

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE: GREGORY THOMPSON

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COFFEE COUNTY
ORIGINAL APPEAL NO.
M1987-00067-SC-DTE-DD
Filed October 6, 2005

**SUPPLEMENT TO
MOTION FOR STAY OF EXECUTION,
PETITION FOR RECONSIDERATION OF THE ORDER SCHEDULING
AN EXECUTION DATE,
NOTICE OF CHANGE IN MENTAL HEALTH STATUS , INSANITY AND
INCOMPETENCY TO BE EXECUTED
AND
REQUEST FOR CERTIFICATE OF COMMUTATION**

Michael J. Passino, BPR#5725
323 Union Street, 3rd Floor
Nashville, TN 37201
(615) 255-8764

Counsel for Gregory Thompson

Counsel for Gregory Thompson supplements his previously filed motion for stay of execution, petition to reconsider setting execution date, and notice of insanity to include the following claim¹:

Executing the severely mentally ill violates the Eighth Amendment's prohibition against cruel and excessive and unusual punishment. *Atkins v. Virginia*, 536 U.S. 304 (2002); *Roper v. Simmons*, _____ U.S._____, 125 S.Ct. 1183 (2005). Gregory Thompson is severely mentally ill; executing him would violate the Eighth Amendment. *Id.*

In *Atkins*, the United States Supreme Court held that the Eighth Amendment's ban on excessive and cruel and unusual punishments prohibits the execution of individuals who suffered from mental retardation at the time of the crime. 536 U.S. at 306. The Supreme Court explained that the mentally retarded "have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others." 536 U.S. at 318-320. The Court held that these deficiencies diminish the culpability of retarded individuals to the extent that neither of the justifications advanced by states in support of the death penalty—retribution and deterrence—would be served by permitting their execution. *Id.* The Court also noted the growing consensus against executing the mentally retarded.

¹The issues raised in Thompson's original motion are sophisticated and multifaceted. This supplement is offered to clarify to the court that Thompson asserts execution of the severely mentally ill violates the Eighth Amendment. Counsel was operating under very tight time constraints in preparing the original motion.

Id.

In *Simmons*, the United States Supreme Court held that the Eighth Amendment bars the execution of offenders who were juveniles at the time of the crime. 125 S.Ct. at 1200. In reaching this conclusion, the Court noted that youth results in “impetuous and ill-considered actions and decisions.” *Id.* at 1195 (internal quotation marks omitted). The Court also noted that juveniles “are more vulnerable” to negative influences. *Id.* The Court also relied upon the rules governing psychiatric treatment and diagnosis of juveniles. *Id.* at 1198. Finally, the Court acknowledged the growing consensus against executing juvenile offenders.

Implicit in both of these recent opinions is that capital sentencing of persons unable to control their conduct measurably advances neither retribution or deterrence. Similarly, Thompson’s severe mental illness significantly reduces his ability to control his conduct. Thompson’s severe mental illness diminishes his capacity to “understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others.” *Atkins*, 536 U.S. at 318-320. These deficiencies diminish his culpability. *Id.* There is a growing consensus that executing the severely mentally ill is unacceptable. The execution of severely mentally ill Thompson violates every standard of decency and is barred by the Eighth Amendment.

Respectfully submitted,

Michael J. Passino, BPR#5725
323 Union Street, 3rd Floor
Nashville, TN 37201
(615) 255-8764
Counsel for Gregory Thompson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was forwarded by U. S.

Mail, postage prepaid, to

Jennifer Smith, Esquire
Office of Attorney General and Reporter
P. O. Box 20207
Nashville, TN 37202-0207

C. Michael Layne, Esquire
District Attorney General
P. O. Box 147
Manchester, TN 37349-0147

this ____ day of October, 2005.

The undersigned attorney prefers to be notified of any orders or opinions of the Court by email to passino@mpassino.com.

Michael J. Passino