

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

FILED

06/22/2020

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. HAROLD WAYNE NICHOLS

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

No. E1998-00562-SC-R11-PD

ORDER

On January 15, 2020, this Court set the execution of Harold Wayne Nichols for August 4, 2020. Mr. Nichols filed a motion to stay his execution due to the COVID-19 pandemic. The Court denied the motion on June 4, 2020. Counsel for Mr. Nichols has filed a renewed motion to reset his execution date asserting that she has been unable to effectively assess Mr. Nichols' competency; that Mr. Nichols was denied the opportunity to meet with a spiritual advisor on June 10, 2020; that Mr. Nichols has been treated differently than Oscar Franklin Smith and Byron Lewis Black whose executions have been reset; and that the pandemic has affected counsel's ability to prepare a clemency petition.

In opposition to the renewed motion, the State submits that Mr. Nichols failed to raise the issue of his competency to be executed as required by Tennessee Supreme Court Rule 12(4)(A) and that he has otherwise failed to present evidence that local mental health professionals are unwilling to evaluate him. Further, the State avers that Mr. Nichols is not similarly situated to the two inmates whose executions have been reset, noting that the restrictions on travel and the limitations on in-court proceedings affecting Mr. Smith's execution have been lifted and that, unlike Mr. Black, Mr. Nichols is not preparing for imminent competency-to-be-executed proceedings. Finally, the State asserts that the Governor may grant a reprieve if persuaded the COVID-19 pandemic has impeded Mr. Nichols' ability to prepare a clemency petition.

Upon due consideration of Mr. Nichols' renewed motion, the State's response, and Mr. Nichols' reply, it is hereby ORDERED that the motion is DENIED.

PER CURIAM