

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

2010 OCT 18 PM 1:05

BILLY RAY IRICK

Petitioner-Appellant

vs.

STATE OF TENNESSEE

Respondent-Appellee

*

* No. _____

*

* (COURT OF CRIMINAL APPEALS

*

* NO. E2010-01740-CCA-R28-PD)

*

* DEATH PENALTY

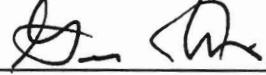
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NASHVILLE

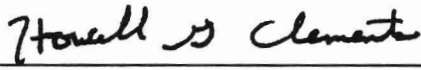
MOTION

Comes the petitioner, and respectfully moves, pursuant to Rule 14 of the Rules of Appellate Procedure, for this court take into consideration certain post-judgment or non-record facts. Specifically, petitioner requests that the trial court testimony and exhibits from his competency proceedings (IRICK 933-1117) (Volumes I and II, IRICK 001 through IRICK 932 are already part of the record) be considered as well as selected pages from the *Diagnostic and Statistical Manual of Mental Disorders, IV* referred to by Dr. Brown, who testified on behalf of the petitioner. (IRICK 1188, *et seq*). As grounds therefore, petitioner would state that one of the principal issues presented in his application for permission to appeal concerns the appellate court's finding that Dr. Peter Brown's diagnoses of "psychotic disorder not otherwise specified" and "cognitive disorder not otherwise specified" were "preliminary" diagnoses. This issue had not been raised by the state in any previous pleading nor had the trial court referred to or made such a finding. Therefore, petitioner had no opportunity to address this issue. In order for this court to fully evaluate this issue, petitioner states that it is proper for the court to take into consideration sworn testimony and exhibits taken into evidence during petitioner's competency proceedings before the Knox County Criminal Court before Judge Richard Baumgartner.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served on counsel for all parties at interest in this cause via facsimile or U.S. Mail addressed as follows:

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This 5th day of Oct, 2010.

SPEARS, MOORE, REBMAN & WILLIAMS

By: 