

In the Supreme Court of Tennessee
at Nashville

2007 JAN 22 PM 2:40

In Re: Daryl Keith Holton } Bedford County
 } Original Appeal No.
 } M2000-00735-SC-DDT-DD

Pro Se Response to State's Motion to Re-set Execution Date

On 16 Jan 07, the State filed a motion in this case to re-set an execution date. The Respondent acknowledges the State's difficulty and notes the delay caused by the extraneous, elective filings of third parties.

The State's motion presents an account of the appellate history of this case that is in large part correct, however the Respondent must take exception to the characterization of the position noted in the Sixth Circuit's order. (State's Motion to Reset, page 1, 4th line from the bottom.)

The Respondent respectfully demurs that the position taken has been one of consistent, calculated, deliberate, and selective procedural default rather than one of wholesale waiver. It is maintained that the characterization contained within the first 5 lines of page 3 of the State's motion to Reset is the more accurate of the two diverse versions. It is with this, perhaps idiosyncratic, caveat that the instant response is tendered.

The prisoner does not oppose the State's Motion to Re-set an Execution Date in order to effectuate the directive of Tennessee Code Annotated § 40-30-120 (a).

Thank you for your time and patience.

Respectfully submitted

Daryl K. Holton

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This response was mailed on 19 Jan 07, as was a handwritten copy to Jennifer L. Smith, Associate Deputy Attorney General, Criminal Justice Division, P.O. Box 20207, Nashville, Tn. 37202-0207