

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. GREGORY THOMPSON

No. M1987-00067-SC-DPE-DD - Filed October 18, 2005

ORDER

On September 27, 2005, upon notification by the State that the stay of execution entered by the United States District Court for the Eastern District of Tennessee had been lifted, this Court entered an order re-setting the date for the execution of Gregory Thompson to February 7, 2006. On September 29, 2005, Gregory Thompson filed a Motion for Stay of Execution; a Petition for Reconsideration of the Order Scheduling an Execution Date; a Notice of Change in Mental Health Status, Insanity and Incompetency to Be Executed; and a Request for Certificate of Commutation. The affidavit of Dr. Faye Sultan was attached in support of the Notice of Change in Mental Health Status. Thompson also requested a hearing on this matter. On October 6, 2005, Thompson filed a supplement to the previous filing and the State filed a response. On October 12, 2005, Thompson filed a Supplemental Affidavit from Dr. Sultan. On October 13, 2005, the State filed a Motion to Strike the Supplemental Affidavit; and on October 17, 2005, Thompson filed a response to the State's Motion.

While recognizing the possible procedural irregularities posed by the Supplemental Affidavit, out of an abundance of caution, the Court has reviewed the affidavit. Accordingly, the State's Motion to Strike is DENIED.

After due consideration of the filings by Thompson and the State, the Motion for Stay, the Petition for Reconsideration of the Order Scheduling an Execution Date, and the Request for a Certificate of Commutation are DENIED. It is further ordered that the request for hearing on these matters is DENIED.

In light of this Court's prior determination that Thompson was competent to be executed, see Thompson v. State, 134 S.W.3d 168 (Tenn. 2004), the Court has reviewed the Notice of Change in Mental Health Status as a Motion for Stay to consider a subsequent Ford claim under Van Tran v. State, 6 S.W.3d 257, 272 (Tenn. 1999). Upon due consideration of Dr. Sultan's affidavits and the arguments of the parties, the Court ORDERS that the subsequent Ford claim be held in abeyance until November 18, 2005, on or before which date Thompson shall submit any further affidavits in support of his claim of a change in mental health status. The State shall file any argument responding to such affidavits no later than December 2, 2005.

PER CURIAM