

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

**IN RE: GREGORY THOMPSON**                    )**COFFEE COUNTY**  
  )**ORIGINAL APPEAL NO.**  
  )**M1987-00067-SC-DPE-DD**  
  )**Filed: December 2, 2005**

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**RESPONSE OF THE STATE OF TENNESSEE TO  
THOMPSON’S SUPPLEMENTAL FILING  
IN SUPPORT OF *FORD/VAN TRAN* CLAIMS**

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In Thompson’s supplemental filing in support of his claim of a “substantial change” in his mental health since this Court’s previous determination of competency, *Van Tran v. State*, 6 S.W.3d 257, 272 (Tenn. 1999), Thompson presents affidavits from two mental health professionals, a letter to Thompson’s counsel from a third mental health professional, and excerpts from Thompson’s institutional records. None of Thompson’s latest submissions raises any question, much less a “substantial question,” about this Court’s determination that “[Thompson] presently is aware both of the fact that he has been sentenced to death for the murder of Brenda Lane and of the fact of his impending execution.” *Thompson v. State*, 134 S.W.3d 168, 171 (Tenn. 2004).

First, only one of Thompson’s mental health professionals has even seen him since this Court found him to be competent for execution. The sole expert who has interviewed Thompson, Faye Sultan, Ph.D., recites little more in her current affidavit than the same symptoms of mental illness that this Court has already found to be insufficient to warrant a finding of incompetence. Indeed, a comparison of Dr. Sultan’s September 2005 and November 2005 affidavits reveals nearly identical content, although the latter is conspicuously less detailed. For example, in contrast to the September 2005 affidavit, Dr. Sultan’s latest submission omits any explicit reference to Thompson’s impending

execution in its recitation of his alleged delusional beliefs.<sup>1</sup> This Court has already rejected Thompson's alleged delusions concerning the likelihood of his being executed as a basis for a finding of incompetence. *Thompson*, 134 S.W.3d at 183. The latest affidavit of Dr. Sultan adds nothing new. And since neither of the other two mental health professionals referenced in Thompson's supplemental filing has examined him since this Court found him to be competent,<sup>2</sup> their reports/affidavits add even less to the present inquiry.

The excerpts from Thompson's prison records also do little to advance his cause. In fact, far from aiding his argument, the additional materials show that, as of July 2005, Thompson was aware that he was facing execution — "I feel like I'm depressed. My execution date is coming up and my sister died 2 years ago."<sup>3</sup> (Supp. Filing, Attachment D) Nothing in the materials dated since that time undermines the prior finding of competence.<sup>4</sup> In sum, Thompson has failed to show, as he must, any

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<sup>1</sup>*Compare* Affidavit of Faye Sultan, Ph.D., dated September 29, 2005 ("Mr. Thompson now believes that all of the events in his life, including his involvement in the murder of Brenda Lane, were 'predestined.' He reported that these 'predetermined facts' are inscribed on a note that has been 'stored' and which is 'buried at the church.' It is Mr. Thompson's current belief that sometime prior to his execution date this note will be revealed by his attorney's [sic] in a 'paper.' 'If I go to the paper with that note, I think it will save my life. It shows that your life is already prepared for you. You can't change it.' The existence of this 'paper' signified to Mr. Thompson that no execution would take place.") *with* Affidavit of Faye Sultan, Ph.D., dated November 15, 2005 ("Mr. Thompson continues to experience and express delusional beliefs about the 'predetermined facts' that are inscribed on a note that 'has been stored' and which is 'buried at the church.' This 'note,' if it is revealed, will, according to Mr. Thompson, completely explain all the circumstances of his life and 'the inevitability of all events.'").

<sup>2</sup>Thompson apparently refused to meet with Dr. Woods (for reasons unknown), and Dr. Rabun's affidavit indicates that a scheduling conflict prevented him from examining Thompson.

<sup>3</sup>Thompson attempts to downplay the significance of this statement by arguing that his execution was still stayed when he made the statement on July 18, 2005. But just three weeks earlier, the United States Supreme Court had reversed an attempt by the Sixth Circuit to interfere in the Tennessee's lawful execution process. *Bell v. Thompson*, 125 S.Ct. 2825 (2005). Thus, Thompson's concern about his upcoming execution was eminently justified.

<sup>4</sup>The institutional records submitted show that, since July 2005, Thompson has remained on a regimen of medications (Supp. Filing, Attachment D), and his physicians observed "no active psychosis or

“substantial change” in his mental health, let alone a change of such significance as to raise a “substantial question” about his competency to be executed. *Van Tran*, 6 S.W.3d at 272. The prohibition against the execution of incompetent prisoners under *Van Tran* is designed to protect a narrow class of inmates — those who are unaware that they are to be executed and why. Thompson does not fall within that class, and the State is entitled to carry out its lawful punishment in this case.

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behavior” and recommended the “same management” of his symptoms. (Supp. Filing, Attachment E) Counsel’s implication that Thompson’s compliance with medication is anything other than voluntary is completely baseless. There is no indication that Thompson himself has ever complained of being medicated against his will. To the contrary, Attachment D to the Supplemental Filing states that Thompson expressly requested additional medication for depression in July of this year. And if, in fact, Thompson suffers from the “severe psychotic mental illness” asserted in the current filings, an increase in medical monitoring by prison staff would appear to be entirely appropriate. Moreover, Thompson’s argument seems to concede that, while medicated, Thompson is competent for execution.

For these reasons, the Court should deny Thompson's motion for stay of execution.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing Response has been forwarded by First-Class U.S. mail, postage prepaid, to Michael Passino, 323 Union Street, 3rd Floor, Nashville, TN 37201, on the \_\_\_\_ day of December, 2005.

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JENNIFER L. SMITH  
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