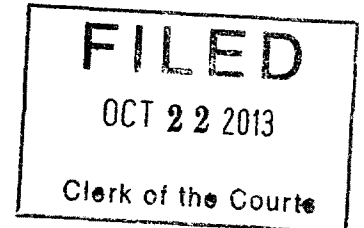


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE v. BILLY RAY IRICK

Criminal Court for Knox County
No. 24527

No. M1987-00131-SC-DPE-DD



ORDER

On October 3, 2013, the State filed a Motion to Reset Execution Date for Billy Ray Irick. The motion stated that Mr. Irick had completed the standard three-tier appeals process. The State pointed out that this Court previously set an execution date for December 7, 2010. Subsequent to setting that date, however, the Court permitted Mr. Irick to intervene in a declaratory judgment action filed by another death-sentenced inmate challenging the constitutionality of Tennessee's three-drug lethal injection protocol, and stayed Mr. Irick's execution pending the resolution of that case in the trial and appellate courts and "until the State files a motion to reset the execution date pursuant to Tennessee Supreme Court Rule 12.4." Ultimately, the case was resolved against Mr. Irick and appealed to the United States Supreme Court, which denied a writ of certiorari on April 15, 2013. West v. Schofield, 380 S.W.3d 105 (Tenn. Ct. App. 2012), perm. app. denied (Tenn. Aug. 17, 2012), cert. denied Irick v. Schofield, 133 S.Ct. 1808 (Apr. 15, 2013). The State asserts that the appeal of Mr. Irick's challenge to the lethal injection protocol having been concluded, the terms of the original stay no longer exist and thus there is no longer pending a stay of execution. It asserts the case is ripe for a new execution date to be reset under Tennessee Supreme Court Rule 12.4(E).

On October 11, 2013, Mr. Irick filed an Initial Response to State's Motion to Reset Execution Date or in the Alternative a Motion for Additional Time to File Supplemental Response as to Defendant's Present Competency, in which he claimed that this Court should not set an execution date because he still has Rule 60(b) Motion to Reopen pending in the U.S. District Court for the Eastern District of Tennessee at Chattanooga. Alternatively, Mr. Irick requested that any decision to set an execution date be deferred for a period of at least sixty (60) days to allow his attorneys sufficient time to evaluate his present competency to

be executed. Mr. Irick did not actually allege any facts that call into question his present competency to be executed.

Having considered the Motion to Set Execution Date and the Response, this Court finds that Mr. Irick has presented no legal basis for denying the State's Motion to Set Execution Date. Therefore, the State's Motion is GRANTED. Mr. Irick's Alternative Motion for Additional Time to File Supplemental Response as to Defendant's Present Competency and request for oral argument on that Motion 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 15th day of January, 2014, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Mr. Irick 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