IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

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| ROBERT GLEN COE, | ) | |
| Plaintiff, | ) | Case No. 3:00-0246 |
| v. | ) | Judge Trauger |
| RICKY BELL, in his Official Capacity as Warden of Riverbend Maximum Security Institution, | ) | |
| Defendant. | ) | |

ORDER

On March 21, 2000, Plaintiff Robert Glen Coe filed an Emergency Complaint for Declaratory and Injunctive Relief and Application for Preliminary Injunction and Temporary Restraining Order (Docket Nos. 1,2). A hearing was immediately set for March 22, 2000 at 9:30 a.m.; however, in light of the stay issued in Case No. 3:00-0219, the hearing was cancelled. The court is in need of additional materials from the parties on this issue of the presence of counsel at the execution.

First, Plaintiff Coe is directed to provide the court with any additional authority supporting his position that he has the right to have counsel present up until the moment of execution for the purpose of raising a Ford claim. The parties agree that Plaintiff is entitled to have counsel present up until the hour prior to execution. Plaintiff appears to argue that, despite a prior finding of competency, he is entitled to have counsel present so that he can present a claim of incompetency to be executed at some point during the last hour before his execution. Regardless of the purpose for defense counsel's presence, however, the court notes that, of the jurisdictions with capital punishment, Tennessee appears to be the only state that prohibits the



condemned prisoner from showing up to his execution and prohibits counsel from being present.

Second, the court requests that the defendant file a copy of the present rules and regulations governing the execution of an individual sentenced to death as set forth in the Administrative Policies and Procedures for the State of Tennessee, Department of Corrections.

Plaintiff should submit any additional briefing by March 24, 2000, to which defendant may respond by March 27, 2000. The defendant should file the rules and regulations by March 24, 2000.

It is so ORDERED.

Enter this 22nd day of March 2000

ALETA A. TRAUGER
United States District Judge