

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

ABU-ALI ABDUR'RAHMAN)
(formerly known as James Lee Jones))
)
) DAVIDSON COUNTY CRIMINAL
)
vs.) NO. M1988-00026-SC-DPE-PD
)
)
STATE OF TENNESSEE)

Filed by clerk's office January 2, 2002

SUPPLEMENTAL RESPONSE TO MOTION TO SET EXECUTION DATE AND
REPLY TO STATE'S RESPONSE TO NOTICE OF PUTATIVE FORD CLAIM AND
MOTION TO MODIFY VAN TRAN PROCEEDING

The state disingenuously claims that Abu-Ali's rights to present a *Ford* claim are protected under *Van Tran*. This is not true. This Court's order in Coe v. State, No. M1999-013130SC-DPE-PD (Attached as Exhibit 1) establishes that Abu-Ali Abdur'Rahman will have no such process available.

To invoke further process under *Van Tran*, counsel must provide an "affidavit from a mental health professional showing that there has been a substantial change in the prisoner's mental health." In Coe, both the prison Warden and this Court denied Coe any opportunity to have a mental health professional examine Coe at or around the time of execution. See Exhibit 2 (Affidavit of Robert L. Hutton, filed in Tennessee Supreme Court Apr. 3, 2000). As Justice Birch clearly noted in dissent, such a denial of access precludes the assertion of a *Ford* claim. See Exhibit 3 (Justice Birch's dissent in Coe).

The exact same thing will happen here. The prison will deny Mr. Abdur'Rahman access to mental health professionals and preclude him from developing evidence necessary to invoke

subsequent process under *Van Tran*. Abu-Ali Abdur'Rahman will have no full and fair ability to present a *Ford* claim. This Court's precedent in Coe thus precludes Abu-Ali Abdur'Rahman from presenting a *Ford* claim once he is incompetent to be executed.

Because Coe will prevent any litigation of a *Ford* claim in the future, Petitioner's "Notice Of Putative *Ford* Claim" raises the *Ford* claim that, because Abu-Ali Abdur'Rahman dissociates under stress, at or around the time of any yet-to-be-scheduled execution, he will be incompetent to be executed under *Ford v. Wainwright*, 477 U.S. 399 (1986). This is sufficient to trigger his right to further proceedings consistent with *Ford* and *Van Tran*. Because Mr. Abdur'Rahman has no other means of presenting his claim of incompetency to be executed, he is being forced to do so now.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, hereby, certify that a copy of the foregoing was sent by United States Mail to Mr. Gordon W. Smith, Office of Attorney General, 425 5th Ave. N., Nashville, Tennessee 37243 on this the 21st day of December, 2001.

William P. Redick, Jr.