

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

STEPHEN LYNN HUGUELEY v. STATE OF TENNESSEE

Circuit Court for Hardeman County
No. 6665

No. W2007-00137-CCA-R9-PD - Filed January 25, 2007

ORDER

The Petitioner Stephen Lynn Hugueley was convicted of first degree murder and sentenced to death. *See State v. Hugueley*, 185 S.W.3d 356, 387 (Tenn. 2006). On July 24, 2006, Petitioner Hugueley filed a pro se petition for post-conviction relief in the Hardeman County Circuit Court. The post-conviction court appointed the Office of the Post-Conviction Defender to represent the Petitioner on July 31, 2006. An amended petition was to be filed on October 21, 2006, with a hearing to be held on December 11, 2006. Counsel for the Petitioner sought an extension of time until April 2007 for filing the amended petition and a motion to continue the post-conviction hearing. A hearing on these motions was conducted on November 3, 2006. The post-conviction court ordered a sixty-day extension of time for the amended petition and set the post-conviction hearing for January 29, 2007.

On January 3, 2007, the Petitioner filed an amended petition along with a second motion for extension of time to file an amended petition and for continuance of the January 29, 2007, hearing. In support of these motions, counsel for the Petitioner submitted affidavits verifying the “office’s current short-staffing and high-caseload, [counsel’s] other case obligations . . . , and the efforts expended thus far in preparing this case for hearing.” Additionally, counsel stated that the approval of expert funds was delayed and was not approved by the Administrative Office of the Courts until December 8, 2006. On January 10, 2007, a hearing was held addressing the continuance motion. At the conclusion of the hearing, the lower court denied the motion for extension of time and for a continuance of the hearing scheduled for January 29, 2007. The lower court further “ordered [counsel] to be prepared to proceed on January 29, 2007, with any proof regarding whether a genuine issue exists as to Petitioner’s competency” as well as “with proof on Mr. Hugueley’s petition for post-conviction relief” “should Mr. Hugueley change his mind . . . about pursuing his petition. . . .”

On January 18, 2007, the lower court granted the Petitioner’s application for permission to appeal the denial of the continuance of the hearing scheduled for January 29, 2007. On January 25, 2007, the Petitioner filed an application for interlocutory appeal with this Court. In his application, the Petitioner seeks permission to appeal the lower court’s order denying the motion for a continuance, a stay of proceedings while the appeal is pending, a partial remand to the court below

to state the reasons for granting permission to appeal and relief in the form of an order requiring the court below to set a reasonable hearing date in consideration of counsel's ability to provide competent representation to the Petitioner.

Having reviewed the application submitted by intervening counsel on behalf of Petitioner, we conclude that the transcripts of the hearing on the motions to continue held on November 3, 2006, and January 10, 2007, would be both beneficial and appropriate in this matter. IT IS THEREFORE ORDERED that the Petitioner shall have fourteen (14) days from entry of this order in which to submit the transcripts of the hearings of the November 3, 2006, hearing of the motion to continue and the January 10, 2007, hearing of the motion to continue with the Clerk of this Court.

IT IS ORDERED that the State of Tennessee shall have ten (10) days from the filing of the transcripts of these hearings, in which to file a response to the Rule 9 application.

IT IS FURTHER ORDERED that execution of the trial court's order entered January 18, 2007, and all other proceedings in this matter in the lower court be stayed pending disposition of this interlocutory appeal by this Court.

ALL OF WHICH IS SO ORDERED.

DAVID G. HAYES, JUDGE