

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

GREGORY THOMPSON,)	
)	
<i>Petitioner,</i>)	
v.)	No. 1:04-cv-177
)	<i>Edgar/Shirley</i>
RICKY BELL, WARDEN, Riverbend)	
Maximum Security Institution,)	
)	
<i>Respondent.</i>)	

ORDER

Petitioner Gregory Thompson (“Thompson” or “Petitioner”) was convicted of first degree murder and sentenced to death by the Criminal Court of Coffee County, Tennessee. Petitioner is currently confined at the Riverbend Maximum Security Institute in Nashville, Tennessee. Thompson filed a petition for writ of habeas corpus and requested an evidentiary hearing on his competency to be executed [Court File No. 1]. In addition, he filed a motion for stay of execution [Court File No. 2] based on a claim that he is incompetent to be executed. *See Ford v. Wainwright*, 477 U.S. 399 (1986).

The Court granted a stay of Thompson’s August 19, 2004, execution date that would expire automatically upon the issuance of an order by this Court denying Thompson’s petition but that would remain in place upon the issuance of an order granting Thompson’s writ of habeas corpus [Court File No. 4]. Subsequent to the entry of that order, the Court lifted the stay of execution and stayed the habeas proceedings so the State could seek an execution date and state court competency

proceedings could be exhausted [Court File No. 19].¹

Presently before the Court is petitioner Thompson's motion to reinstate his stay of execution [Court File No. 25] and the respondent's opposition [Court File No. 26]. Petitioner has notified the Court that his claim that he is incompetent to be executed is exhausted, ripe, and properly before this Court for adjudication. Respondent opposes a stay of execution, arguing that petitioner has failed to supplement the record with additional evidentiary materials considered by the state court. Apparently the respondent contends that Thompson's failure to present any and all additional evidence he believes to be pertinent to his challenge to the state court's disposition of his Eighth Amendment competency-for-execution claim permits the Court to immediately dispose of the habeas petition based on the record presently before it.

The Court stayed the habeas proceedings to allow petitioner to exhaust his state remedies. The procedural posture of this case has returned to where it was when this Court first entered a stay of execution. Petitioner has exhausted his state remedies and he should submit, to this Court, any supplemental evidentiary materials considered by the state court within **thirty (30) days** from the date of this Order. *See* Rule 7 of the Rules Governing Section 2254 Cases in the United States District Court.

Pursuant to 28 U.S.C. § 2251, the Court **GRANTS** a stay of Thompson's execution that **SHALL** expire automatically upon the issuance of an order by this Court denying Thompson's petition but that shall remain in place upon the issuance of an order granting Thompson's writ of habeas corpus.

¹ See the Court's previous Order [Court File No. 19] for the extended procedural history of Thompson's federal court litigation.

The Clerk of Court is **DIRECTED** to send an executed copy of this Order to the Warden of Riverbend Maximum Security Institution, Nashville, Tennessee; to the Attorney General of Tennessee; to petitioner; and to all counsel. The Clerk of Court is further **DIRECTED** to fax an executed copy of this Order to the Warden of Riverbend Maximum Security; to State Assistant Attorney General Jennifer L. Smith at fax number (615)532-7791; and Attorney Dana C. Hansen Chavis at fax number (865)637-7999.

SO ORDERED.

/s/ R. Allan Edgar

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE