

IN THE SUPREME COURT OF TENNESSEE
AT KNOXVILLE

FILED 11/16/2018 Clerk of the Appellate Courts
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STATE OF TENNESSEE v. NICHOLAS TODD SUTTON

**Circuit Court for Morgan County
No. 7555**

No. E2000-00712-SC-DDT-DD

ORDER

On December 17, 2013, this Court set the execution of Nicholas Todd Sutton for November 17, 2015. On April 10, 2015, the Court vacated its December 17, 2013 order due to a pending appeal of a declaratory judgment action challenging the constitutionality of Tennessee’s lethal injection protocol. In the latter order, the Court stated that, upon final disposition of the appeal in the declaratory judgment action, this Court would exercise its authority to set a new date of execution. *See* Tenn. Sup. Ct. R. 12.4(E) (“Where the date set by the Court for execution has passed by reason of a stay or reprieve, this Court shall sua sponte set a new execution date when the stay or reprieve is lifted or dissolved, and the State shall not be required to file a new motion to set an execution date.”). The Court ultimately affirmed the trial court’s dismissal of the claims in the declaratory judgment action. *West v. Schofield*, 519 S.W.3d 550 (Tenn. 2017). The United States Supreme Court denied certiorari in the two petitions seeking review of this Court’s decision. *See Stephen Michael West, et al. v. Tony Parker, et al.*, 138 S.Ct. 476 (Nov. 27, 2017); *Abu Ali Abdur’Rahman, et al. v. Tony Parker, et al.*, 138 S.Ct. 647 (Jan. 8, 2018).

Thereafter, the State modified its lethal injection protocol and Mr. Sutton joined as a plaintiff in a second declaratory judgment action challenging the modified protocol. This Court recently affirmed the trial court’s dismissal of the claims in that action as well. *Abu Ali Abdur’Rahman, et al. v. Tony Parker et al.*, No. M2018-01385-SC-RDO-CV (Tenn. Oct. 8, 2018).

Accordingly, under the provisions of Rule 12.4(E), 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 20th day of February 2020, unless otherwise ordered by this Court or other appropriate authority. No later than February 5, 2020, the Warden or his designee shall

notify Mr. Sutton of the method that the Tennessee Department of Correction (TDOC) will use to carry out the execution and of any decision by the Commissioner or TDOC to rely upon the Capital Punishment Enforcement Act.

Counsel for Mr. Sutton 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