

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. DARYL KEITH HOLTON

No. M2000-00766-SC-DDT-DD - Filed: May 25, 2006

ORDER

On May 10, 2006, the State of Tennessee filed a Motion to Re-Set Execution Date in the case of State v. Daryl Keith Holton. Upon affirming Holton's convictions and death sentences in an opinion released on January 5, 2004, this Court had previously set June 3, 2004, as Holton's execution date. See State v. Holton, 126 S.W.3d 845, 869 (Tenn. 2004). This date was later re-set to June 8, 2005, to allow Holton time to file a petition for writ of certiorari with the United States Supreme Court, which denied the petition on October 4, 2004. See Holton v. Tennessee, 543 U.S. 816 (2004). On May 16, 2005, the Bedford County Circuit Court granted a stay of execution under Tenn. Code Ann. § 40-30-120, which permits the post-conviction trial court to stay an execution upon the filing of a petition for post-conviction relief by a petitioner in a capital case. However, on May 4, 2006, this Court held that the circuit court was without authority to grant the stay, vacated the circuit court's order, and dismissed the petition. See Holton v. State, ___ S.W.3d ___, 2003 WL 24314330 (Tenn. 2006). The State soon thereafter filed the instant motion to re-set Holton's execution date. On May 15, 2006, Daryl Keith Holton filed a Pro Se Response to State's Motion to Re-Set Execution Date, in which he stated that he "does not oppose the State's motion to reset an execution date." On May 18, 2006, the Office of the Clerk of the Appellate Court received from the Federal Defender Services of Eastern Tennessee, Inc., a document titled "Response in Opposition to State's Motion to Re-Set Execution Date." On May 18, 2006, the State filed a Motion to Strike Response of Federal Defender Services of Eastern Tennessee. On May 24, 2006, the Office of the Clerk of the Appellate Court received from the Federal Defender a document titled "Response in Opposition to Motion to Strike Response."

Upon due consideration, it appearing that the Federal Defender Services of Eastern Tennessee, Inc., has not been authorized either by this Court or by Holton himself to proceed on Holton's behalf in this matter, the State's Motion to Strike Response of Federal Defender Services of Eastern Tennessee is GRANTED.

Having considered the Motion to Re-Set Execution Date and Holton's Pro Se Response, this Court hereby GRANTS the State's Motion to Set Execution Date. It is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the nineteenth day of September, 2006, unless otherwise ordered by this Court or other appropriate authority.

The State Attorney General shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

IT IS SO ORDERED.

PER CURIAM