

FILED

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

2014 MAR -7 PM 3:42

**STATE OF TENNESSEE,**

**Appellant,**

**v.**

**LEROY HALL, JR.**

**Appellee.**

)  
) **No. E1997-00344-SC-DDT-DD**  
)  
) **Criminal Court for**  
) **Hamilton County**  
) **Nos. 188000 & 188001**  
)  
)  
) **CAPITAL CASE**

APPELLATE COURT CLERK  
NASHVILLE

**RENEWED AND UNOPPOSED MOTION FOR EXTENSION OF TIME TO  
FILE RESPONSE TO STATE'S MOTION TO SET EXECUTION DATE**

In a motion filed on November 27, 2013, and in a supplemental filing on December 5, 2013, Mr. Lee Hall requested an extension of time to file his response to the State's Motion to Set Execution Date. On December 11, 2013, this Court granted Mr. Hall's motion in part and denied it in part, extended the time for filing until March 24, 2014, and stated that no further extensions would be granted.

Since the Court's December Order, unforeseen developments have placed new burdens on defense counsel and have prevented counsel from devoting time to the records review and research necessary to prepare Mr. Hall's response to the State's Motion. Counsel now believes that, notwithstanding the Court's prior Order, she has no choice but to respectfully seek additional time.

Undersigned counsel spoke with Deputy Attorney General Jennifer L. Smith on March 7, 2014. She indicated that the State does not oppose Mr. Hall's motion

for an extension of time to July 18, 2014, to file his response to the State's Motion to Set Execution Date.

In support of this motion, counsel states as follows:

1. On October 29, 2013, the Court appointed the Office of the Post-Conviction Defender ("the Office") to represent Mr. Hall. The Court directed the Office to file an answer to the State's motion to set an execution date by December 16, 2013.

2. As discussed above, counsel for Mr. Hall moved for an extension on November 29, 2013. In support of the motion, counsel cited her heavy appellate caseload, the limited staffing resources of her office (which precluded assigning another experienced attorney to the case), the voluminous record of nearly 47,000 pages, and the fact that counsel represents two clients with upcoming post-conviction hearings in the cases of *Joel Schmeiderer v. State* (scheduled for hearing the week of March 24, 2014), and *David Jordan v. State* (scheduled for hearing the week of May 12, 2014).

3. On December 5, 2013, Mr. Hall filed a Supplement to the Motion for Extension of Time in which he raised an additional basis for the extension—that Mr. Hall had become a plaintiff in a pending lawsuit in Davidson County Chancery Court challenging the State's new lethal injection protocol, and that the Chancery Court had recently issued a scheduling order providing for a trial in July 2014,

meaning that the legality of the lethal injection protocol would remain an open question until at least that time.<sup>1</sup>

4. In an Order filed December 11, 2013, the Court granted Mr. Hall's request in part and denied it in part, and extended the time for him to file his response to the State's motion until March 24, 2014. The Court also stated that "no further extensions will be granted."

5. Understanding the Court's March 24 deadline to be set in stone, undersigned counsel attempted to make progress in the case between other deadlines and case obligations with the assistance of the paralegal and law clerk assigned to the case. Unfortunately, on January 30, 2014, the paralegal assigned to this case, Rebecca Dodd, tendered her resignation. Ms. Dodd's unexpected departure was followed by two other resignations: an attorney, Stacie Lieberman, also resigned on January 30, and an investigator, Chris Pennell, resigned on February 28.

6. The Office of the Post-Conviction Defender is relatively small, and the loss of three of its eighteen staff members<sup>2</sup> has caused significant consequences to the Office's operations. These consequences are magnified because the Office is

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<sup>1</sup> In light of the State's application for a Rule 9 appeal, which is currently pending before the Court of Appeals and is expected to cause various delays, the anticipated July 2014 trial date has since been vacated. The Chancery Court has now reserved potential trial dates of August 11-13, 2014, and September 8-10, 2014.

<sup>2</sup> The Post-Conviction Defender, Justyna Scalpone, does not carry a caseload and was on maternity leave from December 20 until this week. In her absence, Deborah Drew, the Deputy Post-Conviction Defender, was acting director of the office. Ms. Drew is co-counsel in the *Schmeiderer* case, discussed further below. Due to her obligations as acting director, undersigned counsel had to shoulder most of the responsibility for preparing the Amended Petition in that case, filed in late January, and the investigation necessary to prepare for hearing on March 24, 20014.

currently marshalling almost all of its resources for three back-to-back post-conviction hearings in March, April and May 2014, leaving few staff members, if any, to take on the duties of staff members who have left.

7. For example, the Office employed only three paralegals prior to Ms. Dodd's departure, and there are now only two. Ms. Dodd had a central role in assisting undersigned counsel, and was responsible for record-collection and electronic record-keeping in Mr. Hall's case. Given the enormous size of the record, Ms. Dodd's role was invaluable. Moreover, there is no paralegal assigned to Mr. Hall's case now because the other two paralegals in the office are simply too busy to take on any additional work: in addition to their normal caseloads, one paralegal is already working long hours to help prepare for the post-conviction hearing in *Joel Schmeiderer v. State* that will start during the week of March 24, and the other paralegal (who splits her time between paralegal and administrative duties) is working to prepare for the post-conviction hearing in *Richard Odom v. State*, which is scheduled for the week of April 28, as well as working on a host of other cases at various stages of appeal. The Office is attempting to hire a new paralegal as soon as possible, and is planning to conduct interviews next week. Nevertheless, Ms. Dodd's departure has set Mr. Hall's case back by several weeks.

8. The loss of an investigator has similarly set the case back. In light of Mr. Pennell's resignation, the office is left with only two investigators, both of whom who are fully occupied working on other cases, including cases with pending post-conviction hearings this Spring (i.e., the aforementioned cases of *Schmeiderer v.*

*State, David Jordan v. State, and Richard Odom v. State*). Accordingly, neither of the remaining investigators has been available to work on Mr. Hall's case, and the duties normally taken by an investigator have fallen to undersigned counsel, both in this case and in other cases.

9. Counsel has also been affected by the resignation of Ms. Lieberman, an attorney. Ms. Lieberman was assigned as co-counsel in *David Jordan v. State* which is scheduled for a post-conviction hearing to begin on May 12, 2014. Undersigned counsel was originally designated as a supervising attorney on that case, but in light of Ms. Lieberman's departure, undersigned counsel must take on the much larger role of co-counsel in the case to prepare for the hearing in May. At this time, counsel has not reviewed any of the core documents in that case – the trial transcripts, trial counsel's file, and the DA's file.<sup>3</sup> The *Jordan* case also suffers from the loss of Mr. Pennell, who was the assigned investigator prior to his departure.

