

**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

STATE OF TENNESSEE)	COFFEE COUNTY
)	
v.)	ORIGINAL APPEAL NO.
)	M1987-00067-SC-DPE-DD
GREGORY THOMPSON)	Filed November 18, 2005

**SUPPLEMENTAL FILING IN SUPPORT OF
MR. THOMPSON'S *FORD/VAN TRAN* CLAIMS**

Pursuant to this Court's order of October 18, 2005, the following is submitted in support of Mr. Thompson's claim that he is incompetent to be executed on February 7, 2006:

Expert Opinion

1. Faye Sultan, Ph.D., recently submitted two affidavits which support Mr. Thompson's subsequent *Ford* claim. These affidavits were based on her July 28, 2005, examination of Mr. Thompson. More recently, Dr. Sultan examined Mr. Thompson on November 7, 2005. Her affidavit is attached as Attachment A. Dr. Sultan reports that "[t]he deterioration in Mr. Thompson's mental health persists" and there is "a substantial change in his mental health." She also found Mr. Thompson does "not have the mental capacity to understand the impending execution and the reason for it." Dr. Sultan explains that Mr. Thompson "experiences delusions, hallucinations, disorganized thinking, and disorganized speech" which is "characteristic of his psychotic disorder." She finds that Mr. Thompson's "understanding of various aspects of reality is tenuous and fluctuates from minute to minute. His psychotic delusions remain fixed."

2. George Woods, Jr., M.D., found Mr. Thompson incompetent to be executed in 2004. On November 16, 2005, Dr. Woods attempted to examine Mr. Thompson's current mental health status. Mr. Thompson, however, refused to come out of his cell for the evaluation. As Dr. Woods explains in the attached letter, Attachment B, Mr. Thompson's refusal to see him is out of the ordinary. A product of Mr. Thompson's mania is that he constantly seeks out and enjoys personal attention. It would be unusual for Mr. Thompson to refuse an opportunity for personal interaction. In Dr. Woods' opinion, Mr. Thompson's refusal to meet is potentially indicative of a substantial change in his mental health. It may signal further decompensation in functioning.

3. John Rabun, M.D., found Mr. Thompson was incompetent to be executed in 2004 because he lacked the mental capacity to understand the impending execution and the reason for it. As Dr. Rabun explains in the attached affidavit, Attachment C , although he had hoped to evaluate Mr. Thompson in November, his schedule made him otherwise unavailable. Dr. Rabun is currently scheduled to evaluate Mr. Thompson on December 12, 2005.

Medical Records

A medical record dated July 18, 2005, quotes Mr. Thompson saying, "I feel like I'm depressed. My execution date is coming up and my sister died 2 yrs. ago. I just found out." (Attachment D) In fact, on July 18th Mr. Thompson's execution was still stayed and he had been informed of his sister's death over a year earlier. In response, the psychiatrist asked the staff to "please ask I/M to notify medical if he continues to feel suicidal."

On August 15, 2005, the prison psychiatrist indicated Mr. Thompson was “doing fine.” He was “hearing some voices” and had a “silly affect.” Although Mr. Thompson was experiencing auditory hallucinations the prison doctor wrote, “no active psychosis or behavior.” (Attachment E)

A mental health treatment plan dated September 12, 2005, diagnoses Mr. Thompson with Bipolar Disorder with psychotic features. The rationale for continued treatment is “ongoing treatment to manage symptoms.” (Attachment F)

Recently received records indicate that since March 15, 2005, medical personnel have had contact with Mr. Thompson on almost a daily basis (Attachment G). Prior to that time, medical personnel attended to Mr. Thompson approximately once a month. The significant increase in medical visits reflected in the recently released records raises troubling questions about whether Mr. Thompson is free to decline medication.

In addition, even though medical visits have occurred almost everyday, counsel has not been provided with records of that daily contact which document the purpose for or substance of the daily visits.

In 2000, Thompson was subject to a state-obtained conservatorship which forced him to take powerful medication. Withdrawal of this medication causes Thompson to experience severe physical discomfort. In 2002, the court terminated the conservatorship because it found there were less restrictive means to protect Mr. Thompson. Since that time, Mr. Thompson has been mostly compliant with his medication because when he has chosen to refuse it he becomes physically ill, because he is subjected to pressure from medical and security staff to take his medication and because his prison privileges remain reduced to induce him to stay medicated.

Evidence of the recent increase in medical visits and monitoring of Mr. Thompson may very well affect his claims under *Harper v. Washington*, 494 U.S. 210, 110 S.Ct. 1028, 108 L.Ed.2d 178 (1990)(standards governing forced medication for competency). Counsel for Mr. Thompson have attempted to obtain further information about Mr. Thompson's monitoring and treatment from both the prison and opposing counsel but have, thus far, been refused any information.

Respectfully submitted,

Michael J. Passino, BPR#5725
323 Union Street, 3rd Floor
Nashville, TN 37201
(615) 255-8764

Counsel for Gregory Thompson

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was forwarded by U. S.

Mail, postage prepaid, to

Jennifer Smith, Esquire
Office of Attorney General and Reporter
P. O. Box 20207
Nashville, TN 37202-0207

C. Michael Layne, Esquire
District Attorney General
P. O. Box 147
Manchester, TN 37349-0147

this ____ day of November, 2005.

The undersigned attorney prefers to be notified of any orders or opinions of the Court by email to passino@mpassino.com.

