

IN THE SUPREME COURT OF TENNESSEE  
AT KNOXVILLE

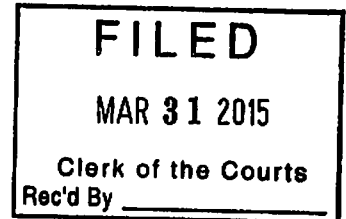
STATE OF TENNESSEE v. DAVID EARL MILLER

Criminal Court for Knox County  
No. 12080

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No. E1982-00075-SC-DDT-DD

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**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 set the execution date for David Earl Miller. On November 20, 2013, Mr. Miller 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. Miller's execution date for August 18, 2015. Due to a discovery dispute, the Chancery Court stayed the declaratory judgment proceedings pending an 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). On March 10, 2015, this Court resolved the issues raised in the interlocutory appeal and remanded the case to the trial court for further proceedings. *West v. Schofield*, --- S.W.3d ---, 2015 WL 1044099 (Tenn. Mar 10, 2015). In the judgment order filed contemporaneously with that opinion, this Court established strict time lines within which the Chancery Court is to resolve the lethal injection claims raised in the declaratory judgment action.

On March 20, 2015, Mr. Miller filed in this Court a Motion to Vacate Execution Date to allow sufficient time 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. Miller's Motion is GRANTED, and this Court's order

of December 17, 2013, is vacated. Upon final disposition of the declaratory judgment action in *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. 13-16274 (Davidson Chancery), 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”).

It is so ORDERED.

PER CURIAM