

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. PAUL DENNIS REID

No. M2003-00539-SC-DDT-DD - Filed: November 7, 2007

ORDER

On December 27, 2006, upon affirming the convictions and capital sentences imposed upon Paul Dennis Reid in State v. Reid, 213 S.W.3d 792 (Tenn. 2006), this Court set January 3, 2008, for the execution of Reid's sentences. On October 24, 2007, Reid filed a Motion for Stay of Execution, or in the Alternative Motion to Vacate Execution Date, alleging that Reid's execution date unfairly cuts short his time to file both a post-conviction petition in state court and a petition for writ of habeas corpus in federal court. The motion also alleged that the execution date impedes the timely and orderly litigation of an action filed by Reid in the federal district court pursuant to 42 U.S.C. § 1983 challenging Tennessee's lethal injection protocol. The motion further asserted that a stay should be granted because of the recent holding of the United States District Court for the Middle District of Tennessee in Harbison v. Little, No. 3:06-1206, 2007 WL 2821230 (M.D. Tenn. Sept. 19, 2007), that Tennessee's current lethal injection protocol violates the Eighth Amendment and the grant of the petition for writ of certiorari by the United States Supreme Court in Baze v. Rees, No. 07-5439, 2007 WL 2803693 (U.S. Sept. 27, 2007), a case challenging the constitutionality of Kentucky's lethal injection protocol, which is similar to Tennessee's.

On November 1, 2007, the State filed a Response opposing the motion, in which it argued that the current execution date does not unfairly abridge Reid's right to seek either post-conviction relief in the state courts or habeas corpus relief in the federal courts. The State observed that Tennessee Code Annotated section 40-30-120(a) "clearly authorizes this Court to set an execution before the expiration of the one-year post-conviction statute of limitations." State v. Paul Dennis Reid, Jr., No. M1999-00803-SC-DDT-DD (Tenn. Apr. 22, 2003). In addition, the State noted that this Court has previously upheld the constitutionality of Tennessee's three-chemical protocol in Abdur'Rahman v. Bredesen, 181 S.W.3d 292 (Tenn. 2005), and that a stay may be sought in federal court if necessary for litigation in that court. Coe v. State, 17 S.W.3d 251 (Tenn. 2000).

Upon due consideration of the Motion and the State's Response, the Motion for Stay of Execution, or in the Alternative Motion to Vacate Execution Date, is DENIED.

It is so ORDERED.

PER CURIAM