

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

	)	No. M1987-00130-SC-DPE-DD
	)	Union County
IN RE: STEPHEN MICHAEL WEST	)	Supreme Court, No. 3
	)	
	)	

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**MOTION FOR EXTENSION OF TIME TO RESPOND TO STATE'S MOTION TO SET  
EXECUTION DATE**

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Counsel for Stephen Michael West respectfully moves this Court for a two-week extension of time, until May 24, 2010, to file a response to the State's Motion to Set an Execution Date. In support of this motion, counsel for Mr. West states:

On Friday, April 30, 2010, the State of Tennessee asked this Court to set an execution date for Mr. West. Although the State certifies that it sent that motion by facsimile transmission, undersigned counsel never received the facsimile and had no notice of the motion until Monday, May 3, 2010.

Under Tenn.S.Ct. 12.4(A), a response to the State's Motion must be filed within 10 days of the filing of the motion and is to include all legal and /or factual grounds why the date should be delayed, why no date should be set, or why no execution should occur. *Id.* The response may also include a request for a certificate of commutation. *Id.* West's response is currently due on Monday, May 10, 2010.

Mr. West is represented by attorneys whose business offices are in Knoxville and Chattanooga. Because counsel received notice on May 3, 2010 and because West's response must arrive at the Office of the Appellate Court Clerk in Nashville by

Monday, May 10, 2010, undersigned counsel will have less than five business days to complete their response to the State's motion. Furthermore, as of this writing, counsel has been unable to communicate with Mr. West due to a lack of means to contact the prison in the wake of last weekend's flooding in Nashville.

The matter before this Court is of the utmost gravity. Before ruling on the State's Motion to Set an Execution Date, this Court must be fully apprised of all of the facts and circumstances surrounding this case and its history of litigation.

Counsel for Mr. West intends to file a response to the State's motion arguing that no execution date should be set. Counsel will show that no court has ever evaluated Mr. West's extensive mitigating evidence under the proper legal standard, that the imposition of the death penalty in this case would be grossly unfair where the actual killer of both victims received a life sentence, and that no execution date should be set for a prisoner suffering from severe mental illness.

Counsel is unable to provide this Court with an adequate response by May 10, 2010. Counsel Ferrell maintains an active docket of death penalty cases and represents two defendants in federal trial prosecutions. Both of these trial-level cases have been very active and time-consuming in recent weeks. Co-counsel Harris at Miller and Martin also maintains an active and heavy caseload.

Undersigned counsel was unable to reach Jennifer Smith, the Attorney of Record on this case. However, Amy Tarkington, Deputy of the Criminal Justice Division, stated that the State of Tennessee would not object to a two-week extension.

Counsel requests only as much time as is necessary to complete an adequate response to the State's motion. This Court recently afforded a death-row inmate an

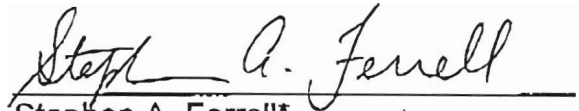
{2}

extension of seven weeks in order to file a response. *State v. Owens*, Case No. M1981-00125-SC-DPE-DD, December 15, 2009 (order attached hereto). In the present case, counsel seeks an extension of only two weeks.

Given these circumstances, counsel for Mr. West submit that the interests of justice will be served by granting this extension.

Wherefore, counsel for Mr. Stephen West respectfully requests a two-week extension of time to file their response to the State's Motion to Set an Execution Date, making said response due on May 24, 2010.

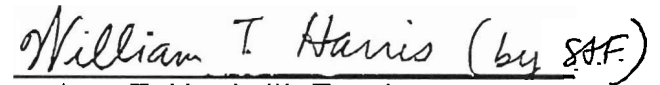
Respectfully Submitted,



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{3}

### CERTIFICATE OF SERVICE

I, Stephen A. Ferrell, hereby certify that a true and correct copy of the foregoing document was sent via facsimile and overnight mail to:

Jennifer L. Smith, Esquire  
Office of Attorney General and Reporter  
425 Fifth Avenue North  
Nashville, TN 37243

this the 3rd day of May, 2010.

  
Stephen A. Ferrell

{4}

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

STATE OF TENNESSEE V. GAILE K. OWENS

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No. M1981-000125-SC-DPE-DD - Filed: December 15, 2009

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ORDER

On December 8, 2009, the State filed a Motion to Set Execution Date for Gaile K. Owens. The motion stated that Owens had completed the standard three-tier appeals process and that an execution date should therefore be set under Tennessee Supreme Court Rule 12.4(A). Under Rule 12.4(A) Gaile K. Owens had ten (10) days until Friday, December 18, 2009, to file a response to such motion.

On December 14, 2009, Gaile K. Owens filed a Motion for Extension of Time to Respond to Motion to Set Execution Date. Because of pre-existing responsibilities on the part of both counsel that cannot be rescheduled, the motion requested an extension of time to February 5, 2010, to file a response to the State's Motion.

Upon due consideration of the Motion for Extension of Time, it is hereby ORDERED that the Motion is GRANTED. Gaile K. Owens shall have until Friday, February 5, 2010, to file a response to the State's Motion to Set Execution Date.

PER CURIAM