

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

March 10, 2000

**Cecil Crowson, Jr.
Appellate Court Clerk**

ROBERT GLEN COE)	
)	
Appellant,)	SHELBY COUNTY
)	<u>Capital Case</u>
v.)	S.Ct.No. M1999-01313-SC-DPE-PD
)	
STATE OF TENNESSEE)	
)	
Respondent/Appellee.)	

RESPONSE TO MOTION TO UNSEAL EXHIBITS

COMES NOW, your Appellant, Robert Glen Coe, through his undersigned counsel of record, and files this Response to the Motion to Unseal Exhibits filed by the State of Tennessee. This Court does not have jurisdiction to consider the government's request since the mandate has issued, and relief should be denied for the following reasons:

1. This Court entered its Opinion on March 6, 2000. At the end of the Opinion, this Court specifically held, "This Opinion is not subject to rehearing under Tennessee Rules of Appellate Procedure 39, and the Clerk is directed to certify this Opinion as final and immediately issue the Mandate."
2. Once the Mandate was issued in accordance with Rule 42 and 43 of the Tennessee Rules of Appellate Procedure, the Supreme Court lost jurisdiction in this case. Consequently, the Attorney General must seek the relief requested from the trial court in Memphis, since this Court presently has no jurisdiction to entertain the

State's Motion. Furthermore, since the trial court ordered the documents sealed, it is more appropriate for the trial court to consider the merits of lifting the seal.

3. Alternatively, Robert Coe objects to unsealing the documents, many of which are privileged by state law, and the Attorney General has demonstrated no legitimate interest at this point in seeking such documents.
4. If Mr. Coe files a Petition for Writ of Habeas Corpus in the District Court, and if the judge in the District Court determines that he or she needs to review the sealed documents, the United States District Court may at such time issue an appropriate Order. However, the State has not shown any present need for sealed documents, and the trial court's order sealing documents should not be disturbed. The State's alleged need for the documents is at this point speculative and does not outweigh Mr. Coe's privacy interest in keeping privileged documents confidential.

WHEREFORE, Appellant prays the State's Motion be dismissed due to this Court's lack of jurisdiction, or alternatively, that State's Motion should be denied on the merits.

Respectfully submitted,

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Certificate of Service

I hereby certify that a copy of the foregoing Opening Brief was mailed, first-class postage prepaid, to the Office of the Attorney General, Criminal Division, 425 Fifth Avenue North, Cordell Hull Building, Nashville, TN 37243-0493, this the _____ day of _____, 2000.

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