

ORIGINAL

IN THE SUPREME COURT OF TENNESSEE

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APPELLATE COURT CLERK
NASHVILLE

IN RE: GAILE K. OWENS

) SHELBY COUNTY

) DIRECT APPEAL

) S. CT. NO. 2

) (No. 85-01174 Below)

) POST-CONVICTION APPEAL

) NO. 02C01-9806-CR-00182

) (No. P-8806 Below)

M1988-00125-SE-DPE-DD

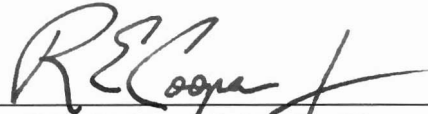
MOTION TO SET EXECUTION DATE

Gaile K. Owens was convicted in 1986 by a Shelby County Criminal Court jury of accessory before the fact to first-degree murder and sentenced to death.¹ Owens has completed the standard three-tier appeals process described in Tenn. Sup. Ct. R. 12.4(A) by “pursu[ing] at least one unsuccessful challenge to [her] conviction and sentence through direct appeal, state post-conviction, and federal habeas corpus proceedings”: *State v. Porterfield*, 746 S.W.2d 441 (Tenn. 1988) (direct appeal); *Owens v. State*, 13 S.W.3d 742 (Tenn. Crim. App. 1999), *app. denied* (Tenn. Feb. 28, 2000), *cert. denied*, 531 U.S. 846 (2000) (post-conviction appeal); *Owens v. Guida*, 549 F.3d 399 (6th Cir. 2008), *cert. denied*, ___ U.S. ___, 130 S. Ct. 281 (2009), *reh’g denied*, ___ U.S. ___, 2009 WL 4111116 (U.S. Nov. 30, 2009) (see attached) (federal habeas corpus).

¹ Owens was jointly tried with Sidney Porterfield, who was convicted of first-degree murder and also sentenced to death.

Because Owens has completed the standard three-tier appeals process, it is now the duty of the state attorney general to file a motion requesting this Court to set an execution date. Tenn. Sup. Ct. R. 12.4(A). Therefore, the State of Tennessee, by and through the Attorney General and Reporter, hereby requests this Court to set an execution date for Gaile K. Owens, which date shall be, in accordance with Tenn. Sup. Ct. R. 12.4(E), no less than thirty (30) days from the date of the order granting this motion.

Respectfully submitted,



ROBERT E. COOPER, JR.
Attorney General and Reporter



MICHAEL E. MOORE
Solicitor General



GORDON W. SMITH
Associate Solicitor General
Attorney of Record²

425 Fifth Avenue North
Nashville, Tennessee 37243
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² Pursuant to Tenn. Sup. Ct. R. 12.4(B), the attorney of record requests notification of orders or opinions of the Court by electronic mail.

CERTIFICATE OF SERVICE

I certify that a true and exact copy of this document has been forwarded by electronic mail and by first-class mail, postage prepaid, to:

Gretchen Leigh Swift, Esq.
Assistant Federal Public Defender
810 Broadway, Suite 200
Nashville, Tennessee 37203
gretchen_swift@fd.org

on this the 8th day of December, 2009.


GORDON W. SMITH
Associate Solicitor General

Westlaw.

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--- S.Ct. ----, 2009 WL 4111116 (Mem) (U.S.)
(Cite as:)

OWENS, GAILE K. V. STEELE, WARDEN
No. 09-130.

Nov 30, 2009.

The petition for rehearing is denied.

U.S., 2009
OWENS, GAILE K. V. STEELE, WARDEN
--- S.Ct. ----, 2009 WL 4111116 (Mem) (U.S.)

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DEC 3 - 2009

SOLICITOR GENERAL
TN ATTORNEY GENERAL
William K. Suter
Clerk of the Court
(202) 479-3011

November 30, 2009

Mr. Gordon W. Smith
Associate Solicitor General
425 Fifth Avenue North
Nashville, TN 37243

Re: Gaile K. Owens
v. Jewel Steele, Warden
No. 09-130

Dear Mr. Smith:

The Court today entered the following order in the above-entitled case:

The petition for rehearing is denied.

Sincerely,



William K. Suter, Clerk