10. In addition to the delays discussed above, undersigned counsel has also been forced to devote a significant amount of time to administrative issues which arose from the above-referenced resignations, as well as in response to recent legislative developments which would impact the office.

11. When undersigned counsel realized that she could not adequately investigate, research, and prepare Mr. Hall's answer by March 24, 2014, while simultaneously preparing for the March 24, 2014 post-conviction hearing in *Joel Schmeiderer v. State*, she sought a continuance of the post-conviction hearing in

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<sup>3</sup> As is the case with *Schmeiderer* as well, counsel Gleason was not the attorney originally assigned to the case. Counsel was assigned to the case after last summer's departure of Bradley MacLean who represented Mr. Schmeiderer and Mr. Jordan.

that case. In her motion to continue the *Schmeiderer* hearing (Attachment 1), counsel explained that: (1) she could not meet her obligations to adequately represent both Mr. Schmeiderer and Mr. Hall in their pending matters; (2) this Court had already stated that no further extensions would be granted in Mr. Hall's case and ordered undersigned counsel to file the answer on or before March 24; and (3) "the simultaneous deadlines in *Schmeiderer* and *Hall* present a patent ethical conflict of interest as either Mr. Schmeiderer, Mr. Hall, or both are being compromised by the inability of counsel to complete tasks in both cases in this time frame." Counsel also explained that her work in *Schmeiderer* was coming at the expense of Mr. Hall, and that she had been able to devote only a fraction of her time to the Hall case despite working the very long hours described in the motion. Further, counsel filed a Supplement to the motion to continue setting out some of the personnel losses discussed herein. (Attachment 2). However, the trial court denied the requested continuance of the hearing in *Schmeiderer* (Attachment 3), and the hearing is scheduled to begin as planned on March 24, 2014, the same day that Mr. Hall's answer is due.

12. The ethical conflict of interest burdening undersigned counsel is underscored by the amount of time counsel has devoted to Mr. Hall's case, as compared to other clients with deadlines. Since the Court's December 11 Order, counsel has spent 216 hours on Mr. Schmeiderer's case, 56 hours on Mr. Jerry Ray Davidson's case (oral argument heard in this Court on February 5), and 36 hours on

Mr. Hall's case—with much of that time involving court appearances and conferences in the lethal injection litigation.

13. Undersigned counsel is not meeting her ethical and moral obligations to Mr. Hall and to this Court under these circumstances. Tenn. Code Ann § 40-30-202 requires post-conviction counsel to adhere to professional standards and the requirements of the Tenn. Sup. Ct. R. 8, Rules of Professional Conduct. Rule 1.1 of the Tennessee Rules of Professional Conduct requires counsel to “provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation necessary for the representation.” Comment [5] to Rule 1.1 explains that complex matters impose a greater professional duty upon counsel: “[M]ajor litigation and complex transactions ordinarily require more elaborate treatment than matters of lesser consequences.”

14. Nothing can be more “major” or “complex” than litigation regarding whether a client lives or dies. Tenn. Sup.Ct. R. 12.4(A) directs that a response to a motion to set an execution date:

Shall assert any and all legal and/or factual grounds why the execution date should be delayed, why no execution date should be set, or why no execution should occur, including a claim that the prisoner is not competent to be executed, *see Coe v. State*, 17 S.W.3d 191 (Tenn. 2000); *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999); or a request for a certificate of commutation pursuant to Tenn. Code Ann. § 40-27-106, *see Workman v. State*, 22 S.W.3d 807 (Tenn. 2000).

Counsel cannot assert “any and all legal and/or factual grounds” why Mr. Hall's execution should be delayed, not scheduled, or not occur unless counsel reads the records, consults with Mr. Hall, researches legal issues, and prepares to present all

of those legal and factual grounds. Nor can counsel properly assert a request for a certificate of commutation in the absence of careful preparation and thought.

15. Given the events discussed above, counsel met with Mr. Hall, explained the circumstances, and asked his position regarding a request for an extension in his case. Mr. Hall indicated that he supported counsel's request to seek additional time and asked counsel to file this motion. Although counsel has made some progress in reviewing and digesting some of Mr. Hall's records, her review of the records thus far has only highlighted deficiencies in the original post-conviction investigation and the need for additional work. It is currently infeasible for counsel to conduct the required research and investigation in the time that remains, especially given the trial preparation required for *Schmeiderer* during the same time period. Accordingly, counsel respectfully requests that this Court reconsider its prior order and extend the time for Mr. Hall's response to be completed to the originally requested date of July 18, 2014, to allow counsel to meet her ethical obligations to Mr. Schmeiderer (March 24 hearing), Mr. Jordan (May 12 hearing), and Mr. Hall.

16. Counsel is not seeking this extension of time for the purpose of delay. This motion is filed due to a deeply held conviction that counsel cannot competently represent Mr. Hall in this matter under the above-referenced circumstances. Nor does counsel envision that an extension would delay proceedings in this case. The Court has set execution dates in nine last stage capital cases—Irick, Zagorski, West, Johnson, Hutchison, Wright, Miller, Abdur' Rahman, and Sutton—ranging from



October 7, 2014, to November 17, 2015. If the Court permits the requested extension of time and ultimately determines to set an execution date, the Court will have sufficient time to consider the State's Motion and Mr. Hall's Answer and set a date within the time frame of the other execution dates.

WHEREFORE, for the reasons set forth above, Mr. Hall respectfully moves this Court to extend the time for the filing of his response to the State's motion to set an execution date to July 18, 2014.

Respectfully submitted,



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Counsel for Lee Hall

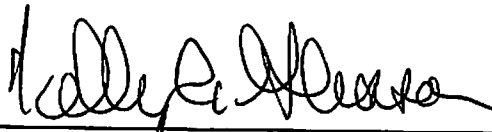
STATE OF TENNESSEE )  
 )  
COUNTY OF DAVIDSON )

**AFFIDAVIT**


I, Kelly A. Gleason, after having been duly sworn, aver and say as follows:

1. On February 25, 2014, I visited Lee Hall at Riverbend Maximum Security Institution to discuss (1) the unexpected resignation of the paralegal assigned to his case and (2) the need for an extension of time to file an answer to the State's motion for an execution date. Mr. Hall requested that I file this motion.
2. I subsequently received a letter from Mr. Hall dated February 26, 2014, in which he reaffirmed that he expected me to seek an extension of time.
3. The facts stated within this motion are true and accurate to the best of my knowledge.

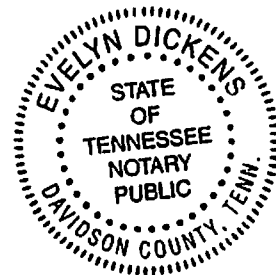
Further, the affiant sayeth not.

