

**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

STATE OF TENNESSEE,)	
)	
Appellee,)	Montgomery County
)	SCT No.
)	M2001-02753-SC-DDT-DD
v.)	
)	
PAUL DENNIS REID,)	
)	Execution Date: October 5, 2005,
Appellant.)	1 a.m.
)	Filed September 26, 2005

**REPLY TO STATE’S OPPOSITION TO APPELLANT’S
MOTION FOR A STAY OF EXECUTION**

The State of Tennessee opposes a stay of execution in this case while counsel pursue relief on their incompetent client’s behalf in the U.S. Supreme Court and while this Court is in the process of addressing the proper procedures and standards for assessing Appellant’s competency to proceed in a related post-conviction case.¹

All forensic mental health evaluators who have examined Mr. Reid within the last several years have found him to be severely mentally ill and incompetent with regard to making decisions regarding his legal proceedings.² The State’s opposition to the stay is

¹ In that case the post-conviction court in November 2004 did not require Appellant to verify or personally authorize the filing of documents due to counsel’s belief that Appellant is incompetent. The State nevertheless maintains the fiction that Paul Reid is capable of making choices to file or not file various legal documents and that he is responsible for asserting, or liable for waiving, legal rights. He is not. Undersigned counsel have, since formally raising Appellant’s incompetency in November 2004, been acting pursuant to Supreme Court Rule 8, Tennessee Rules of Professional Conduct, Rule 1.14 to protect their severely impaired client’s legal interests while he is unable to do so.

² Appellant is operating upon his psychotic belief that he is being tortured by scientific technology and that the only way to stop the torture is to acquiesce to execution.

not based on any assertions that Appellant is not incompetent, instead the State claims that this is “immaterial” to this case.

The incompetency of a death-sentenced individual is never “immaterial.” Competency is a fundamental right deeply rooted in our common-law heritage and Appellant is entitled to “the proper protection of fundamental rights in circumstances in which the State proposes to take drastic action against an individual.” *Cooper v. Oklahoma*, 517 U.S. 348, 368, 116 S.Ct. 1373, 1384, 134 L.Ed.2d 498 (1996).

This Court has the inherent authority with respect to its own orders to stay or reset an execution date to ensure proper protection of fundamental constitutional rights. The State’s assertion to the contrary – that Tenn. Code Ann. § 40-30-120(a) (2003) is the sole mechanism justifying a stay of execution – is incorrect.

The State further asserts, contradictorily, that the pending U.S. Supreme Court litigation is insufficient grounds to justify a stay of execution because the State assumes that Court will dispose of the motion to proceed on the petition for certiorari without an affidavit of indigency on October 3, 2005. The State believes this time frame provides this Court with “ample opportunity” to “determine whether to reset Reid’s execution date” while the U.S. Supreme Court proceedings continue. Mr. Reid is scheduled to be executed at 1 a.m. on October 5, 2005.

Undersigned counsel filed the motion for a stay of execution on September 9, 2005 in an effort to provide this Court with sufficient time to consider the motion. Last minute filings before this Court are not a reasonable mechanism for determination of life and death matters and will be avoided by undersigned counsel whenever possible. Postponing a decision in this matter until less than 48 hours before an execution, based

on an assumption that the Supreme Court will in fact rule on a given date, unnecessarily and unduly poses great stress, responsibilities, and burdens on Corrections employees, counsel for the parties, the Court itself, the families of the victims, and the Reid family. Accordingly, this Court should reject the State's argument for delay.

Wherefore, counsel for Appellant reply to the State's opposition to the motion for stay of execution and move this Court to grant a stay for the reasons stated herein and in the Motion for Stay of Execution.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of this has been placed in the mail, postage prepaid, to Jennifer Smith, Associate Deputy Attorney General, Criminal Justice Division, P.O. Box 20207, Nashville, Tennessee, 37202-0207 on this 23rd day of September, 2005.

Kelly A. Gleason