

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

STATE OF TENNESSEE,)	
)	
)	HAMILTON COUNTY
v.)	No. E1997-00344-SC-DDT-DD
)	
LEE HALL, aka LEROY HALL,)	Capital Case
JR.,)	Execution Date: Dec. 5, 2019
)	
Defendant.)	

**RESPONSE OF THE STATE OF TENNESSEE IN OPPOSITION
TO THE MOTION TO RECALL THE MANDATE,
STAY MR. HALL'S EXECUTION, AND
REMAND THE CASE FOR A HEARING**

Two days before his execution, Lee Hall, aka Leroy Hall, Jr. ("Hall"), asks this Court to recall the mandate in his case, stay his execution, and remand the case for a second hearing on his eleventh-hour juror-bias claim. Nearly simultaneously with the filing of this motion, this Court denied a motion to stay that he filed days ago, finding that he failed to establish a likelihood of success on the merits of this very claim. Based upon the Court's analysis in that order, Hall has not established that he is entitled to a recall of the mandate.

This Court has the authority to vacate an otherwise final judgment and recall its mandate under appropriate circumstances. Tenn. R. App. R. 42(d). However, "[t]he power to recall mandate is an extraordinary remedy and should be exercised sparingly." *State of Tennessee v. Abu-Ali Abdur'Rahman*, No. M1988-00026-SC-DPE-PD, at 2 (Tenn. Apr. 5, 2002) (order denying motion to recall mandate) (citing *Calderon v. Thompson*,

523 U.S. 538, 550 (1988)). The Court will only recall a mandate when the circumstances are “sufficient to override the strong public policy that there should be an end to a case in litigation.” *Id.* (internal quotation marks omitted).

This Court has already concluded that Hall has not established a likelihood of success on the merits of his recently pursued juror-bias claim “under any existing procedural vehicle.” *State of Tennessee v. Lee Hall, a/k/a Leroy Hall, Jr.*, No. E1997-00344-SC-DDT-DD, at 11 (Tenn. Dec. 3, 2019) (order denying motion for stay). The Court also found that Hall “failed to demonstrate that this Court should create a new, previously unrecognized procedure based on the facts of this case.” *Id.* In light of these holdings, Hall failed to establish entitlement to a stay of execution. *Id.*

For the same reasons, this Court should reject his latest attempt to delay his execution. Because he did not show a likelihood of success on the merits of this claim, Hall has established no basis for the extraordinary remedy of recalling the 21-year-old mandate in this case. The Court therefore should deny this motion.

CONCLUSION

Hall's motion to recall the mandate, stay Mr. Hall's execution, and remand the case for a hearing should be denied.

Respectfully submitted,

HERBERT SLATERY, III
Attorney General & Reporter

ANDRÉE SOPHIA BLUMSTEIN
Solicitor General

/s Amy L. Tarkington
AMY L. TARKINGTON
Associate Solicitor General
(615) 741-2216
Amy.Tarkington@ag.tn.gov
B.P.R. No. 013435

/s Leslie E. Price
LESLIE E. PRICE
Senior Deputy Attorney General
Criminal Justice Section
(615) 532-7358
Leslie.Price@ag.tn.gov
B.P.R. No. 020246

/s Zachary T. Hinkle
ZACHARY T. HINKLE
Deputy Attorney General
Criminal Appeals Division
P.O. Box 20207
Nashville, Tennessee 37202
(615) 532-0986
Zachary.Hinkle@ag.tn.gov
B.P.R. No. 032989

CERTIFICATE OF COMPLIANCE

In accordance with Tenn. Sup. Ct. R. 46, § 3, Rule 3.02, the total number of words in this brief, exclusive of the Caption and this Certificate of Compliance, is 442. This word count is based upon the word processing system used to prepare this brief.

/s Zachary T. Hinkle
ZACHARY T. HINKLE
Deputy Attorney General