  
\_\_\_\_\_  
Kelly A. Gleason, Affiant

Sworn to and subscribed before me on this the 7<sup>th</sup> day of March, 2014.

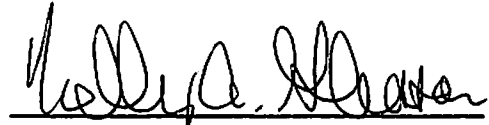
  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_ My Commission Expires **MAY 2015**



## CERTIFICATE OF SERVICE

I hereby certify that an exact copy of the forgoing motion has been mailed via U.S. Mail, postage pre-paid, to the Office of the State Attorney General, Jennifer L. Smith, Deputy Attorney General, Criminal Justice Division, P.O. Box 20207, Nashville, Tennessee, 37202-0207, and emailed to [Jennifer.Smith@ag.tn.gov](mailto:Jennifer.Smith@ag.tn.gov) on this the 7<sup>th</sup> day of March, 2014.



**Kelly A. Gleason**  
**Assistant Post-Conviction Defender**

# Attachment 1

**IN THE CIRCUIT COURT FOR MAURY COUNTY  
 TWENTY-SECOND JUDICIAL DISTRICT  
 AT COLUMBIA, TENNESSEE**

<b>JOEL RICHARD SCHMEIDERER</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>CASE NO. 14488</b>
	)	
<b>STATE OF TENNESSEE</b>	)	
	)	
<b>Respondent.</b>	)	<b>(CAPITAL POST-CONVICTION)</b>

**MOTION TO CONTINUE EVIDENTIARY HEARING**

Petitioner, Joel Schmeiderer, by counsel and pursuant to Article I, §§ 8, 9, 16, and 17 and Article XI, §§ 8 and 16 of the Tennessee Constitution; Amendments 5, 6, 8 and 14 to the United States Constitution; his rights to due process and a full and fair hearing; and effective assistance of counsel in the development and presentation of his state post-conviction claims<sup>1</sup>, respectfully moves the Court to continue the evidentiary hearing currently set for March 24-28, 2014, in light of 1) the radical developments in counsel’s caseload since the July 29, 2013, status conference at which the Court set the hearing date – most notably the office’s appointment by the Tennessee Supreme Court to Lee Hall’s case, in which the State seeks an execution date and the Court has ordered counsel to file a response no later than March 24, 2014; 2) the remaining investigation necessary in this case as document collection and investigation have progressed; and 3) the impact of these developments on counsel’s ability to competently represent Mr. Schmeiderer by presenting all potentially meritorious claims, as required by the Rules of Professional Conduct, TRPC 1.1, and Tenn. Code Ann § 40-30-202

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<sup>1</sup> *Martinez v. Ryan*, \_\_\_ U.S. \_\_\_, 132 S.Ct. 1309 (2012) (state court’s failure to extend the right to competent counsel in initial-review collateral proceedings implicates equitable/due process concerns).

During the July 29, 2013 status conference, counsel for Mr. Schmeiderer requested an evidentiary hearing date of July 2014, given newly assigned counsel's need for time to learn the case while also meeting obligations and deadlines in other cases. Since the status conference, there have been major changes to counsel's workload that directly impact counsel's ability to be ready to produce evidence of all potentially meritorious claims by the scheduled hearing date. As explained below, these developments constitute good cause for this Court granting a continuance.

Additionally, given the complicated nature and size of this case, the absence of a pre-trial guilt/innocence investigation, and the status of the post-conviction investigation and development of claims for relief, Petitioner requests this honorable Court to continue the evidentiary hearing for six months in order to ensure Mr. Schmeiderer's rights to due process of law and a full and fair hearing. The additional time is necessary for counsel to complete the investigation in the case, complete essential record collection that has been hampered by persistent delays, and ensure that all evidence in support of potentially meritorious claims will be presented at the evidentiary hearing. For the reasons set forth below, undersigned counsel requests an evidentiary hearing date no sooner than September 22, 2014. Petitioner also requests this Court schedule a hearing on this Motion to Continue and combine the motion hearing with a status conference.

## **I. PROCEDURAL HISTORY**

Mr. Schmeiderer was convicted of first degree murder and sentenced to death in May 2004. The Tennessee Supreme Court affirmed Petitioner's conviction and sentence on September 14, 2010. *State v. Schmeiderer*, 319 S.W.3d 607 (Tenn. 2010). Mr. Schmeiderer filed a *pro se* petition for post-conviction relief on March 3, 2011.

## **II. STATUS OF POST-CONVICTION CASE DEVELOPMENT**

On March 9, 2011, this Court appointed the Office of the Post-Conviction Defender (“OPCD”) as post-conviction counsel for Mr. Schneiderer. On September 2, 2011, this Court entered a Notice of Hearing setting Petitioner’s evidentiary hearing for November 21, 2011. After Mr. Schneiderer moved for a continuance, an evidentiary hearing was set for January 14, 2013. That evidentiary hearing was then vacated by the court. The current evidentiary hearing date was set at the July 29, 2013, status hearing.

Since the appointment of the OPCD, there have been several staffing changes to Mr. Schneiderer’s case. Both attorneys originally assigned, Brad MacLean and Joanne Diamond, have left the OPCD’s employment. Another attorney assigned to the case, Bernadette Donovan, left OPCD’s employment in October 2012, after having worked on the case for approximately six months. Staff attorney Justyna Scalpone was assigned to the case for approximately 2.5 months. She then was appointed as the Post-Conviction Defender, a position that does not carry a caseload. The current paralegal on the case, Holly Browning, is the third paralegal who has been assigned. Ms. Browning began working on Petitioner’s case in August of 2013. Additionally, the original investigator on the case was terminated from employment in September 2012. Aly Finn, the current investigator who was new to investigation and defense work at the time she joined OPCD, has been assigned to the case since February 2013. In addition to the investigative work by Ms. Finn, a private investigator has assisted with the guilt/innocence investigation since this Court and the AOC approved funding for those services in September 2012.

Although the legal team members had additional case assignments, including investigation and claim development in other pre-hearing cases, work on Mr. Schneiderer’s case

has progressed steadily. During Mr. MacLean's tenure on the case, funding for some of the experts was approved and those experts made progress on the case. Although current counsel must read the transcripts and technical records of the capital trial, the prior homicide trial, and Charles Sanderson's trial, counsel have relied on the transcript notes prepared by Ms. Scalpone in an effort to expedite record review. Ms. Finn and the private investigator have been diligently conducting the guilt/innocence, prior conviction, and mitigation investigations.

