

IN THE SUPREME COURT OF TENNESSEE

AT KNOXVILLE

STEPHEN M. WEST,	)	
	)	
Appellant,	)	
	)	UNION COUNTY
v.	)	No. E2010-02258-SC-R11-PD
	)	(Capital Case)
STATE OF TENNESSEE,	)	
	)	
Appellee.	)	

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RESPONSE OF THE STATE OF TENNESSEE  
IN OPPOSITION TO APPELLANT'S  
MOTION FOR STAY OF EXECUTION

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By order entered June 15, 2010, this Court set a November 9, 2010, execution date for Stephen West pursuant to the 1987 judgment convicting him of the first-degree premeditated murders of Wanda Romines and her daughter, Sheila Romines. Just 32 days before his execution date, West filed a motion to reopen his state post-conviction proceeding as part of an eleventh-hour barrage of legal filings in both the state and federal courts seeking to avoid his imminent execution. Both the trial court and Court of Criminal Appeals rejected West's motion and subsequent application for appeal, and his application in this Court for permission to appeal under Tenn. R. App. P. 11 is pending. West's motion for stay of execution should be denied.

To obtain a stay of execution, West must demonstrate a likelihood of success on the merits of his appeal from the denial of his motion to reopen post-conviction proceedings. *See In re Sapp*, 116 F.3d 460, 464 (6th Cir. 1997); *Delo v. Blair*, 509 U.S. 823 (1993)(*per curiam*)(stay of execution requires showing of substantial grounds upon which relief might be granted). *Compare Nashville, C. and St. L. Ry. Railroad and Public Utilities Commission*, 32 S.W.2d 1043, 1045 (Tenn. 1930)(injunction to maintain status quo will not issue unless party establishes that it will probably prevail on the merits). However, as set forth in greater detail in the State’s response to West’s Rule 11 application and the lower courts’ orders in this matter, West does not and cannot satisfy any of the statutory grounds to reopen his post-conviction petition as set forth under Tenn. Code Ann. § 40-30-117(a), and his present motion presents no basis to stay his lawful execution.

West also points to filings in the federal courts seeking relief from his habeas judgment under Fed. R. Civ. P. 60(b) as providing a basis for a stay of execution. However, the federal courts are fully empowered to grant injunctive relief in the event the courts determine that West is entitled to relief from the district court’s judgment and/or that further federal review is appropriate,<sup>1</sup> and West presents no justification for this Court to intervene in that process.

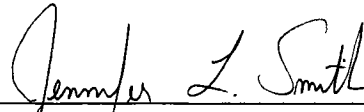
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<sup>1</sup> Under 28 U.S.C. § 2251(a), a federal judge “before whom a habeas corpus proceeding is pending” may, before or after judgment or pending appeal, “stay any

West's motion for a stay of execution should be denied.

Respectfully submitted,

ROBERT E. COOPER, JR.  
Attorney General & Reporter

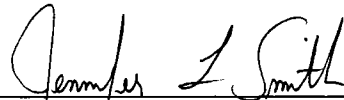


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#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing response has been forwarded by electronic mail and United States mail, first class postage prepaid, to: Stephen A. Ferrell, Federal Defender Services of Eastern Tennessee, Inc., 800 S. Gay St., Suite 2400, Knoxville, TN 37929, [Stephen\\_Ferrell@fd.org](mailto:Stephen_Ferrell@fd.org), on the 4<sup>th</sup> day of November, 2010.



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JENNIFER L. SMITH  
Associate Deputy Attorney General

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proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding.”