

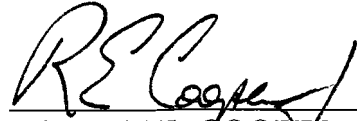
trial court after concluding the Court of Criminal Appeals erred in finding that Henley was prejudiced by counsel's performance at sentencing. *Henley v. State*, 960 S.W.2d 572 (Tenn. 1997), *cert. denied*, 525 U.S. 830 (1998).

3. In July 1998, Henley filed a petition for a writ of habeas corpus in the United States District Court for the Western District of Tennessee. On April 1, 2003, the district court entered a memorandum opinion and order granting the State's motion for summary judgment and dismissing the petition. The United States Court of Appeals for the Sixth Circuit affirmed the district court's judgment on May 15, 2007. *Henley v. Bell*, 487 F.3d 379 (6th Cir. 2007), *reh'g and sugg. for reh'g en banc denied* (Oct. 17, 2007). The United States Supreme Court denied a petition for a writ of certiorari on June 23, 2008, *Henley v. Bell*, 128 S.Ct. 2862 (No. 07-1194), and denied a petition for rehearing on August 18, 2008. (copy of order list attached)

4. Henley has completed the standard three-tier appeals process, making the setting of an execution date appropriate. *See* Rule 12.4(A).

For the reasons stated, a new execution date should be set.

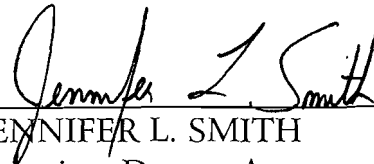
Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion has been forwarded via Facsimile and First-Class U.S. mail, postage prepaid on this the 11th day of September, 2008 to:

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The undersigned attorney of record prefers to be notified of any orders or opinions of the Court by Facsimile at (615) 532-7791



JENNIFER L. SMITH
Associate Deputy Attorney General

(ORDER LIST: 554 U.S.)

MONDAY, AUGUST 18, 2008

ORDERS IN PENDING CASES

- 07-526 CARCIERI, GOV. OF RI, ET AL. V. KEMPTHORNE, SEC. OF INTERIOR
The motion of Citizens Equal Rights Foundation, et al. for leave to file a brief as *amici curiae* out of time is granted.
- 07-562 ALTRIA GROUP, INC., ET AL. V. GOOD, STEPHANIE, ET AL.
- 07-665 PLEASANT GROVE CITY, UT, ET AL. V. SUMMUM
The motions of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument are granted.
- 07-689 BARTLETT, GARY, ET AL. V. STRICKLAND, DWIGHT, ET AL.
The motion of National Association for the Advancement of Colored People, et al. for leave to file a brief as *amici curiae* out of time is granted.
- 07-751 PEARSON, CORDELL, ET AL. V. CALLAHAN, AFTON
The motion of the Acting Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

REHEARINGS DENIED

- 06-1666 MUNAF, MOHAMMAD, ET AL. V. GEREN, SEC. OF ARMY
- 07-394 GEREN, SEC. OF ARMY, ET AL. V. OMAR, SANDRA K., ET AL.
- 07-1117 THOMAS, ROBERT V. TRICO PRODUCTS CORP., ET AL.
- 07-1194 HENLEY, STEVE V. BELL, WARDEN
- 07-1198 SPLITTORFF, FRANCIS W. V. AIGNER, JERRY, ET AL.
- 07-1278 DAHLQUIST, DARYL V. VUKICH, PATRICK G.

07-1312 ROSA, BERNARD J. V. CALIFORNIA, ET AL.
07-1314 KIM, CYRUS Y. V. WA DEPT. OF LICENSING
07-1332 WARE, WILLIAM A., ET AL. V. FEDERAL HIGHWAY ADMIN., ET AL.
07-1373 GLENMONT HILLS ASSOC. V. MONTGOMERY COUNTY, MD
07-7834 TERRY, GARY I., ET AL. V. UNITED STATES
07-9673 SIMEONE, MICHAEL D. V. DiGUGLIELMO, SUPT., GRATERFORD
07-9778 LANG, DANIEL J. V. HAMLET, WARDEN
07-9990 WILMS, CHESTER L. V. FINNAN, SUPT., WABASH VALLEY
07-10019 GUINN, GENE A. V. QUARTERMAN, DIR., TX DCJ
07-10054 WISE, GARY L. V. USDC SC
07-10122 CALDWELL, ROBERT V. QUARTERMAN, DIR., TX DCJ
07-10156 PARADISE, BOBBY V. GEORGIA
07-10187 BRIGHT, WINFRED R. V. WRIGHT, WARDEN
07-10203 SHANKLIN, GEORGE V. ORTIZ, EXEC. DIR., CO DOC
07-10205 SMITH, CALVIN L. V. VIRGINIA
07-10211 ZHANG, ZHENLU V. SCIENCE & TECH. CORP., ET AL.
07-10247 CALLIGAN, EDWIN D. V. WILSON, SUPT., WESTVILLE
07-10306 COMIER, LEE V. SCHRIRO, DIR., AZ DOC
07-10361 VANDERWALL, ROBIN W. V. VIRGINIA
07-10407 CORNET, STANLEY V. FLORIDA
07-10425 GIBBS, ARSON I. V. MINNER, GOV. OF DE, ET AL.
07-10451 DUNLAP, TIMOTHY A. V. GREEN, JAY, ET AL.
07-10455 McCREARY, CARNELL V. BIRKETT, WARDEN, ET AL.
07-10575 TAVAREZ, TEOFILO V. MARSHALL, SUPT., SING SING
07-10783 SCHILS, MICHAEL V. WASHTENAW COMMUNITY HEALTH
07-10870 YORK, JAMES O. V. SOUTH CAROLINA, ET AL.
07-10922 MANNING, GWENESTHER F. V. POTTER, POSTMASTER GEN.

The petitions for rehearing are denied.