



he is entitled to have his date vacated as well. But neither law nor logic supports Workman's view. The expectation implicit in the Governor's order is that a revised death penalty protocol that is both constitutional and appropriate will have been established by May 2, 2007. In other words, by May 9, 2007, when Workman's death sentence is scheduled to be executed, it is expected that his sentence will be carried out pursuant to a constitutional and appropriate protocol. The issuance of the Governor's order thus presents no basis on which to vacate the execution of Workman's sentence — indeed, it presents every reason *not* to do so.<sup>1</sup>

Workman's speculation that the General Assembly "may pass" legislation that would impact upon the scheduled execution of his sentence likewise presents no basis for anticipatorily staying execution of his sentence. Should circumstances present at some point prior to May 9 that would warrant staying Workman's execution date, then this Court, or another court of competent jurisdiction, could certainly take that action at that time. At this time, however, there simply is no reason to do so. Accordingly, the

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<sup>1</sup>Contrary to Workman's intimations, there is nothing unjust or unfair in declining to vacate the execution of his sentence, while reprieves are issued to these other four defendants. Workman's case is not on the same footing as that of any of these defendants, all of whom had been facing only the first or second "real" dates scheduled for execution of their sentences when the Executive Order was issued. In contrast, Workman's May 9, 2007, date represents the *sixth* date set for execution of his sentence since the standard three-tier review of his conviction and sentence was completed in 1999. (Two of those executions were stayed by order of the United States Court of Appeals for the Sixth Circuit, one by order of this Court, one by executive reprieve, and one by the United States District Court for the Western District of Tennessee.)

motion to vacate the execution date of May 9, 2007, should be denied.

Respectfully submitted,



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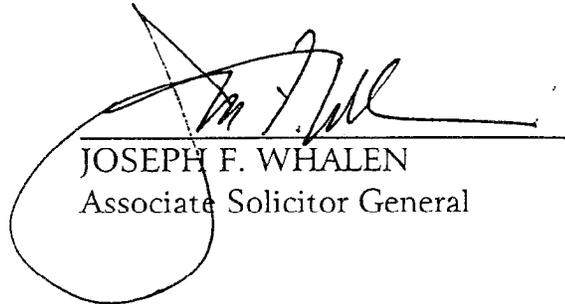


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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been delivered by first class mail, postage prepaid, and by facsimile, to Christopher Minton, at 810 Broadway, Suite 200, Nashville, Tennessee, 37203, on this the 20<sup>th</sup> day of March, 2007.



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