

**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

<p>STATE OF TENNESSEE,</p> <p style="padding-left: 40px;">Movant,</p> <p>v.</p> <p>KEVIN BURNS,</p> <p style="padding-left: 40px;">Defendant.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><i>M 2025-00225-JC - DPF-DD</i></p> <p>SHELBY COUNTY</p> <p>No. _____</p> <p>CAPITAL CASE</p>
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MOTION TO SET EXECUTION DATE

As Tenn. Sup. Ct. R. 12.4(A) requires the State to do when a death-row prisoner has completed the standard three-tier appeals process, the State of Tennessee moves this Court to set an execution date for Kevin Burns. In support of this motion, the State relies on the following:

1. A Shelby County jury convicted Burns for the 1992 murder of Damond Dawson. The jury sentenced Burns to death. This Court affirmed Burns' conviction and death sentence on direct appeal. *State v. Burns*, 979 S.W.2d 276 (Tenn. 1998). The United States Supreme Court denied certiorari. *Burns v. Tennessee*, 527 U.S. 1039 (1999).

2. Burns filed a petition for post-conviction relief, which the trial court denied after an evidentiary hearing. The Court of Criminal Appeals affirmed the judgment, and this Court denied discretionary review. *Burns v. State*, No. W2004-00914-CCA-R3-PD, 2005 WL 3504990 (Tenn. Crim. App. Dec. 21, 2005), *perm. app. denied* (Tenn. Apr. 24, 2006). Burns did

not petition the United States Supreme Court for certiorari.

3. Burns then filed a petition for a writ of habeas corpus in the United States District Court for the Western District of Tennessee. The district court dismissed the petition and granted a certificate of appealability on one issue. The Sixth Circuit Court of Appeals granted Burns a certificate of appealability on four more issues but ultimately rejected his claims and affirmed the denial of habeas relief. *Burns v. Mays*, 31 F.4th 497 (6th Cir. 2022). The United States Supreme Court denied certiorari on April 24, 2023. *Burns v. Mays*, 143 S. Ct. 1077 (2023). The Court further denied rehearing on June 20, 2023. *Burns v. Mays*, 143 S. Ct. 2652 (2023).

4. Burns has thus completed the standard three-tier appeals process, making the setting of an execution date appropriate. See Tenn. Sup. Ct. R. 12.4(A). There are no current judicial or executive orders staying Burns' execution or granting him a reprieve.

Because Burns has completed the standard three-tier appeals process as provided in Tenn. Sup. Ct. R. 12.4(A), this Court should set an execution date in accord with the judgment of the Criminal Court of Shelby County, Tennessee.

Per Tenn. Sup. Ct. R. 12.4(B), Nicholas W. Spangler should be designated as attorney of record for the Movant, and he prefers to be notified of Court orders or opinions by email at Nick.Spangler@ag.tn.gov.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been forwarded by first-class U.S. Mail, postage paid, to the defendant's counsel, Richard Lewis Tennent at 810 Broadway Suite 200, Nashville, Tennessee 37203, on this the 14th day of February 2025.



NICHOLAS W. SPANGLER
Associate Solicitor General