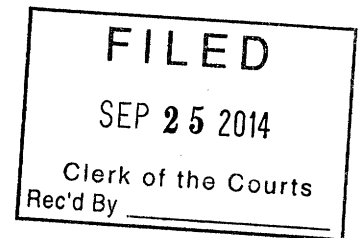


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. BILLY RAY IRICK

Criminal Court for Knox County
No. 24527

No. M1987-00131-SC-DPE-DD



ORDER

On September 27, 2013, the Tennessee Department of Correction adopted a new single-drug lethal injection protocol. On October 3, 2013, the State filed a motion to reset the execution date for Billy Ray Irick. On November 20, 2013, Mr. Irick and nine other plaintiffs filed in the Chancery Court for Davidson County a declaratory judgment action challenging the constitutionality of the new lethal injection protocol. *See Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. 13-1627-I. Based on representations that the declaratory judgment action would be tried in July 2014, this Court issued an order on December 11, 2013, setting Mr. Irick's execution date for October 7, 2014. Because of a discovery dispute, the Chancery Court stayed the declaratory judgment proceedings pending a Tenn. R. App. P. 9 interlocutory appeal in the Court of Appeals. *See Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. M2014-00320-COA-R9-CV (filed February 21, 2014).

On September 15, 2014, Mr. Irick filed in this Court a Motion to Alter, Amend or Modify Order Setting Execution Date. On September 16, 2014, the State filed a response in opposition to Mr. Irick's motion. On September 19, 2014, Mr. Irick filed a reply to the State's response.

Mr. Irick asks this Court to reset his execution date from October 7, 2014, to allow sufficient time for the Court of Appeals to resolve the interlocutory appeal and for the Chancery Court to resolve the constitutional issues raised in the declaratory judgment action. The State responds that Mr. Irick is required to demonstrate a likelihood of success on the merits of his declaratory judgment action, and, given the universal approval of identical or similar protocols, he is unable to do so.

Upon due consideration, Mr. Irick's Motion is GRANTED, and this Court's order of December 11, 2013, is vacated. Nevertheless, we agree with the State that this matter should be expedited to eliminate any further unnecessary delays. To this end, any party seeking review of the Court of Appeals' decision in *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. M2014-00320-COA-R9-CV, shall abide by the following expedited schedule. See Tenn. R. App. P. 2.

1. Neither party shall be permitted to file a petition to rehear in the Court of Appeals pursuant to Tenn. R. App. P. 39.
2. Any application for permission to appeal pursuant to Tenn. R. App. P. 11 shall be filed no later than ten (10) days after the date of filing of the Court of Appeals' decision.
3. Any answer in opposition to a Rule 11 application shall be filed no later than seven (7) days after the date of filing of the Rule 11 application.
4. This Court shall render its decision on any Rule 11 application no later than fourteen (14) days after the date of filing of any Rule 11 application.

In addition to the original copy and other required copies of any filing, an electronic copy of the filing shall be submitted to the Clerk of the Supreme Court at the time of the filing by e-mail, in Adobe .pdf format. Copies of all filings shall be served upon the opposing attorney of record contemporaneously with their filing, either by hand delivery, facsimile, or e-mail.

Upon final disposition of any Rule 11 application filed from the Court of Appeals' decision, this Court shall exercise its authority to set a new date of execution, see Tenn. Sup. Ct. R. 12(4)(E) (authorizing this Court to sua sponte set execution dates in certain circumstances and providing that any new date of execution set "shall be no less than seven (7) days from the date of the order setting the new execution date"), and shall establish an expedited schedule for resolution of the declaratory judgment action pending in the Chancery Court, *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. 13-1627-I.

It is so ORDERED.

PER CURIAM