

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

**STATE OF TENNESSEE v. PAUL DENNIS REID, JR.**

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**No. M2001-02753-SC-DDT-DD - Filed: June 26, 2006**

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**AND**

**PAUL DENNIS REID, JR., by and through LINDA MARTINIANO v.  
STATE OF TENNESSEE**

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**No. M2006-01294-SC-28S-PD - Filed: June 26, 2006**

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**SEPARATE CONCURRING/DISSENTING ORDER**

ADOLPHO A. BIRCH, JR., Justice, concurring in part and dissenting in part.

I concur in that portion of the Court's order granting the motion to supplement and granting the motion for review.

However, because I would find that the evidence submitted to the trial court is arguably sufficient to meet the *prima facie* standard of incompetency adopted by the majority decision today in Paul Dennis Reid, Jr. v. State, No. M2005-00260-SC-S09-PC (Tenn. June 26, 2006), I respectfully dissent from the Court's conclusion that the motion for stay of execution should be denied. There is no dispute among the parties that Mr. Reid suffers from a chronic psychosis under which he believes that the prosecution of his case and all parties involved—including the trial judge, prosecution, defense counsel, correctional officers, and literally everyone he comes into contact—are part of a large government conspiracy wherein the government is using “scientific technology” to frame, and ultimately execute him, for this crime. Under this delusion, he believes that any effort to pursue post-conviction avenues of relief is fruitless. This mental state precludes Reid's ability to

consult with counsel with any reasonable degree of rational understanding.<sup>1</sup>

I believe this evidence shows that Reid is unable to understand his legal rights and liabilities. While the ultimate determination of competency has yet to be made, I believe the affidavits submitted by neuropsychologist George W. Woods, Jr., post-conviction defense counsel Kelly Gleason, attorney James A. Simmons, investigator Connie Westfall, and sister Linda Martiniano meet the threshold showing that would warrant a full competency hearing. Thus, unlike the majority of the Court, I believe there is a significant possibility of success on the merits of the underlying appeal. I further note that this case is in an unusual procedural posture from that contemplated by Tennessee Code Section 40-30-120 (addressing stays of execution when petitioner is under sentence of death), because this petitioner has never been accorded a hearing on a first post-conviction petition. Accordingly, I would stay the execution in this case until the Rule 3 appeal on the underlying issue is complete.

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ADOLPHO A. BIRCH, JR., JUSTICE

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<sup>1</sup>My dissent in Paul Dennis Reid, Jr. v. State, No. M2005-00260-SC-S09-PC, \_\_\_ S.W.3d \_\_\_, \_\_\_ (Tenn. June 26, 2006) (Birch, J., concurring and dissenting), makes it clear that I believe the standard for determining competency to file a post-conviction petition should include whether the petitioner has the ability to assist counsel.