## IN THE SUPREME COURT OF TENNESSEE

## AT NASHVILLE

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**IN RE: PERVIS T. PAYNE** 

SHELBY COUNTY S.Ct. No. M1988-00096-SC-DPE-DD

## **MOTION TO RE-SET EXECUTION DATE**

The State of Tennessee requests the setting of a new execution date for Pervis T. Payne for the 1987 first degree murder of Charisse Christopher and her one-and-one-half-year-old daughter, Lacie. *State v. Payne*, 791 S.W.2d 10 (Tenn. 1990), *aff*<sup>\*</sup>d, 501 U.S. 808 (1991). This Court previously scheduled Payne's execution for April 11, 2007. *State v. Payne*, No. M1988-00096-SC-DPE-DD (Tenn. Sept. 19, 2006) (copy attached). That date passed, however, when, on February 1, 2007, the governor granted a reprieve until May 2, 2007, after directing the Commissioner of Correction to conduct a comprehensive review of the manner in which death sentences are administered in Tennessee and to provide new protocols and related written procedures for administering death sentences in Tennessee. On April 30, 2007, the Commissioner completed his review and forwarded the revised execution protocols to the governor.

The executive reprieve having now expired by its terms, and there being no legal impediment to Payne's lawful execution, the State of Tennessee requests that the Court set a new execution date. *See* Tenn. Sup. Ct. R. 12.4(E) ("Where the date set by the Court for execution has passed by reason of a stay or reprieve . . . [a]ny new date of execution shall be no less than seven (7) days from the date of the order setting the new execution date.").

Respectfully submitted,

ROBERT E. COOPER, JR. Attorney General & Reporter

MICHAEL E. MOORE Solicitor General

JOSEPH F. WHALEN Associate Solicitor General P.O. Box 20207 Nashville, TN 37202-0207 Phone: (615) 741-3499 B.P.R. No. 19919

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing has been sent via fax and by first-

class mail, postage prepaid, to:

J. Brook Lathram Burch, Porter & Johnson PLLC 130 North Court Ave. Memphis, TN 38103

Paul Bottei Kelley J. Henry Federal Public Defender's Office 810 Broadway, Suite 200 Nashville, TN 37203

on this \_\_\_\_\_ day of May, 2007.

JOSEPH F. WHALEN Associate Solicitor General