

**FILED**  
MAR 05 2018  
Clerk of the Appellate Courts  
Rec'd By \_\_\_\_\_

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

STATE OF TENNESSEE, )  
)  
Movant, )  
)  
v. )  
)  
DAVID EARL MILLER, ) No. E1982-00075-SC-DDT-DD  
)  
)  
Defendant. )

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MOTION FOR LEAVE TO FILE BRIEF OF TENNESSEE ASSOCIATION  
OF CRIMINAL DEFENSE LAWYERS AND INDIVIDUAL TENNESSEE  
ATTORNEYS AS AMICI CURIAE IN SUPPORT OF DEFENDANT'S  
OPPOSITION TO MOVANT'S MOTION TO SET EXECUTION DATES

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MOTION FOR LEAVE TO FILE BRIEF OF TENNESSEE ASSOCIATION  
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The Tennessee Association of Criminal Defense Lawyers and below-named individual Tennessee attorneys ("*Amici*") respectfully move this Court for leave to file an *amicus curiae* brief, which *Amici* are lodging contemporaneously herewith, in support of Defendant's Opposition to Movant's Motion to Set Execution Dates.

INTEREST OF AMICI CURIAE

*Amici* are the Tennessee Association of Criminal Defense Lawyers, one of the nation's oldest state criminal bar associations comprised of criminal defense attorneys, and certain individual members of the Tennessee Bar. Before the Court is the state's motion to set execution dates before the drugs to be used in its new lethal injection protocol expire. Defendant has filed an action in the Chancery Court of Davidson County, Tennessee, alleging the new protocol violates the Tennessee and United States Constitutions. The Chancery Court action is currently pending, and *Amici* seek leave to file a brief in this matter urging the Court to allow the Chancery Court action to proceed to a full trial on the merits, as required by due process.

*Amici* have a profound interest in upholding the rule of law and the integrity of the judiciary as the State seeks to carry out what is a somber and irrevocable task. As attorneys practicing in Tennessee, and an organization of criminal law practitioners in particular, *Amici* are engaged in “a common calling to promote justice and public good;” they are “public citizen[s] having special responsibility for the quality of justice.” Tennessee Supreme Court Rule 8, Rules of Professional Conduct, Preamble, Comment [1]. It is in furtherance of these obligations and interests that the undersigned file this Motion.

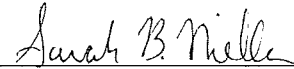
Before this Court can set execution dates, there are critically important interpretations of the Tennessee and United States Constitutions that simply must be resolved and developments in the evidence of the community’s evolving standards of decency that must be given due consideration in the appropriate tribunal. And, they must take place on a fully developed record before a trier of fact, not on a rushed basis so the State can use a new protocol before its drugs expire. The promotion of a full and fair trial on these matters is of vital importance to the administration of justice in Tennessee and, by extension, of vital interest to the undersigned.

*Amici* sought the consent of both parties to file an *amicus curiae* brief in this matter. Defendant consented, but Movant declined to do so.

For the reasons set forth above, *Amici* respectfully move this Court for leave to file the brief lodged contemporaneously herewith.

March 5, 2018.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent via U.S. Mail, first-class postage prepaid, and by email on the 5th day of March, 2018, to the following:

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