

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

FILED

03/15/2018

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. DAVID EARL MILLER

Criminal Court for Knox County

No. 12080

No. E1982-00075-SC-DDT-DD

ORDER

On December 17, 2013, this Court set the execution of David Earl Miller for August 18, 2015. On March 31, 2015, this Court vacated its order of December 17, 2013, due to an appeal of a declaratory judgment action challenging the constitutionality of Tennessee's lethal injection protocol. In the March 31, 2015 order, the Court stated that, upon final disposition of the appeal in the declaratory judgment action, this Court shall exercise its authority to set a new date of execution. *See* Tenn. Sup. Ct. R. 12.4(E) ("Where the date set by the Court for execution has passed by reason of a stay or reprieve, this Court shall sua sponte set a new execution date when the stay or reprieve is lifted or dissolved, and the State shall not be required to file a new motion to set an execution date."). The Court ultimately affirmed the trial court's dismissal of the claims in the declaratory judgment action. *West v. Schofield*, 519 S.W.3d 550 (Tenn. 2017). The United States Supreme Court denied certiorari in the two petitions seeking review of this Court's decision. *See Stephen Michael West, et al. v. Tony Parker, et al.*, 138 S.Ct. 476 (Nov. 27, 2017); *Abu Ali Abdur'Rahman, et al. v. Tony Parker, et al.*, 138 S.Ct. 647 (Jan. 8, 2018).

Accordingly, under the provisions of Rule 12.4(E), it is hereby ORDERED, ADJUDGED AND DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the 6th day of December, 2018, unless otherwise ordered by this Court or other appropriate authority. Counsel for Mr. Miller shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

PER CURIAM