

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

STATE OF TENNESSEE)	COFFEE COUNTY
)	
v.)	ORIGINAL APPEAL NO.
)	M1987-00067-SC-DPE-DD
GREGORY THOMPSON)	Filed November 7, 2005

**MOTION FOR STAY OF EXECUTION AND
FURTHER ABEYANCE OF PROCEEDINGS**

Gregory Thompson, through undersigned counsel, requests this Court to enter an order staying the February 7, 2006 execution date and holding the instant proceeding in abeyance until Mr. Thompson's federal habeas case is completed. A stay order holding this matter in abeyance is warranted because recent events demonstrate that the United States Court of Appeals for the Sixth Circuit retains jurisdiction over Mr. Thompson's habeas corpus case and is actively reviewing it. In support of this motion, Mr. Thompson shows:

- (1) Mr. Thompson's first federal habeas case is not completed. By letter of October 26, 2005, the Sixth Circuit Court directed the State to respond to Mr. Thompson's rehearing petition. (Attachment A). Thus, the federal court is still reviewing the case and future federal proceedings are reasonably anticipated.
- (2) This matter commenced September 19, 2005 when the State of Tennessee moved to set an execution date for Mr. Thompson. This Court then entered an order scheduling Mr. Thompson's execution for February 7, 2006.
- (3) On September 29, 2005, counsel for Mr. Thompson filed a Motion For Stay Of

Execution, Petition For Reconsideration Of The Order Scheduling An Execution Date, Notice Of Change In Mental Health Status, Insanity And Incompetency To Be Executed And Request For Certificate Of Commutation. The Petition For Reconsideration was grounded on the fact that the federal habeas proceeding was still pending and Tenn.S.Ct.R. 12.4(A) requires that “the standard three-tier appeals process must be completed before an execution date may be set.” See Motion For Stay Of Execution, Petition For Reconsideration, etc. pp.5-8. At the time when the State requested an execution date, a petition for panel rehearing and rehearing *en banc* was pending in the Sixth Circuit. When the State requested an execution date, the Sixth Circuit had not issued its mandate; therefore, Mr. Thompson’s case was not completed and the Sixth Circuit maintained jurisdiction over the case.¹

(4) On October 18, 2005, this Court entered an order denying Mr. Thompson’s Motion but holding his *Ford* claim in abeyance until November 18, 2005, to allow Mr. Thompson to submit any further affidavits or other evidence showing a change in his mental health status.

(5) Because the Sixth Circuit is adjudicating and actively considering Mr. Thompson’s case, this Court should enter an order postponing the November 18, 2005 date, holding this case in abeyance and staying the execution.

WHEREFORE, the interests of judicial economy and finality animating Tenn.S.Ct.R. 12.4(A) support this Court rescinding or staying the February 7, 2006,

¹On September 30, 2005, the State filed a motion with the Sixth Circuit requesting immediate issuance of its mandate. This motion has not been decided.

execution date and holding this matter in abeyance until the federal case is completed.

Respectfully submitted,

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Counsel for Gregory Thompson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was forwarded by U. S.

Mail, postage prepaid, to

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C. Michael Layne, Esquire
District Attorney General
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this ____ day of November, 2005.

The undersigned attorney prefers to be notified of any orders or opinions of the Court by email to passino@mpassino.com.

Michael J. Passino