

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED
MAR 17 2004
Clerk of the Courts

GREGORY THOMPSON)

v.)

STATE OF TENNESSEE)

)
)
) No. M1987-00067-SC-DPE-DD
) Coffee County Circuit Court
) No. 20,014
) **DEATH PENALTY CASE**
)

MOTION TO RECONSIDER ORDER DENYING MOTION TO WITHDRAW

Comes the undersigned District Public Defender, B. Campbell Smoot, and moves this Honorable Court to reconsider its order of March 9, 2004, denying his motion to withdraw as counsel of record for the Petitioner, Gregory Thompson, due to a conflict of interest. In support hereof, undersigned would show as follows:

On February 25, 2004, this Court appointed the Public Defender for the Fourteenth Judicial District as co-counsel to represent Mr. Thompson in the instant competency proceedings. On March, 1, 2004, the Public Defender's office filed a motion to withdraw as counsel in both this Court and the trial court (Motion to withdraw filed March 3, 2004). In support of the motion to withdraw, the District Public Defender submitted the affidavit of his sole investigator, Jimmy Dale Conn. Mr. Conn was a criminal investigator for the Coffee County Sheriff's Department during the 1980's, investigated the Brenda Lane murder and testified against Mr. Thompson at his capital trial.


This Court denied the motion to withdraw on March 9, 2004.

In further support of the motion to withdraw, the undersigned District Public Defender

informed the Court that its office consists of three lawyers, (including undersigned) and one investigator (Mr. Conn). One of the three lawyers, Rachel E. Willis, represented Mr. Thompson's co-defendant, Joanne MacNamara, and accordingly also suffers from a conflict of interest. She was also advised by the Tennessee Board of Professional Responsibility that the Public Defender's Office could not ethically represent Mr. Thompson and must move to withdraw from the case.¹

WHEREFORE, for the foregoing reasons, the District Public Defender respectfully requests this Court to reconsider its order of March 9, 2004, and grant the motion to be relieved of the appointment to represent the Petitioner and be allowed to withdraw as counsel.

Respectfully Submitted,


B. CAMPBELL SMOOT
District Public Defender
14th Judicial District


¹Affidavit of Rachel E. Willis

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion has been forwarded via facsimile and first-class U. S. Mail, postage prepaid on this 16th day of March, 2004, to:

Jennifer Smith, Esquire
Office of Attorney General and Reporter
P. O. Box 20207
Nashville, TN 37202-0207

C. Michael Layne, Esquire
District Attorney General
14th Judicial District
307 S. Woodland St.
P. O. Box 147
Manchester, TN 37355



B. Campbell Smoot
District Public Defender
14th Judicial District

cc: Michael J. Passino, Esquire
323 Union St., 3rd Floor
Nashville, TN 37201
Lead Counsel for Gregory Thompson

Dana C. Hansen Chavis
Federal Defender Services
of Eastern Tennessee, Inc.
530 Gay St., Suite 900
Knoxville, TN 37902

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AT NASHVILLE

GREGORY THOMPSON

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No. M1987-00067-SC-DPE-DD

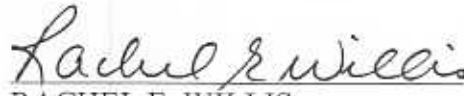
AFFIDAVIT

STATE OF TENNESSEE
COUNTY OF COFFEE

COMES, RACHEL E. WILLIS, having been duly sworn, and deposes as follows:

1. I am an Assistant Public Defender for the Fourteenth Judicial District in Coffee County, Tennessee and have been so employed since September 1989.
2. In 1986, while in private practice with the law firm of Henry and McCord, I was appointed to represent Joanne McNamara in a post-conviction proceeding in the Circuit Court of Coffee County. I continued to represent her through an appeal to the Court of Criminal Appeals and permission to appeal to the Supreme Court.
3. Gregory Thompson and Joanne McNamara were co-defendants, although they were not jointly indicted because Joanne McNamara was a juvenile at the time of the offenses.
4. On February 19, 2004, upon learning of the appointment of the Public Defender for the Fourteenth Judicial District to represent Gregory Thompson in these post-conviction proceedings, I contacted the Board of Professional Responsibility to determine if a conflict existed based on my prior representation of Joanne McNamara. I was advised by Mr. Lance Bracey that a Motion to Withdraw should be filed for a determination by the Court.

FURTHER AFFIANT SAYTH NOT.


RACHEL E. WILLIS
Assistant District Public Defender

SWORN TO AND SUBSCRIBED before me on this the 14th day of March 2004.

B. Campbell Smoot
Notary Public

My commission expires:

12 July 2005