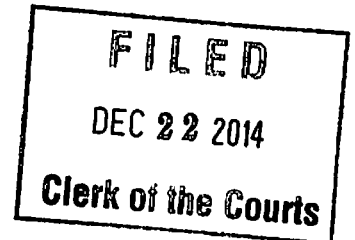


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

State vs. Donnie Edward Johnson

**Criminal Court for Shelby County
No. 8501202**

No. M1987-00072-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 Donnie Johnson. On November 20, 2013, Mr. Johnson 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. 13-16274. Based on representations that the declaratory judgment action would be tried in July 2014, this Court issued an order on December 17, 2013, setting Mr. Johnson's execution date for March 24, 2015. Due to a discovery dispute, the Chancery Court stayed the declaratory judgment proceedings pending a Tenn. R. App. P. 9 interlocutory appeal. *See Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. M2014-00320-00A-R9-CV, 2014 WL 4815957 (Tenn. Ct. App. at Nashville, filed Sep. 29, 2014), perm. app. granted (Tenn. Oct. 21, 2014). Oral argument was heard in this Court on December 18, 2014.

On December 11, 2014, Mr. Johnson filed in this Court a Motion to Vacate Execution Date. Mr. Johnson asks this Court to vacate his execution date to allow sufficient time for this Court to resolve the issues raised in the interlocutory appeal and for the Chancery Court to resolve, on remand, the constitutional issues raised in the declaratory judgment action. The State has not filed a response opposing the motion.

Upon due consideration, Mr. Johnson's Motion is GRANTED, and this Court's order of December 17, 2013, is vacated. Upon final disposition of the interlocutory appeal in *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. M2014-00320-SC-R1 1-CV, 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 establish an expedited schedule for resolution of the declaratory judgment action in the Chancery Court, *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. 13-16274.

It is so ORDERED.

PER CURIAM