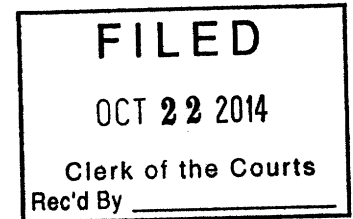


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. EDMUND ZAGORSKI

Circuit Court for Robertson County
No. 6052



No. M1996-00110-SC-DPE-DD

ORDER

On September 27, 2013, the Tennessee Department of Correction adopted a new single-drug lethal injection protocol. On October 3, 2013, the State filed a motion to reset the execution date for Edmund Zagorski. On November 20, 2013, Mr. Zagorski and nine other plaintiffs filed in the Chancery Court for Davidson County a declaratory judgment action challenging the constitutionality of the new lethal injection protocol. *See Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. 13-1627-I. Based on representations that the declaratory judgment action would be tried in July 2014, this Court issued an order on January 31, 2014, setting Mr. Zagorski's execution date for December 9, 2014. Because of a discovery dispute, the Chancery Court stayed the declaratory judgment proceedings pending a Tenn. R. App. P. 9 interlocutory appeal. *See Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. M2014-00320-COA-R9-CV, 2014 WL 4815957 (Tenn. Ct. App. at Nashville, filed Sep. 29, 2014), *perm. app. granted* (Tenn. Oct. 21, 2014).

On October 9, 2014, Mr. Zagorski filed in this Court a Motion to Vacate Execution Date. Mr. Zagorski asks this Court to reset his execution date from December 9, 2014, to allow sufficient time for this Court to resolve the issues raised in the interlocutory appeal and for the Chancery Court to resolve, on remand, the constitutional issues raised in the declaratory judgment action. On October 20, 2014, the State filed a response; the State does not oppose Mr. Zagorski's motion.

Upon due consideration, Mr. Zagorski's Motion is GRANTED, and this Court's order of January 31, 2014, is vacated. Upon final disposition of the interlocutory appeal in *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. M2014-00320-SC-R11-CV, this Court shall exercise its authority to set a new date of execution, *see* Tenn. Sup. Ct. R. 12(4)(E) (authorizing this Court to sua sponte set execution dates in certain circumstances

and providing that any new date of execution set "shall be no less than seven (7) days from the date of the order setting the new execution date"), and establish an expedited schedule for resolution of the declaratory judgment action in the Chancery Court, *Stephen Michael West, et al. v. Derrick D. Schofield, et al.*, No. 13-1627-I.

It is so ORDERED.

PER CURIAM