

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

DONNIE E. JOHNSON,)	
)	
Petitioner,)	
)	
V.)	No. 97-3052-D
)	
RICKY BELL, Warden,)	
RIVERBEND MAXIMUM SECURITY)	
INSTITUTION,)	
)	
Respondent.)	

ORDER GRANTING STAY OF EXECUTION

Petitioner Donnie Johnson, an inmate at the Riverbend Maximum Security Institution ("RMSI"), in Nashville, Tennessee, has filed a motion requesting relief pursuant to this Court's inherent authority, and/or for relief from judgment pursuant to Fed. R. Civ. P. 60(b), along with a motion for stay of execution.

In October 1985, a Shelby County, Tennessee, Criminal Court jury convicted Petitioner of first degree murder in the death of his wife, Connie Johnson, and sentenced him to death by electrocution. His execution is currently scheduled for November 16, 2004.

Petitioner asks this Court to stay his execution pending the United States Court of Appeals for the Sixth Circuit's decisions in In re: Abdur'Rahman, 6th Cir. No. 6547, and Abdur'Rahman v. Bell, 6th Cir. No. 02-6548, and this Court's subsequent decision on

Petitioner's Fed. R. Civ. P. 60(b) motion. In Workman v. Bell, Nos. 94-2577, 03-2660, this Court granted a stay of execution pending the Sixth Circuit's decision in Abdur'Rahman. The Sixth Circuit later denied the motion of Respondent to vacate the stay. Workman v. Bell, 6th Cir. Nos. 04-6037, 04-6038. See also In Re Holladay, 331 F.3d 1169, 1177 (11th Cir. 2003)(granting stay of execution to allow consideration of successive application for habeas corpus relief); Zeigler v. Wainwright, 791 F.2d 828 (11th Cir. 1986)(granting stay of execution pending resolution of Rule 60(b) appeal). The Court finds that Petitioner has established that he maintains a likelihood of success on his motion for relief from judgment and recognizes that irreparable injury to the Petitioner should the stay be denied is self evident. Given this Court's and the Sixth Circuit's treatment of similar cases, the Court finds that the equities favor issuance of a stay of execution in this matter. Accordingly, the Court GRANTS Petitioner's motion for stay of execution pending the Sixth Circuit's decision in Abdur'Rahman and this Court's subsequent ruling on Petitioner's Rule 60(b) motion. Petitioner's execution is stayed therefore pending the outcome of this matter.

IT IS SO ORDERED this _____ day of November 2004.

BERNICE BOUIE DONALD
UNITED STATES DISTRICT JUDGE

