

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. EDWARD JEROME HARBISON

No. M1986-00093-SC-OT-DD - Filed: July 17, 2006

ORDER

On June 13, 2006, the State of Tennessee filed a Motion to Set Execution Date in the case of Edward Jerome Harbison. The State alleged that Harbison had completed the standard three-tier appeals process and that this Court should therefore set an execution date. See Tenn.S.Ct.Rule 12.4(A). On June 22, 2006, a Response to Motion to Set Execution Date was filed on behalf of Harbison. The Response contended that an execution date should not be set because Harbison's federal habeas corpus proceedings were not complete. The Response also requested that this Court exercise its authority under Tenn. Code Ann. § 40-27-106 to issue a certificate of commutation to the governor. In support of the request for a certificate of commutation, the Response alleged that police files contained exculpatory information indicating that someone else committed the murder for which Harbison had been convicted. In addition, it was contended that a certificate of commutation should issue because the jury did not hear evidence of Harbison's horrendous childhood and his psychological and mental impairments and because the murder was not sufficiently aggravated to warrant the sentence of death, which allegedly had resulted from a "series of unacceptable errors" by the police, counsel and the courts. The Response, which was filed by the Office of the Assistant Federal Community Defender in Knoxville, Tennessee, also asked that this Court appoint counsel to represent Harbison in this case.

Upon due consideration of the State's Motion to Set Execution Date and the Response to the Motion, the State's Motion is GRANTED. 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 eleventh day of October, 2006, unless otherwise ordered by this Court or other appropriate authority.

It is further ORDERED that the request for appointment of counsel to represent Edward Jerome Harbison is GRANTED. The Court hereby appoints the Office of the Post-Conviction Defender, 530 Church Street, Suite 600, Nashville, Tennessee 37243, to represent Harbison in the instant case No. M1986-00093-SC-OT-DD.

Counsel for Edward Jerome Harbison 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

