

**IN THE SUPREME COURT OF TENNESSEE**

**AT NASHVILLE**

**IN RE: GREGORY THOMPSON** ) **COFFEE COUNTY**  
 ) **ORIGINAL APPEAL NO.**  
 ) **M1987-00067-SC-DPE-DD**  
 **Filed November 17, 2005**

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**RESPONSE OF THE STATE OF TENNESSEE TO  
“MOTION FOR STAY OF EXECUTION AND  
FURTHER ABEYANCE OF PROCEEDINGS”**

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Thompson has filed a motion seeking a stay of execution and further stay of proceedings. He argues that this Court should halt proceedings in the state court because the Sixth Circuit has “maintained jurisdiction over the case” and “is adjudicating and actively considering Thompson’s case.” The motion should be denied. The Sixth Circuit has entered no stay of execution or otherwise taken any action that would necessitate a different course of state proceedings. Under 28 U.S.C. § 2251, a judge of the United States before whom “a habeas corpus proceeding is pending” may stay any state court proceeding for any matter involved in the habeas proceeding. Thus, if the Sixth Circuit considered Thompson’s habeas proceeding “pending” or subject to further review, it could stay Thompson’s execution in its own right.<sup>1</sup>

Thompson has presented nothing in his present motion that justifies a stay of execution or otherwise requires a change in the course of state proceedings, which are currently proceeding in accordance with this Court’s decision in *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999). Moreover,

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<sup>1</sup>In *Bell v. Thompson*, 125 S.Ct. 2825 (2005), the United States Supreme Court reversed a previous attempt by the Sixth Circuit’s to interfere in the case after entry of final judgment, concluding that the Sixth Circuit’s decision to withhold the mandate of its initial decision constituted an abuse of discretion.

this Court has already considered and rejected Thompson's contention that the setting of an execution date was premature given the posture of the federal case. Nothing in the present motion requires a different result, and the current motion for stay should be denied.

Respectfully submitted,

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Attorney General and Reporter

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Response has been forwarded via Facsimile and First-Class U.S. mail, postage prepaid, on the \_\_\_\_\_ day of November, 2005, to:

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