

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

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STATE OF TENNESSEE V. BILLY RAY IRICK

COURT CLERK
NASHVILLE

Criminal Court for Knox County
No. 24527

No. M1987-00131-SC-DPE-DD

ORDER

On July 19, 2010, this Court granted the State's motion to set an execution date for Billy Ray Irick and scheduled Mr. Irick's execution for December 7, 2010. On November 19, 2010, Mr. Irick was allowed to intervene in a declaratory judgment action filed by another death-row inmate, Stephen Michael West, in which Mr. West challenged the constitutionality of Tennessee's three-drug protocol for lethal injection.¹ On November 22, 2010, the trial court entered an order granting a declaratory judgment to Mr. West and Mr. Irick.

On November 23, 2010, Mr. Irick filed in this Court a "Motion to Vacate or Further Modify Court's Order Scheduling Irick's Execution." On November 24, 2010, the State filed a response in opposition to Mr. Irick's motion to which they attached a copy of a revised protocol. Later that same day, this Court denied Mr. Irick's motion to vacate or further modify his execution date because the revised protocol appeared to address the basis of the trial court's conclusion that the previous protocol was unconstitutional. On November 29, 2010, Mr. Irick filed in this Court a motion to reconsider or in the alternative a renewed motion to vacate or further modify the order scheduling his execution for December 7, 2010.

Mr. Irick's motion to reconsider is GRANTED and his execution stayed for the reasons stated in this Court's contemporaneously filed Order in State v. Stephen Michael West, No. M1987-000130-SC-DPE-DD (Tenn. Nov. 29, 2010).

¹Stephen Michael West et al. v. Gayle Ray et al, Davidson Cnty. Ch. No. 10-1675.

The stay herein granted shall remain in effect throughout the pendency of any appeal of the trial court's final judgment in the declaratory judgment action and until the State files a motion to reset the execution date pursuant to Tennessee Supreme Court Rule 12.4.

It is so ORDERED.

PER CURIAM