

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE STEVE HENLEY) Jackson County
) No. 87-73-I
)

UNOPPOSED MOTION FOR EXTENSION OF TIME TO RESPOND
TO MOTION TO SET EXECUTION DATE

Steve Henley respectfully moves this Court for a 14-day extension of time, until October 6, 2008, within which to file a response to the state's motion to set execution date.

In support of this motion, Henley states:

1. On September 11, 2008, the state filed with this Court a motion to set execution date. It appears that through inadvertence, counsel did not receive fax service of the motion, as indicated by the state in its motion. Counsel first learned of the motion on Saturday September 13, when the state's motion was reported in the newspaper.

2. Under Tenn.S.Ct. 12.4(A), a response to such motion is to be filed within 10 days of the filing of the motion. Such a response is to include all legal and/or factual grounds why the date should be delayed, why no date should be set, or why no execution should occur. *Id.* The response may also include a claim of incompetency to be executed or a request for certificate of commutation. *Id.*

3. A response is currently due September 22, 2008.

4. Steve Henley fully intends to file an appropriate response, as there are indeed grounds why no execution should occur. Those include factual grounds which Henley intends to include in his response.

5. As noted *supra*, however, counsel was not immediately served with the motion. Further, counsel have had other pre-existing responsibilities to attend to this week, including undersigned counsel's preparation of an appellate brief for the United States

Court of Appeals for the Sixth Circuit, and counsel Davidson's preparation for, and attendance at, depositions scheduled for September 18 & 19. Given such responsibilities and the delay in receiving notice of the motion, counsel will require additional time to prepare and present a proper and complete response to the motion. It further appears that counsel will require additional time to secure certain factual information in support of a response.

6. Henley's counsel has contacted counsel for the state, who has no objection to this request for extension.

7. Wherefore, Steve Henley respectfully requests that this Court extend for 14 days (until October 6, 2008) the time in which to file a response to the state's motion.

Respectfully Submitted,

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VERIFICATION

I verify that the statements contained in this motion are true and correct to the best of my knowledge.

Paul R. Bottei

Subscribed and sworn before me this ____ day of September, 2008.

Notary Public, State Of Tennessee

My Commission Expires:

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion was served by hand-delivery upon Jennifer Smith, Office of the Attorney General, 425 Fifth Avenue North, Nashville, Tennessee 37243 this the 19th day of September, 2008.

Paul R. Bottei