

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

FILED

07/30/2018

Clerk of the
Appellate Courts

ABU-ALI ABDUR'RAHMAN ET AL. v. TONY PARKER ET AL.

**Chancery Court for Davidson County
No. 13-183-II (III)**

No. M2018-01385-COA-R3-CV

ORDER

This appeal arises from a complaint filed on behalf of numerous plaintiffs for declaratory judgment challenging the constitutionality of Tennessee's lethal injection protocol. Following a trial, the chancery court dismissed the complaint finding, in pertinent part, that the plaintiffs "failed to establish that Tennessee's three-drug lethal injection protocol issued July 5, 2018, is unconstitutional and/or unlawful. . . ." The chancery court's final order was entered on July 26, 2018. On the morning of Monday July 30, 2018, notice of appeal was filed with this court on behalf of most of the plaintiffs, including Billy Ray Irick.

The appeal as it pertains to the rights of Billy Ray Irick is particularly time sensitive because the Tennessee Supreme Court has scheduled his execution for August 9, 2018. The Amended Order of the Supreme Court entered on July 10, 2018, in No. M1987-00131-SC-DPE-DD, reads "the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the 9th day of August, 2018, unless otherwise ordered by this Court or other appropriate authority."

The Supreme Court's order setting the execution date for Billy Ray Irick is significant because but for two exceptions, neither of which pertain to the issues in this appeal, this court has "no power to enjoin or stay an order of the Supreme Court of Tennessee." See *Coe v. Sundquist*, No. M2000-00897-SC-R9-CV (Tenn. Apr. 19, 2000) (order vacating injunction) (citing *Barger v. Brock*, 535 S.W.2d 337, 340 (Tenn. 1976)); *Seesel v. Seesel*, 748 S.W.2d 422, 423 (Tenn. 1988); *Dibrell v. Eastland*, 11 Tenn. 507, 3 Yerg. 507 (1832); Tenn. Code Ann. § 29-21-119; Tenn. Code Ann. § 29-14-101); see also *West v. Ray*, No. M2010-02275-COA-R9-CV (Tenn. Ct. App. Nov. 3, 2010)(order denying request for temporary injunction)(stating pursuant to *Coe v. Sunquist*, "neither

the trial court nor this court has jurisdiction under the declaratory judgment statutes to supersede a valid order of the Tennessee Supreme Court”).

The scheduled execution of Billy Ray Irick is less than two weeks from the entry of this order; thus, the trial court clerk will not have sufficient time to submit the record and the parties will not have sufficient time to prepare their briefs and present their arguments before the execution date arrives. *See* Tenn. R. App. P. 24 - 35. Consequently, although this court will consider the issues presented in this appeal with deliberate speed, all interested parties are advised that this court will not have sufficient time to render a decision concerning the complaint for a declaratory judgment on or before Mr. Irick’s scheduled execution.

PER CURIAM