

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. PHILIP RAY WORKMAN

No. M1999-01334-SC-DPE-DD - Filed - January 17, 2007

ORDER

On May 4, 2004, this Court ordered that Philip Ray Workman's sentence of death be executed on September 22, 2004. On September 1, 2004, after Workman filed a motion for relief pursuant to Fed. R. Civ. P. 60(b) in the United States District Court for the Western District of Tennessee, the federal district court issued an order staying Workman's execution pending that court's ruling on the Rule 60(b) motion. On October 17, 2006, the federal district court denied the motion. On December 12, 2006, the federal district court denied Workman's motion to alter or amend its judgment under Fed. R. Civ. P. 59(e). On December 15, 2006, the State of Tennessee filed in this Court a Motion to Reset Date of Execution, in which it stated that the order of the federal district court denying relief to Workman had dissolved the previously issued stay. On January 5, 2007, Workman filed a Response to Motion to Reset Execution Date. Workman contended that an execution date should not be set because an appeal from the federal district court's denial of relief was pending in the United States Court of Appeals for the Sixth Circuit. Workman also asserted that an execution date should not be set because a stay of execution issued by the federal district court in a second habeas corpus proceeding was still in force. Workman further challenged the authority of this Court to set an execution date because the Court as currently constituted is not the "Supreme Court" contemplated by Article VI, section 2 of the Tennessee Constitution. On January 9, 2007, the State filed a Reply to Response to Motion to Reset Execution Date. In its Reply the State noted that the stay issued in the second habeas corpus case was the same stay issued in connection with the Rule 60(b) motion, which dissolved upon disposition of the motion. The State further argued that, because Article VI, section 2 of the Tennessee Constitution only requires the concurrence of three justices for a decision, the Court may validly reset the execution date.

Having considered the Motion to Reset Execution Date, the Response, and the Reply to the Response, this Court finds that Workman has presented no legal basis for denying the State's Motion to Reset Execution Date. Therefore, the State's motion is GRANTED. It is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the ninth day of May, 2007, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Philip Ray Workman 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