

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. GREGORY THOMPSON

No. M1987-00067-SC-DPE-DD - Filed March 9, 2004

ORDER

In a February 25, 2004 Order this Court set an execution date for Gregory Thompson, remanded the case to the Coffee County Circuit Court for proceedings to determine Thompson's competency, and appointed Michael J. Passino as lead counsel and the Office of the Public Defender for the Fourteenth Judicial District as co-counsel to represent Thompson in the competency proceedings. On March 1, 2004, B. Campbell Smoot, the District Public Defender for the Fourteenth Judicial District, filed a "Motion to Withdraw as Counsel," requesting that the entire office of the Public Defender be removed as counsel. As grounds for the request, the motion asserts that the investigator for the Fourteenth Judicial District Public Defender's Office, Jimmy Dale Conn, served as a lead investigator with the Coffee County Sheriff's Department during the investigation and trial of Gregory Thompson and testified as a State's witness at the trial in 1985. On March 8, 2004, the trial court denied Thompson a hearing on his claim that he is not presently competent to be executed, finding that Thompson had not satisfied the "'high threshold showing' necessary to require a hearing on his petition." Despite the trial court's order, we must address the motion to withdraw.

In our view, the motion is not well-taken. Mr. Conn's past involvement in Thompson's prosecution and trial does not disqualify the entire Office of the Public Defender for the Fourteenth Judicial District from proceedings to determine Thompson's discrete claim that he currently is not competent to be executed. Therefore, upon due consideration of the request for withdrawal, the motion is DENIED.

PER CURIAM