State Attorney General shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

IT IS SO ORDERED.

PER CURIAM