

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. DONNIE JOHNSON

No. M1987-00072-SC-DPE-DD

ORDER

On July 1, 2004, the State filed a Motion to Set Execution Date for Donnie Johnson. The motion stated that Johnson had completed the standard three-tier appeals process and that an execution date should therefore be set under Tennessee Supreme Court Rule 12.4(A).

On July 12, 2004, Donnie Johnson filed a Response to Motion to Set Execution Date. The Response alleged that an execution date should not be set because of the need to investigate misconduct of Johnson's trial attorneys growing out of their prior representation of one of the witnesses for the State at Johnson's capital trial. The Response requested that this Court appoint a Special Master to take evidence on this matter, make findings of fact, and report back to this Court.

Having considered the Motion to Set Execution Date and the Response, this Court finds that Johnson has presented no legal basis for denying the State's Motion to Set Execution Date. Therefore, the State's motion is GRANTED. Donnie Johnson's request for the appointment of a Special Master is DENIED. 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 16th day of November, 2004, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Donnie Johnson 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

Justice Adolpho A. Birch, Jr. - Dissenting by Separate Order