The records which must be reviewed prior to hearing in this case are voluminous. The transcripts and technical records for the capital trial and the prior homicide trial total over 4,000 pages. The District Attorney's file is over 4,300 pages. The Public Defender's files total almost 24,000 pages. In addition, Mr. Schneiderer's legal team has collected records relating to Mr. Schneiderer's mental health and other mitigation, and records pertaining to the 1998 homicide conviction. We just recently received four banker's boxes of records from the Tennessee Department of Correction relevant to the guilt/innocence investigation, after a difficult, prolonged process, and the legal team is continuing attempts to obtain all relevant records. This and other remaining obstacles to record collection attempts are addressed below. In addition to in-state travel for interviews and record collection, this case has also required travel to Georgia, Minnesota, Florida, Illinois, and California over the past several months for investigation and witness interviews pertaining to guilt/innocence, prior conviction, and mitigation.

### **III. ARGUMENT**

#### **A. A Continuance of Petitioner's Evidentiary Hearing Is Necessary to Guarantee Petitioner His Constitutional Right to Due Process of Law.**

Petitioner is entitled to a "full and fair hearing," T.C.A. § 40-30-106(h). Due process requires that a post-conviction litigant be afforded the "opportunity to be heard 'at a meaningful time in a meaningful manner.'" *House v. State*, 911 S.W.2d 705, 711 (Tenn. 1995). The *House*



court further recognized that restrictive state post-conviction procedures should not preclude the introduction of proof, restrict the scope of the hearing or limit the introduction or presentation of evidence. A post-conviction petitioner must be given “*every opportunity* to litigate [his] constitutional complaints in a state forum.” (emphasis added). *Id.*

A “myopic insistence on expeditiousness” can render proceedings which are designed to be attended by due process into “an empty formality.” *Ungar v. Sarafite*, 376 U.S. 575, 589-590 (1964). Moreover, “. . . a procedural default will not bar a federal habeas court from hearing a substantial claim of ineffective assistance at trial if, in the initial-review collateral proceeding, there was no counsel or counsel in that proceeding was ineffective.” *Martinez v. Ryan*, 132 S.Ct. at 1320; *see also Trevino v. Thaler*, \_\_\_ U.S. \_\_\_, 133 S.Ct. 1911, 1921 (2013).

Post-conviction counsel’s statutory, ethical, and constitutional obligations are heightened in this case because Petitioner faces a death sentence. *See Van Tran v. State*, 66 S.W.3d 807 (“As it has long been recognized, the penalty of death is ‘qualitatively different’ from any other sentence and this ‘qualitative difference between death and other penalties calls for a greater degree of reliance when the death sentence is imposed.’”) To ensure that the outcome of the post-conviction process is reliable, Petitioner must have sufficient time to adequately investigate this case and prepare a meaningful, complete presentation of proof at the post-conviction hearing. The consequences of an inadequate investigation are dire.

Tenn. Code Ann sec. 40-30-202 requires post-conviction counsel to adhere to professional standards and the requirements of the Tennessee Rules of Professional Conduct. Rule 1.1 of the Tennessee Rules of Professional Conduct requires counsel to “provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation necessary for the representation.” Comment [5] to Rule 1.1

explains that complex matters impose a greater professional duty upon counsel: “[M]ajor litigation and complex transactions ordinarily require more elaborate treatment than matters of lesser consequences.” For the purposes of this litigation, the professional standards are outlined in the *ABA Standards for Criminal Justice, the Defense Function* (1993) and *ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (2003).

The ABA Standards explicitly require counsel in a capital case to make extraordinary efforts on behalf of the accused:

Since the death penalty differs from the other criminal penalties in its finality, defense counsel in a capital case should respond to this difference by making extraordinary efforts on behalf of the accused. Defense counsel should comply with the *ABA Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases*.

Standard 4-1.2(c) (1993). ABA Guideline 10.15.1 (Duties of Post-Conviction Counsel)

summarizes post-conviction counsel’s extraordinary efforts as follows:

C. Post-conviction counsel should seek to litigate all issues, whether or not previously presented, that are arguably meritorious under the standards applicable to high quality capital defense representation, including challenges to any overly restrictive procedural rules. Counsel should make every professionally appropriate effort to present issues in a manner that will preserve them for subsequent review.

....

E. Post-conviction counsel should fully discharge the ongoing obligations imposed by these Guidelines, including the obligation to:

....

3. keep under continuing review the desirability of modifying prior counsel’s theory of the case in light of subsequent developments; and
4. continue an aggressive investigation of all aspects of the case.

The commentary to ABA Guideline 10.15.1(E)(4) further clarifies post-conviction counsel’s duties:

As described in the commentary to Guideline 1.1, providing high quality legal representation in collateral review proceedings in capital cases requires

enormous amounts of time, energy, and knowledge. The field is increasingly complex and ever-changing. . . .

[C]ollateral counsel cannot rely on the previously compiled record but must conduct a thorough, independent investigation in accordance with *Guideline 10.7. (Subsection E(4))*. . . .

Two parallel tracks of post-conviction investigation are required. One involves reinvestigating the capital case; the other focuses on the client. Reinvestigating the case means examining the facts underlying the conviction and sentence, as well as such items as trial counsel's performance, judicial bias or prosecutorial misconduct. Reinvestigating the client means assembling a more-thorough biography of the client than was known at the time of trial, not only to discover mitigation that was not presented previously, but also to identify mental health claims . . . .

Post-conviction counsel have not been able to meet the requirements of the above standards in the time since being assigned to replace previous counsel and cannot meet them within the time requirements currently set by the Court. In its 2009 Capital Post-Conviction Case Report, the Tennessee Administrative Office of the Courts concluded that the courts should be able to complete an average capital post-conviction proceeding within two years. *2009 Capital Post-Conviction Case Report*, Tennessee Administrative Office of the Courts, p. 11 (2009). However, the AOC also determined that there should be exceptions for cases in which the two-year time period is exceeded through no fault of the parties or the court. (*Ibid.*) The turnover of counsel in this case and the additional case obligations – over which counsel has no control – establish the exception for this case.

**B. Petitioner Has Good Cause for the Requested Continuance**

**I. Case staffing changes and workload**

As this Court is aware from Mr. Schneiderer's Notice of Change of Counsel filed July 3, 2013, Deborah Drew and undersigned counsel, Kelly Gleason, were assigned to Mr. Schneiderer's case in anticipation of Brad MacLean's departure from OPCD employment. Ms.

Scalpone assigned undersigned counsel to Mr. Schneiderer's case with the understanding that Ms. Gleason would not be able to dedicate substantial time to the case until after the evidentiary hearing in *Henretta v. State*, which was scheduled for the week of August 5, 2014. Gleason was assigned to that case after the departure of lead counsel Joanne Diamond. The office lost five of our eight staff attorneys over an eight month period last year, requiring significant re-staffing.

