

FILED

JUL 13 2021

Clerk of the Appellate Courts
Rec'd By LMW

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

STATE OF TENNESSEE,)	
)	HARDEMAN COUNTY
Movant,)	
)	No. W2004-00057-SC-DDT-DD
v.)	Trial Court No. 6665
)	
STEPHEN HUGUELEY,)	Death Penalty Case
)	
Defendant.)	

MOTION TO SET EXECUTION DATE

Tennessee Supreme Court Rule 12.4(A) requires the State to request that this Court set an execution date when a death-row prisoner has pursued at least one unsuccessful challenge through the standard three-tier appeals process. While Hugueley has taken a stop-and-start approach to much of his litigation—maintaining before trial that he wanted the death penalty; choosing not to present mitigating evidence; withdrawing his post-conviction petition, yet appealing its dismissal—he has nevertheless litigated his direct appeal, his waiver of post-conviction proceedings, and his federal habeas corpus petition, all without success. Accordingly, the State of Tennessee is required to move this Court to set an execution date for Stephen Hugueley.

In support of this motion, the State relies on the following:

1. In January 2002, while serving time for prior murders, Hugueley murdered correctional counselor Delbert Steed at the Hardeman County Correctional Facility by approaching him from behind, aiming at Mr. Steed's vital organs, and stabbing him 36 times with a homemade weapon. Hugueley's resulting first-degree murder conviction and death sentence were affirmed by this Court on direct appeal. *State v. Hugueley*, 185 S.W.3d 356 (Tenn. 2006).

2. Hugueley originally filed a pro se petition for post-conviction relief; the Post-Conviction Defender was appointed and filed an amended petition. Hugueley then informed the trial court that he wished to withdraw his petition. The trial court conducted a competency hearing, found Hugueley competent, allowed the withdrawal, and dismissed the petition. *Hugueley v. State*, No. W2009-00271-CCA-R3-PD, 2011 WL 2361824 (Tenn. Crim. App. June 8, 2011), *perm. app. denied* (Tenn. Dec. 13, 2011; *reh'g denied* Jan. 11, 2012). Hugueley filed a notice of appeal and asked the Court of Criminal Appeals to remand the case to the trial court for full consideration of the issues raised in his petition. Following this Court's precedent, the Court of Criminal Appeals rejected the remand request since Hugueley had not moved to reinstate his petition within 30 days of its withdrawal. The court also affirmed the trial court's competency finding and upheld its dismissal of the petition.

Id. This Court denied review on December 13, 2011, and denied rehearing on January 1, 2012. *Id.*

3. Hugueley then filed a petition for writ of habeas corpus in the United States District Court for the Western District of Tennessee; the court denied habeas relief. *Hugueley v Mays*, No. 1:09-cv-01181, 2017 WL 3325008 (W.D. Tenn. Aug. 3, 2017). The Sixth Circuit Court of Appeals granted Hugueley a certificate of appealability but affirmed the denial of habeas relief. *Hugueley v Mays*, 964 F.3d 489 (6th Cir. 2020; *reh'g en banc denied* Aug. 20, 2020). The United States Supreme Court denied review on March 29, 2021. *Hugueley v Mays*, 141 S. Ct. 1744 (2021). Hugueley sought leave to file an untimely petition for rehearing, which the Court denied on June 28, 2021. *Hugueley v. Mays*, 2021 WL 2638013 (2021).

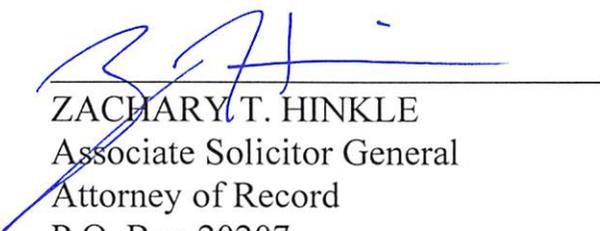
4. Hugueley has thus completed the standard three-tier appeals process, the happening of which requires the State to file this motion asking the Court to set an execution date. *See* Rule 12.4(A). There are no current judicial or executive orders staying Hugueley's execution or granting a reprieve.

This Court should set an execution date in accordance with the judgment of the Criminal Court of Hardeman County, Tennessee.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion was forwarded by United States mail, first-class postage prepaid, on the 13th day of July 2021, to the following:

Amy Harwell
Federal Public Defender TNM
810 Broadway, Suite 200
Nashville, TN 37203

I have e-mailed a copy of the motion to Ms. Harwell at: Amy_Harwell@fd.org

The undersigned attorney of record prefers to be notified of any orders or opinions of the Court by e-mail at Zachary.Hinkle@ag.tn.gov.



ZACHARY T. HINKLE
Associate Solicitor General