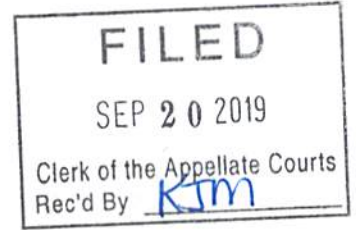


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



STATE OF TENNESSEE,)
)
Movant,)
)
v.)
)
Byron Black,)
)
Defendant.)

Case No. M2000-00641-SC-DPE-CB
Davidson County
88-W-1479

MOTION TO SET EXECUTION DATE

As Tenn. Sup. Ct. R. 12.4(A) requires the State to do when a death-row prisoner has completed the standard three-tier appeals process, the State of Tennessee moves this Court to set an execution date for Byron Black. In support of this motion, the State relies on the following:

1. Black was convicted for the 1987 murders of Angela Clay and her two daughters, Latoya and Lakeisha Clay. Following a jury verdict, the trial court sentenced Black to death for the murder of Lakeisha Clay. Black was given life sentences for the other two murders, to be served consecutively to each other and to the death sentence. Black's convictions and sentences were affirmed by this Court on direct appeal.

State v. Black, 815 S.W.2d 166 (Tenn. 1991) (reh'g denied, Sept. 3, 1991).

2. Black filed a petition for post-conviction relief in the trial court, which was denied following an evidentiary hearing. The Court of Criminal Appeals affirmed the judgment, and this Court denied discretionary review. *Black v. State*, No. 01C01-9709-CR-00422, 1999 WL 195299 (Tenn. Crim. App. Apr. 8, 1999), *perm. app. denied* (Tenn. Sept. 13, 1999). The United States Supreme Court denied review. *Black v. Tennessee*, 528 U.S. 1192 (2000).

3. Black filed a petition for writ of habeas corpus in the United States District Court for the Middle District of Tennessee but was denied relief. *Black v. Bell*, 181 F. Supp. 2d 832 (M.D. Tenn. 2001). While Black's appeal was pending in the United States Court of Appeals for the Sixth Circuit, he was able to reopen his post-conviction petition to litigate a claim of intellectual disability in the state courts. But Black was ultimately unable to prove that he was intellectually disabled. *Black v. State*, No. M2004-01345-CCA-R3-PD, 2005 WL 2662577 (Tenn. Crim. App. Oct. 19, 2005), *perm. app. denied* (Tenn. Feb. 21, 2006). Following further consideration of this Eighth Amendment intellectual disability claim in the district court, the Sixth Circuit affirmed the denial of habeas relief on all of Black's claims. *Black v. Carpenter*, 866 F.3d 734 (6th Cir. 2017) (reh'g denied, Oct. 27,

2017). The United States Supreme Court denied a petition for writ of certiorari on June 4, 2018. *Black v. Mays*, 138 S.Ct. 2603 (2018). Black did not file a petition for rehearing.


4. Black has thus completed the standard three-tier appeals process, making the setting of an execution date appropriate. *See* Rule 12.4(A). There are no current judicial or executive orders staying defendant's execution or granting a reprieve.

This Court should set an execution date in accordance with the judgment of the Criminal Court of Davidson County, Tennessee.

Respectfully submitted,

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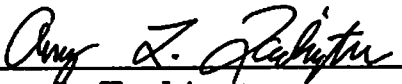
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion was forwarded by United States mail, first-class postage prepaid, on the 20th day of September, 2019, to the following:

Kelley J. Henry, Assistant Federal Public Defender
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Nashville, TN 37203

Glenn R. Funk
District Attorney General
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The undersigned attorney of record prefers to be notified of any orders or opinions of the Court by e-mail at Amy.Tarkington@ag.tn.gov.



Amy L. Tarkington
Associate Solicitor General