After the status conference in this case, held on July 29, 2013, Gleason's workload significantly increased. Upon completing the August evidentiary hearing in *Henretta v. State*, Gleason prepared and filed a brief and reply brief in the Tennessee Supreme Court in the capital post-conviction appeal *Jerry Ray Davidson v. State*, in September and December respectively. On December 20, 2013, counsel learned that *Davidson v. State* is set for oral argument on February 5, 2014.

In addition, Gleason is counsel in another pre-hearing case, *Jordan v. State*, which is set for evidentiary hearing in mid-May, 2014. *Jordan* was set for hearing by Judge Ash prior to the setting of this case and was one of the reasons counsel requested this Court to set the evidentiary hearing for the Summer of 2014 at the earliest. The *Jordan* case was previously staffed by attorney Brad MacLean. Co-counsel on that case, Avi Frey, also left OPCD's employment in June 2013. The staff turnover left no attorneys assigned to the case. In mid-August, Ms. Scalpone assigned a newly hired attorney to the *Jordan* case. Because the attorney has no post-conviction experience, Gleason was assigned as advisory counsel, with the understanding that she would make herself available to the assigned attorneys but would not be involved in the daily or even weekly management of the case.

Ms. Scalpone anticipated that when the last vacant attorney position was filled, that new hire would also be assigned. The second attorney began employment in October. It has since

become apparent that Gleason must be significantly involved in the case due to the inexperience of counsel. Additionally, the second attorney's comity application to the Tennessee Board of Law Examiners is currently pending and she must be under the supervision of experienced, licensed counsel. Gleason is overseeing the investigation and expert consultations, attending all team meetings, and planning to conduct portions of the evidentiary hearing in May.

An even more significant, unexpected development beyond counsel's control is the appointment of the OPCD to represent Lee Hall in the Tennessee Supreme Court to answer the State's motion to set an execution date. On October 29, 2013, the Tennessee Supreme Court appointed the OPCD to *State v. Hall*, which is one of eleven cases in which the Attorney General is seeking execution dates. The Court appointed our office because Mr. Hall waived federal habeas review and was unrepresented at the time the State moved for an execution date on October 3. As the senior attorney in the Office of the Post-Conviction Defender and the only attorney with experience in representing capital clients in late-stage litigation in Tennessee, Ms. Gleason was assigned to Mr. Hall's case after the Court appointed the office. Currently, Gleason is the only counsel assigned to Mr. Hall's case. Although a newly hired attorney has also been assigned, she is working in the limited role of a law clerk, as she has limited post-conviction experience and no Tennessee license, and will be taking several weeks' leave to prepare for the February 2014 Tennessee Bar Examination.

Tenn. Sup.Ct. R. 12.4(A) directs that a response to a motion to set an execution date:

Shall assert any and all legal and/or factual grounds why the execution date should be delayed, why no execution date should be set, or why no execution should occur, including a claim that the prisoner is not competent to be executed, *see Coe v. State*, 17 S.W.3d 191 (Tenn. 2000); *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999); or a request for a certificate of commutation pursuant to Tenn. Code Ann. § 40-27-106, *see Workman v. State*, 22 S.W.3d 807 (Tenn. 2000).

Counsel cannot assert “any and all legal and/or factual grounds” why Mr. Hall’s execution should be delayed, not scheduled, or not occur unless counsel reads the records, consults with Mr. Hall, researches legal issues, and prepares to present all of those legal and factual grounds. Nor can counsel properly assert a request for a certificate of commutation in the absence of careful preparation and thought.

Our office did not represent Mr. Hall during his state post-conviction review. Therefore, Ms. Gleason must review his case files, which consist of approximately 47,000 pages. The Tennessee Supreme Court has ordered Mr. Hall’s Response to the State’s Motion to Set Execution to be filed no later than March 24, 2014, the first day of Mr. Schneiderer’s evidentiary hearing.<sup>2</sup> Counsel had filed a motion for a later due date, pointing to the volume of records which counsel must read in the interim and to the scheduled evidentiary hearings in *Schneiderer* and *Jordan*. Despite this, the Supreme Court set the March 2014 date and announced that no further continuances will be granted. Thus, counsel Gleason is obligated to review a massive volume of records, investigate, and present all claims on behalf of Mr. Hall – as ordered by the Supreme Court – while simultaneously attempting to prepare for an evidentiary hearing on this case. This is a patent conflict of interest as counsel cannot do both.

Ms. Debbie Drew is co-counsel in this case. She was previously licensed in California and in April 2013 filed an application for admission to the Tennessee Bar by comity. Ms. Drew’s comity application was just granted by the Tennessee Board of Law Examiners on December 5, 2013. As a comity applicant, she has been working under Gleason’s supervision in Mr. Schneiderer’s case. From mid-April, when Ms. Drew joined the OPCD, until early October,

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<sup>2</sup> In addition, Mr. Hall’s case has been consolidated with ten other inmates for whom the State seeks execution in lethal injection litigation in the Davidson County Chancery Court. In Chancery Court, there was a recent hearing on discovery and there will be ongoing discovery matters until the scheduled trial date in July 2014. Thus counsel is required to appear in court for hearings, participate in conference calls with the court, opposing counsel, and counsel for the other plaintiffs, and to participate in the discovery process on behalf of Mr. Hall.

she has divided her time between Mr. Schneiderer's case and another pre-hearing case, *Odom v. State*, which is a case that also had a new set of attorneys assigned in late Spring 2013, due to the office's significant attorney turnover. The evidentiary hearing in the *Odom* case is scheduled for the week of April 28 – May 2, 2014. The *Odom* case is a complex case consisting of a capital trial and two sentencing retrials in addition to a prior homicide in Mississippi for which there was federal habeas relief and a retrial. The investigation in that case involves several states and there are multiple retained experts.

On October 1, 2013, Ms. Drew was designated as the Deputy Post-Conviction Defender, a supervisory position which had remained unfilled since prior to Ms. Scalpone's appointment as the OPCD's director. As the deputy director, Ms. Drew now supervises the office's six non-attorney legal staff members, consisting of three investigators and three paralegals. In addition to her supervisory duties, Ms. Drew now assists in other administrative and human resource-related duties. As deputy director, Ms. Drew also serves as acting director of the OPCD during Ms. Scalpone's absence. Ms. Drew became acting director on December 20, 2013, which was the start date of Ms. Scalpone's maternity leave. Ms. Drew will remain acting director until Ms. Scalpone's return to the office on March 3, 2014.

