

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

FILED 01/15/2020 Clerk of the Appellate Courts
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STATE OF TENNESSEE v. HAROLD WAYNE NICHOLS

**Criminal Court for Hamilton County
No. 175504**

No. E1998-00562-SC-R11-PD

ORDER

On September 20, 2019, the State filed a motion to set an execution date for Harold Wayne Nichols stating that Mr. Nichols had completed the standard three-tier appeals process and requesting that an execution date be set pursuant to Tennessee Supreme Court Rule 12(4)(A). On December 30, 2019, Mr. Nichols filed a response opposing the State's motion because of his Rule 11 application in this Court regarding his motion to reopen post-conviction proceedings. *See Nichols v. State*, No. E2018-00626-SC-R11-PD. Mr. Nichols also requested that this Court issue a certificate of commutation to the governor under Tennessee Code Annotated section 40-27-106 because of certain enumerated extenuating circumstances.

Because the Court has now denied Mr. Nichols' Rule 11 application, it provides no basis for denying the motion to set an execution date. Furthermore, after careful review of the request for a certificate of commutation and the supporting documentation, the Court concludes that under the principles announced in *Workman v. State*, 22 S.W.3d 807 (Tenn. 2000), Mr. Nichols has presented no extenuating circumstances warranting issuance of a certificate of commutation. It is therefore ORDERED that the request for a certificate of commutation is DENIED.

Upon due consideration, the State's motion to set an execution date is GRANTED. 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 4th day of August, 2020, unless otherwise ordered by this Court or other appropriate authority. No later than July 20, 2020, the Warden or his designee shall notify Mr. Nichols of the method that the Tennessee Department of Correction (TDOC) will use to carry out the execution and of any decision by the Commissioner of TDOC to rely upon the Capital Punishment Enforcement Act.

Counsel for Harold Wayne Nichols 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