

IN THE SUPREME COURT OF TENNESSEE
AT JACKSON

ROBERT GLEN COE
Petitioner/Applicant,
STATE OF TENNESSEE
Respondent.

)
)
) No. W2000-00005-CCA-28M-PD
) Shelby County Post Conviction
) No. P-3577, 6594, 14345
)
) Capital Case
)

FILED
March 15, 2000
Cecil Crowson, Jr.
Appellate Court Clerk

MOTION FOR STAY OF EXECUTION PENDING
PETITION FOR WRIT OF CERTIORARI

COMES NOW, your Petitioner/Applicant, Robert Glen Coe, and moves this Court pursuant to Rules 42 (c) of the Tennessee Rules of Appellate Procedure and this court's inherent equitable authority to enter a Stay of Execution pending Robert Coe's filing and litigation of a Petition for Writ of Certiorari to the United States Supreme Court seeking review of this Honorable Court's Order entered on March 7, 2000, denying Robert Coe's "Application for Permission to Appeal from the Order of the Tennessee Court of Criminal Appeals, Western Section." In support of this Motion, Robert Coe would show unto the Court as follows:

1. Mr. Coe filed his "Motion to Reopen Post Conviction Petition" on December 9, 1999. This motion raised several grounds for relief premised upon federal constitutional questions. Relief was denied by the trial court on December 20, 1999. On January 4, 2000, Mr. Coe timely filed an "Application for Permission to Appeal Findings of Fact and Conclusions of Law on Motion to Reopen Post Conviction Petition." On January 26, 2000, the Court of Criminal Appeals entered its "Order Denying Permission to Appeal." On February 10, 2000, Mr. Coe filed his "Application

for Permission to Appeal From the Order of the Tennessee Court of Criminal Appeals, Western Section.” Permission to appeal was denied by this court on March 7, 2000.

2. In the “Application for Permission to Appeal From the Order of the Tennessee Court of Criminal Appeals, Western Section”, Mr. Coe presented to this court several questions of federal constitutional law, including:

A. *Campbell v. Louisiana*, 523 U.S. 392 (1998) constitutes a new rule of law in Tennessee, and therefore, Robert Coe is entitled to retroactive application of *Campbell* to his claim that women were systematically excluded as grand jury forepersons, in violation of the United States Constitutions.

B. Subjecting Robert Coe to numerous execution dates over a long period of time is cruel and unusual, especially where he suffers mental illness, and where contemporary standards of decency demonstrate that treating a human being in such a way is degrading to his humanity, in violation of the Eighth Amendment to the United States Constitution; Article 7 of the International Covenant on Political and Civil Rights (“ICCPR”); The Convention Against Torture and Other Cruel, Inhuman, or Degrading Punishment or Treatment, Article 16(1); and Customary International Law, in accordance with Article 5 of the Universal Declaration of Human Rights and Article XXV of the American Declaration of the Rights and Duties of Man;

C. The death sentence in this case does not comport with the evolving standards of decency under the Eighth Amendment, because the jury was not given the option of returning a sentence of life imprisonment without parole, when the people of the State of Tennessee and the people of almost all states throughout this nation recognize that no death sentence should be imposed unless the jury has been given

the option to choose the severe, but lesser, sentence of life without parole.

3. Respectfully, Robert Glen Coe submits that this court erred in failing to grant relief upon the aforestated federal constitutional claims. 28 U.S.C. § 1257(a) and Rule 13(1) of the United States Supreme Court Rules provides Robert Coe with 90 days after entry of this Honorable Court's judgment within which to file a Petition for Writ of Certiorari.

4. Rule 42(c) of the Tennessee Rules of Appellate Procedure provides in relevant part as follows:

In cases in which review by the Supreme Court of United States may be sought, the Appellate Court whose decision is sought to be reviewed or a judge thereof, in any event the Supreme Court of Tennessee or a judge thereof, may stay the mandate.

T.R.A.P. 42(c)

5. Robert Coe prays this court enter a stay of his execution pending his filing of a timely Petition for Writ of Certiorari to the United States Supreme Court seeking review of the aforestated claims, denied review by this Honorable Court on March 7, 2000.

Respectfully submitted,

Robert L. Hutton
GLANKLER BROWN, PLLC
1700 One Commerce Square
Memphis, TN 38103
(901) 525-1322

Attorney for Appellant
Robert Glen Coe

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Opening Brief was mailed, first-class postage prepaid, to the Office of the Attorney General, Criminal Division, 425 Fifth Avenue North, Cordell Hull Building, Nashville, TN 37243-0493, this the _____ day of _____, 2000.

Michael Moore
Office of the Attorney General
Criminal Division
425 Fifth Avenue North
Cordell Hull Building
Nashville, TN 37243-0493

Attorney