Ms. Drew will need to spend a significant amount of her time in January and February on administrative duties. First, the Tennessee State Legislature's session begins on January 14, 2014. The OPCD has already been required to respond to one legislative fiscal note. The office is usually given a short deadline of one to two days to respond to legislative inquiries. Additionally, Ms. Drew will be attending and giving testimony before one or more legislative committees in January and/or February regarding the OPCD's proposed budget. Moreover, on December 23, 2013, the OPCD was informed by the Comptroller of the Treasury, Division of

State Audit, that the OPCD would undergo an audit covering a two-year period. The audit began this Wednesday, January 8, 2014, and is expected to last through mid-March. The audit process consists of two state auditors working on site at the OPCD, requesting in piecemeal fashion voluminous amounts of materials to review in addition to requiring completion of various forms and questionnaires. Given the legislative session and state audit, Ms. Drew's availability on Mr. Schneiderer's case will be significantly reduced during the months of January and February.

The investigator assigned to this case, Aly Finn, dedicates half her time to Mr. Schneiderer's case, with the remainder of her time spent investigating another pre-hearing case, *Odom v. State*, which is set for evidentiary hearing April 28 through May 2, 2014. Although Ms. Finn has been diligent in her efforts to complete the mitigation investigation as well as other investigation areas, she needs additional time to complete the investigation under the prevailing professional norms of capital defense.

Paralegal Holly Browning has been working on Mr. Schneiderer's case since August 2013. While learning Mr. Schneiderer's case files and assisting counsel in record collection and processing, she also spends half her time on another prehearing case, *Jordan v. State*, a case that has all new counsel assigned after the office attorney turnover and is set for evidentiary hearing in mid-May.

Petitioner is requesting a continuance in order for new counsel to review all relevant documents, consult with experts, many of whom have been recently brought into the case, and complete the investigation and development of meritorious claims for post-conviction relief. Given the nature and size of post-conviction review in this case, including approximately 150 guilt/innocence witnesses, none of whom trial counsel appeared to have contacted, and many areas of potential mitigation left incomplete, significant additional time is necessary for a



constitutionally adequate investigation and development of claims for relief. Counsel are dividing potential claims for relief and relevant tasks in a way to maximize the efficiency of attorney resources on this case.

**2. Need for completion of record review**

As previously explained in this motion, new counsel must review the court records as well as the voluminous additional records collected by the OPCD thus far. The transcripts and technical records of Mr. Schneiderer's guilt/innocence and penalty trials, his 1998 prior trial, and Charles Sanderson's trial are voluminous. Although all counsel must review the transcripts, technical records and related appellate briefings and decisions in order to adequately develop and oversee investigation of all potentially meritorious claims, to the extent possible for purposes of efficiency counsel are relying on transcript notes previously compiled by prior counsel on the case.

**3. Need for further record collection, witness identification, witness interviews, and expert consultations**

In his *pro se* petition, Mr. Schneiderer has alleged generally ineffective assistance of Mr. Schneiderer's prior defense counsel in the guilt and penalty trials, and post-conviction counsel will allege ineffective assistance of counsel in greater detail in the amended petition to be filed January 23, 2014. Because Mr. Schneiderer's trial defense team conducted essentially no investigation of the crime, such investigation must be conducted in post-conviction proceedings. The number of inmates and correctional staff present in the housing pod where Mr. Harris was killed, as well as investigative agents on scene once his death was discovered, totals more than one hundred and fifty witnesses. Prior to any cross-examination of the State's witnesses during Mr. Schneiderer's capital trial, based on a review of trial counsel's files, it appears that counsel failed to speak to any of these potential witness.

Although the private investigator assisting the OPCD has diligently worked on the guilt/innocence investigation for several months, his investigation has been hampered with challenges of tracking down dozens of inmates who have either been released from custody since July 2001, transferred to another facility, or prosecuted on new charges and sentenced to state or federal institutions. Several inmates, former inmates, and correctional officers now reside out of state. The private investigator has traveled to Georgia, Florida, Minnesota, and South Carolina in his attempts to conduct the thorough investigation that Mr. Schneiderer was entitled to but was denied prior to his 2004 trial. Counsel estimate approximately forty-one remaining witnesses to interview. Once the guilt/innocence investigation is complete, experts for guilt/innocence issues will need sufficient time to incorporate investigative findings into their analysis and reports.

Additionally, Petitioner's legal team has been making consistent efforts for over a one-year period to obtain critical discovery documents from the Tennessee Department of Correction pertaining to the homicide of Mr. Harris, the internal affairs investigation, and relevant records pertaining to dozens of witnesses, including the co-defendant Charles Sanderson, the decedent, Mr. Harris, correctional officers involved in the investigation and evidence collection, and numerous inmates. Although OPCD received four boxes of materials at the end of December, in response to the subpoena duces tecum served in May 2013, TDOC still has not provided volumes of crucial materials requested in the subpoena.

Counsel must also review and investigate the prior homicide for which Mr. Schneiderer was convicted in 1998. This review and investigation is crucial and constitutionally required given that trial counsel for Mr. Schneiderer for the prior prosecution and Mr. Schneiderer's counsel for his capital trial both failed to adequately investigate the circumstances surrounding

the 1998 incident, including Mr. Schneiderer's drug and alcohol intoxication, his deteriorating mental health in the weeks leading up to the shooting, the state of the physical evidence that suggests that Mr. Schneiderer did not fire the gun, and information that Tony Stout, presented by the prosecution as the surviving victim, was known as a violent possible gang member who frequently was armed with a gun. Counsel have determined the need to interview approximately ten remaining crucial witnesses.

Finally, counsel must collect and review records and investigate evidence in mitigation, including Mr. Schneiderer's childhood in Illinois, his adolescence in Tennessee, his incarcerations as a juvenile at Taft and Woodland Hills juvenile facilities, his incarceration from the time of his prior conviction until through his imprisonment at South Central Correctional Center, as well as his mental health history, including his history of alcohol and drug abuse and his genetic predisposition to addiction, mental illness, and impairments. Despite having ample notice of Mr. Schneiderer's history of trauma, addiction, severe neglect, and impairments, trial counsel failed to competently investigate, develop, and present to the juries meaningful evidence of Mr. Schneiderer's mental illness and impairments, which was crucial to a competent case in mitigation. Post-conviction counsel is constitutionally bound to locate and obtain records and locate and interview many new witnesses relevant to Mr. Schneiderer's mental health history. *See, e.g., Wiggins v. Smith*, 529 U.S. 510 (2003) (holding trial counsel ineffective for failing to develop social history and mental health mitigation, and emphasizing that trial counsel's failure to present mitigation cannot be a strategic choice where not informed by a reasonable investigation); *Williams v. Taylor*, 529 U.S. 362 (2000) (holding trial counsel ineffective for failure to investigate and present history of trauma and deprivations during formative years); and

*Cooper v. State*, 847 S.W.2d 521 (Tenn.Crim.App. 1992) (finding trial counsel's failure to present mitigating evidence cannot be strategic where not informed by adequate investigation).

