

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

JAMES LEE JONES, aka)
ABU-ALI ABDUR'RAHMAN)
) **DAVIDSON COUNTY CRIMINAL**
v.)
) **No. M1988-00026-SC-DPE-PD**
STATE OF TENNESSEE)

Filed December 31, 2001

**RESPONSE TO "MOTION FOR CERTIFICATE OF COMMUTATION PURSUANT TO
S.Ct. R. 12.4 AND T.C.A. §40-27-106, AND
FOR OTHER RELIEF PURSUANT TO S.Ct.R. 11"**

Abdur'Rahman has filed a motion asking this Court to exercise its supervisory authority over the judicial and criminal justice system by setting aside his death sentence. In the alternative, he asks this Court to certify to Governor Sundquist, pursuant to Tenn. Code Ann. § 40-27-106, that Abdur'Rahman's punishment ought to be commuted to imprisonment for life. For the reasons set forth below, this Court should deny both requests.

While this Court possesses broad supervisory authority over the judicial system, this Court has no authority simply to set aside Abdur'Rahman's valid death sentence—a sentence that has been upheld by both this Court and other state and federal courts throughout the standard three-tier appeals process. This Court's jurisdiction is appellate only. Tenn. Code Ann. § 16-3-201(a). As this Court acknowledged in *Workman v. State*, 22 S.W.3d 807, 808 (Tenn. 2000), this Court is bound by precedent and by the statutes setting forth the process of appellate review. Since this Court

affirmed Abdur'Rahman's death sentence on direct appeal and denied review of the dismissal of his post-conviction petition, Tennessee's appellate process no longer provides a mechanism by which this Court can overturn Abdur'Rahman's valid death sentence.

This Court does have the discretion, pursuant to Tenn. Code Ann. § 40-27-106, to certify to the governor that Abdur'Rahman's punishment ought to be commuted, but Abdur'Rahman has failed to demonstrate extenuating circumstances sufficient to trigger the exercise of this Court's discretion under the statute. As was previously noted, Abdur'Rahman's conviction and sentence have been affirmed on direct appeal, on post-conviction, and by the United States Court of Appeals for the Sixth Circuit on federal habeas review. Although Abdur'Rahman continues to argue that he did not receive a fair trial, and that his attorney was ineffective, the Sixth Circuit Court found that Abdur'Rahman failed to establish prejudice sufficient "to create a reasonable probability that the sentencing jury would have concluded that the balance of aggravating and mitigating factors did not warrant death." *Rahman v. Bell*, 226 F.3d 696, 708 (6th Cir. 2000), *cert. denied* ___ U.S. ___, 122 S.Ct. 386 (2001), *reh'g denied* ___ U.S. ___, 2001 WL 1524375 (Dec. 3, 2001). The Sixth Circuit made this finding even when considering the new evidence presented at the evidentiary hearing in the federal district court. *Id.*

For these reasons, this Court should deny Abdur'Rahman's motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Response has been forwarded via Facsimile and First-Class U.S. mail, postage prepaid, on this the _____ day of December, 2001, to:

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