



**UNOPPOSED MOTION FOR EXTENSION OF TIME TO  
FILE RESPONSE TO MOTION TO SET EXECUTION  
DATE**

Stephen Hugueley, by counsel, moves this Court for a ninety-day extension of time to file his response in opposition to the State Attorney General's motion to set an execution date. He asks to be given until, October 21, 2021 to file his response. In support of his motion, Mr. Hugueley states the following:

1. On July 13, 2021, the State Attorney General filed a motion to set an execution date, pursuant to Tenn. Sup. Ct. Rule 12.
2. Rule 12.4(A) provides a ten-day timeframe to file a response to the request for execution date. Ten days from July 13, 2021 would be July 23, 2021. Ninety days from July 23, is October 21, 2021.
3. Rule 12.4(A) requires the respondent to set forth in any motion in opposition to the request for an execution date "any and all legal and/or factual grounds why the execution date should be delayed, why no execution date should be set, or why no execution should occur, including a claim that the prisoner is not competent to be executed...; or a request for a certificate of commutation pursuant to Tenn. Code Ann. § 40-27-106."
4. Counsel requires additional time in which to prepare the response in opposition. Because the authority to request such dates rests solely with the Attorney General, counsel is unable to anticipatorily prepare for the pleadings required in response to this motion; the timing of the issues is,

rather, thrust upon counsel. Counsel anticipates filing a lengthy response in opposition with supporting documentation, which will attempt to address “any and all legal and/or factual grounds.” In this case, counsel will have to evaluate—among other issues—whether the client’s competency to be executed should be raised.

5. As the Court knows, competency is dynamic and in cases of individuals with severe mental illness competency often deteriorates in response to stress. Issues such as competency to be executed are not ripe until an execution date is requested and cannot be evaluated prior to the notice provided by the Attorney General. *See, Stewart v. Martinez-Villareal*, 523 U.S. 637 (1998); *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999).
6. As the Court also knows, Mr. Hugueley’s competency has previously been the subject of much litigation. Two nationally respected experts have opined that Mr. Hugueley was incompetent to stand trial and incompetent to waive post-conviction proceedings due to a brain malformation which impairs his perceptions of reality. *See Hugueley v. Westbrook*, No. 1:09-cv-01181 (W.D. Tenn. June 19, 2015) (R. 127-4) (Report of Dr. George Woods); (R. 127-5) (Report of Dr. Siddartha Nadkarni). Due to health concerns and the COVID epidemic, neither of those experts is available to return to Tennessee to assess Mr. Hugueley’s competency to be executed. Counsel must, therefore, seek a new expert, provide that expert sufficient time to review the voluminous social history and prior psychological and psychiatric evaluations in this case,

CERTIFICATE OF SERVICE

I, Amy D. Harwell, certify that a true and correct copy of the foregoing Unopposed Motion for Extension of Time to File Response in Opposition to Request to Set Execution Date was served via email and United States Mail to opposing counsel, Zachary T. Hinkle, Associate Solicitor General, P.O. Box 20207, Nashville, Tennessee, 37202.

  
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Amy D. Harwell

DESIGNATION OF COUNSEL OF RECORD

Amy D. Harwell is counsel of record for this matter. Counsel prefers to be notified via email: [Amy\\_Harwell@fd.org](mailto:Amy_Harwell@fd.org).

  
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Counsel of Record