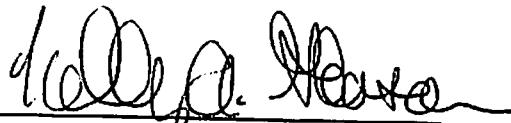
For some outstanding mitigation records, counsel believes that the records will be obtained once the requisite authorizations for release of records have been acquired through witness contacts. Once these records have been obtained, counsel will need to assess what investigation remains based on the information contained in the records.

Ms. Finn has conducted numerous investigation trips thus far, including several trips to various locations in Tennessee, as well as trips to California, Georgia, and Illinois. Completion of a constitutionally adequate mitigation investigation in this case will require several additional investigative trips throughout Tennessee as well as trips to Oklahoma and South Carolina, as well as a return trip to Illinois to interview dozens more potentially relevant witnesses.

#### **IV. PRAYER FOR RELIEF**

Wherefore, for the reasons set forth above, Petitioner respectfully moves the Court to continue his evidentiary hearing currently set for March 24-28, 2014, set an evidentiary hearing date no sooner than September 22, 2014. Petitioner further requests this Court schedule a hearing on this Motion, to be combined with a status conference.

Respectfully submitted,



Kelly A. Gleason, BPR #22615  
Assistant Post-Conviction Defender  
Office of the Post-Conviction Defender  
530 Church Street, Suite 600  
Nashville, Tennessee 37243  
(615) 741-9331  
(615) 741-9430 (Fax)

Counsel for Petitioner Joel Schmeiderer

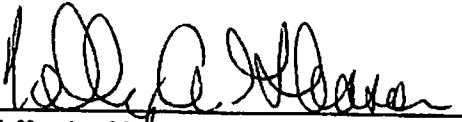
STATE OF TENNESSEE )  
 )  
COUNTY OF DAVIDSON )

**AFFIDAVIT**

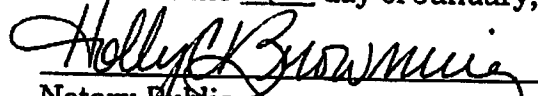
I, Kelly A. Gleason, after having been duly sworn, aver and say as follows:

1. The facts stated herein are true and accurate to the best of my knowledge.

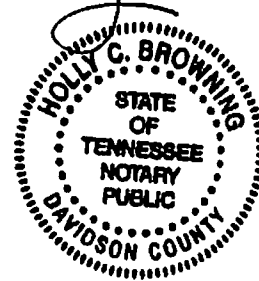
Further, the affiant sayeth not.

  
\_\_\_\_\_  
Kelly A. Gleason, Affiant

Sworn to and subscribed before me on this the 14<sup>th</sup> day of January, 2014.

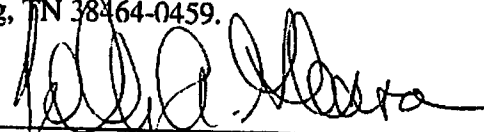
  
\_\_\_\_\_  
Notary Public

My Commission Expires: 11/06/2017



**CERTIFICATE OF SERVICE**

The undersigned certifies that on the January 14, 2014, a true copy of this Motion was served via United States Mail, first-class postage prepaid to District Attorney Mike Bottoms, 252 North Military Avenue, P.O. Box 459, Lawrenceburg, TN 38464-0459.

  
\_\_\_\_\_  
Kelly A. Gleason

# Attachment 2

**IN THE CIRCUIT COURT FOR MAURY COUNTY  
TWENTY-SECOND JUDICIAL DISTRICT  
AT COLUMBIA, TENNESSEE**

<b>JOEL RICHARD SCHMEIDERER</b>	)	
	)	
Petitioner,	)	
	)	
v.	)	<b>CASE NO. 14488</b>
	)	
<b>STATE OF TENNESSEE</b>	)	
	)	
Respondent.	)	<b>CAPITAL POST-CONVICTION</b>

**SUPPLEMENT TO MOTION TO CONTINUE EVIDENTIARY HEARING**

Comes Petitioner Joel Schneiderer, by counsel, and supplements the Motion to Continue Evidentiary Hearing filed January 15, 2014 with further developments since that date. Petitioner moved for a continuance of the evidentiary hearing based on radical developments in counsel's caseload. Additional developments since January 15 have further compromised counsel's ability to competently prepare for the March 24-28 hearing. These developments are as follows:

1. A paralegal, Rebecca Dodd, tendered her resignation on January 30, 2014, effective January 25, 2014. An attorney, Stacie Lieberman, also tendered her resignation on January 30, which was her last day in the office. Ms. Lieberman was assigned as co-counsel in the *David Jordan v. State* capital post-conviction hearing in which Ms. Gleason was originally designated as supervising attorney with an expected limited role. Ms. Gleason now must step in as co-counsel in that case with a hearing date set for May 12, 2014.

2. Ms. Dodd was the paralegal in the case of *Lee Hall* in which Ms. Gleason is sole counsel and the Tennessee Supreme Court has ordered that an answer to the State's motion to set an execution date be filed by March 24, 2014. Ms. Gleason had asked the Supreme Court for an extension of time until July 18, 2014, to file the answer, pointing to the *Schmeiderer* and *Jordan* hearing dates as existing obligations that needed to be met before counsel could turn her attention to Mr. Hall's case. The Court denied the requested extension and granted counsel Gleason until March 24, 2014, to file the answer, which must contain "any and all legal and/or factual grounds" why Mr. Hall's execution should be delayed, not scheduled, or not occur (per Tenn. Sup.Ct. R. 12.4(A)). A copy of the Supreme Court's Order, dated December 11, 2013, is attached. The Supreme Court directed that "Mr. Hall is hereby ordered to file a response to the State's Motion to Set Execution Date that complies with Rule 12.4(A) on or before March 24, 2014. *No further extensions will be granted.*" (emphasis added).

3. As mentioned in the original motion, the *Hall* case files consist of approximately 47,000 pages. Counsel has not even begun to scratch the surface of the files, which Ms. Dodd was collecting and starting to organize. Now counsel has no paralegal on the case and the only other team member is a law clerk who will be out for several weeks this month while studying for and taking the bar examination. In order to meet the Tennessee Supreme Court's order, counsel needs to work on the *Hall* case and cannot do so simultaneously while working on other cases if this Motion to Continue is denied.



4. In order to meet her obligations to Mr. Schneiderer and to this Court, counsel Gleason has worked approximately 80 hours on this case since the filing of this continuance motion. In order to meet her obligations to Mr. Jerry Davidson and the Tennessee Supreme Court, counsel Gleason worked approximately 32 hours in the same time frame to prepare for and argue the *Davidson* case in that court last week. By contrast, in that time frame, counsel was only able to devote 6 hours to the *Hall* case. In addition to those cases, the *Jordan* case, and fulfilling consulting obligations as required by statute, counsel Gleason devoted a significant amount of time to administrative issues which arose from the above-referenced resignations and legislative developments which would impact the office.

