

**IN THE TENNESSEE SUPREME COURT
AT NASHVILLE**

STATE OF TENNESSEE,)	
)	No. M1999-00803-SC-DDT-DD
Appellee,)	
)	Davidson County Criminal
v.)	
)	
PAUL DENNIS REID, JR.,)	Capital Case - Filed April 22, 2003
)	
Appellant.)	

MOTION FOR APPOINTMENT OF COUNSEL

Comes now the Office of the Post-Conviction Defender (PCDO) and respectfully requests that if this Court remands this case to the trial court for an evidentiary hearing under Rees v. Peyton, 384 U.S. 312 (1966), it appoint the PCDO to advise Mr. Reid about post-conviction issues available to him. In support thereof, the PCDO shows:

1. Direct appeal counsel has filed a Motion For Stay Of Execution in which counsel requests, as an alternative form of relief, that

this Court stay the appellant's execution and remand this case to the trial court for an evidentiary hearing to determine whether the appellant has the capacity to appreciate his position and make a rational choice with respect to continuing or abandoning further litigation.

4/21/03 Motion For Stay Of Execution at ¶ 4.¹

2. Direct appeal counsel recognize that upon such a remand, additional counsel must be appointed for Mr. Reid so that he can receive impartial advice respecting post-conviction issues available to Mr. Reid, including issues respecting the adequacy of counsels' performance at trial and on direct appeal.

¹ Given that this Court has the exclusive authority to set, reset, and stay execution dates, any suggestion that this Court is without authority to grant the relief direct appeal counsel requests is wrong.

3. The PCDO is the entity which would receive appointment to litigate any post-conviction petition Mr. Reid would pursue. See T.C.A. § 40-30-302 (the PCDO shall “provide for the representation of any person convicted and sentenced to death in this state who is unable to secure counsel due to indigence”); T.C.A. § 40-30-306 (it is the primary responsibility of the PCDO to represent any person convicted and sentenced to death in post-conviction proceedings). Given this statutory directive, PCDO attorneys are well-versed in post-conviction procedure and claims available for presentation during a post-conviction proceeding. For these reasons, the PCDO should be appointed as the entity to advise Mr. Reid respecting issues that are available to him should this Court grant him a stay of execution and remand this case to the trial court for a hearing under Rees v. Peyton, 384 U.S. 312 (1966).

WHEREFORE, the PCDO respectfully requests that:

1. Should this Court remand the proceedings to the trial court for a hearing under Rees v. Peyton, 384 U.S. 312 (1966), it appoint the PCDO to advise Mr. Reid on potential post-conviction issues available to him; and

2. This Court grant whatever other relief it deems just.

Respectfully submitted,

Donald E. Dawson
Post-Conviction Defender
530 Church Street - Suite 600
Nashville, Tennessee 37243

Certificate of Service

I certify that on April 22, 2003, I hand-delivered a copy of the foregoing to:

Amy L. Tarkington
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Donald E. Dawson