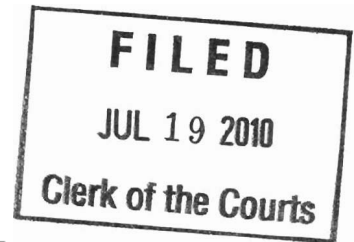


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. BILLY RAY IRICK

Criminal Court for Knox County
No. 24527



No. M1987-00131-SC-DPE-DD - Filed: July 19, 2010

ORDER

On May 10, 2010, the State filed a motion to set an execution date for Billy Ray Irick. The State alleges that Mr. Irick has completed the standard three-tier appeals process and that an execution date should therefore be set in accordance with Tenn. S. Ct. R. 12.4(A).

On May 27, 2010, Mr. Irick filed a response opposing the State's motion. The response includes a request that this Court issue a certificate of commutation on Mr. Irick's behalf under Tenn. Code Ann. § 40-27-106 (2006). As grounds for issuance of a certificate, Mr. Irick asserts that information received since his trial and affidavits recently obtained from mental health professionals constitute new scientific evidence demonstrating his actual innocence of the crime. He also contends that flawed state and federal proceedings have denied him a full and fair hearing as to the issue of his sanity. Finally, he alleges that his "longstanding and severe mental illness" should exclude him from execution under evolving standards of decency.

After careful review of the motion, the response, and the documentation submitted with the response, the Court concludes that under the principles announced in Workman v. State, 22 S.W.3d 807 (Tenn. 2000), Mr. Irick has presented no extenuating circumstances warranting issuance of a certificate of commutation. It is therefore ordered that the request for a certificate of commutation is denied.

Mr. Irick's response also includes a claim of incompetency to be executed, in which he raises the issue of his present competency to be executed and requests a competency hearing under Van Tran v. State, 6 S.W.3d 257 (Tenn. 1999). Upon consideration of the claim and the supporting exhibits, it appears to the Court that Mr. Irick has raised the issue of his present competency to be executed in accord with the procedures adopted by this Court in Van Tran v. State. It is hereby ordered that the issue is remanded to the Criminal Court of Knox County, where Mr. Irick was originally tried and sentenced, for an expeditious

determination of his present competency, including the initial determination of whether he has met the required threshold showing. These proceedings shall be conducted in accord with the procedures and time limits set forth in Van Tran v. State, 6 S.W.2d at 267-73, which provides no more than fifty-five (55) calendar days for the conclusion of the trial court proceedings and the filing of an appeal in this Court.

Upon due consideration, it is, therefore, ordered that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law at 10:00 p.m. on the 7th day of December, 2010, or as soon as possible thereafter within the following twenty-four hours, unless otherwise ordered by the Court or other appropriate authority.

Counsel for Mr. Irick 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.

PER CURIAM