5. As discussed in the Motion to Continue, the simultaneous deadlines in *Schneiderer* and *Hall* present a patent ethical conflict of interest as either Mr. Schneiderer, Mr. Hall, or both are being compromised by the inability of counsel to complete tasks in both cases in this time frame. The problem is compounded by the inability of our office to adequately staff these cases in addition to the *Odom v. State* and *Jordan v. State* cases with hearings scheduled back to back in April and May after the March 24 hearing and deadline.<sup>1</sup> Counsel asked the Supreme Court for relief, was denied, and the Court ordered that no further extensions will be granted.

6. The above-referenced resignations and legislative developments, in addition to other administrative obligations, have similarly hampered Ms. Drew's ability to devote attention to this case and necessitate a continuance of the

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<sup>1</sup> The office's caseload is not the problem. The problem is the scheduling of all of our prehearing cases on top of each other and the difficulty this poses for team members who are on more than one case—namely Ms. Gleason, Ms. Drew, and an investigator and paralegal who are members of two teams.

scheduled evidentiary hearing. Since the filing of the Motion to Continue, counsel Drew spent nearly 70 hours on Mr. Schneiderer's case but was required to devote over 100 hours to carrying out administrative responsibilities as Acting Director of the office. In addition, Ms. Drew is counsel in another pre-hearing case, *Odom v. State*, which is a case that also had a new set of attorneys assigned in late Spring 2013, due to the office's significant attorney turnover. The evidentiary hearing in the *Odom* case is scheduled for the week of April 28 – May 2, 2014. The *Odom* case is a complex case consisting of a capital trial and two sentencing retrials in addition to a prior homicide in Mississippi for which there was federal habeas relief and a retrial. Like this case, the investigation involves several states and there are multiple retained experts. In order to meet her obligations to Mr. Odom and to that court, Ms. Drew must necessarily devote time to his representation as well, which is a near impossibility under the current time frame, as is evident from her ability to devote only 22 hours to that case since the filing of Petitioner's continuance motion.

Wherefore, for the reasons set forth above and in the Motion to Continue, Petitioner respectfully moves the Court to continue his evidentiary hearing currently set for March 24-28, 2014 and set an evidentiary hearing date no sooner than September 22, 2014. The Motion is set for hearing on Friday, February 14, 2014, and Petitioner has waived his right to appear.

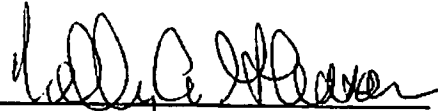


**CERTIFICATE OF SERVICE**

The undersigned certifies that on February 13, 2014, a true copy of this *Supplement to Motion to Continue Evidentiary Hearing* was served via email and United States Mail, first-class postage prepaid to:

Assistant District Attorney Kyle E. Dodd  
22nd Judicial District DA Office  
5 Public Square, P. O. Box 1619  
Columbia, TN 38402-1619  
[kedodd@tndagc.org](mailto:kedodd@tndagc.org)

Jason Steinle  
Capital Case Attorney  
Administrative Office of the Court  
511 Union Street, Suite 600  
Nashville, TN 37219  
[Jason.steinle@tncourts.gov](mailto:Jason.steinle@tncourts.gov)



Kelly A. Gleason  
Assistant Post-Conviction Defender

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

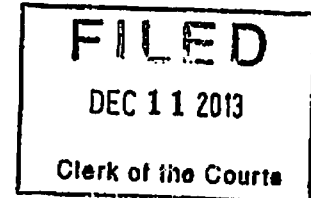
STATE OF TENNESSEE v. LEROY HALL, JR.

Criminal Court for Hamilton County  
Nos. 188000 & 188001

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No. E1997-00344-SC-DDT-DD

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ORDER

On October 3, 2013, the State filed a Motion to Set Execution Date for Leroy Hall, Jr. The motion stated that Mr. Hall had completed the standard three-tier appeals process and that an execution date should therefore be set under Tennessee Supreme Court Rule 12.4(A).

On October 29, 2013, this Court appointed the Tennessee Post-Conviction Defender to represent Mr. Hall. On November 27, 2013, Mr. Hall filed a Motion for Extension of Time to File Response to State's Motion to Set Execution Date, citing counsel's heavy caseload and the need to obtain and review the trial, appellate, and collateral appeals records in the case. Mr. Hall requested until July 18, 2014, to respond to the State's motion to set an execution date. On December 5, 2013, Mr. Hall filed a Supplement to the Motion for Extension of Time to File Response to State's Motion to Set Execution Date, citing Mr. Hall's participation in a declaratory judgment action challenging the State's new lethal injection protocol, which is currently pending before the Davidson County Chancery Court in West et al. v. Schofield et al., No. 13-1627-I (Davidson Chancery, filed Nov. 20, 2013). The declaratory judgment action is set for trial on July 7, 2014. Mr. Hall asserted that it is premature to set an execution date while the declaratory judgment action is pending, and asked the Court to deny the State's motion to set an execution date.

Mr. Hall's request that this Court deny the State's Motion to Set Execution Date before a response is filed is respectfully denied. However, recognizing the complexity and magnitude of the case, Mr. Hall's Motion for Extension of Time to File Response is GRANTED, in part, until March 24, 2014, in order to allow him to comply with Tennessee Supreme Court Rule 12.4(A). Mr. Hall is hereby ordered to file a response to the State's Motion to Set Execution Date that complies with Rule 12.4(A) on or before March 24, 2014. No further extensions will be granted.

PER CURIAM

# Attachment 3

IN THE CIRCUIT COURT FOR MAURY COUNTY, TENNESSEE

STATE OF TENNESSEE

VERSUS

Joel Schneiderer

DOCKET # 14488  
Capital PCR

SANDY McLAINE, CIRCUIT CLERK  
MAURY COUNTY, TN

2014 FEB 14 PM 12:36

CASE STATUS ORDER

The Court finds the above styled case(s) shall be:

RETIRED \_\_\_\_\_

DISMISSED \_\_\_\_\_

NOLLE PROSEQUI \_\_\_\_\_

RE-ACTIVATE \_\_\_\_\_

TRIAL SET PCR hearing scheduled for week of March 4 shall go forward

PASSED \_\_\_\_\_

OTHER The Petitioner's motion to continue is denied

IT IS SO ORDERED.

ENTERED this the 14<sup>th</sup> day of Feb, 2014.

Jim T. Hamilton  
CIRCUIT JUDGE

(optional unless required by Judge)

[Signature]  
DISTRICT ATTORNEY GENERAL

\_\_\_\_\_  
DEFENDANT ATTORNEY