

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**STEPHEN MICHAEL WEST, ET AL. V. DERRICK D. SCHOFIELD, ET  
AL.**

**Chancery Court for Davidson County  
No. 131627I**

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**No. M2014-02478-SC-R10-CV**

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**ORDER**

This case is before the Court on the Tenn. R. App. P. 10 application filed by the defendants, Derrick D. Schofield, et al., and the responses filed by the plaintiffs, Stephen Michael West, et al. Upon due consideration of the application and responses, the Court finds that the application is well-taken and should be GRANTED only as to the first issue raised by the defendants in the application:

Is the plaintiffs' challenge to the constitutionality of electrocution as a method of execution in Tennessee non-justiciable, unripe, and subject to immediate summary dismissal, when none of the plaintiffs is presently subject to execution by electrocution, and the use of that method of execution in Tennessee is contingent on hypothetical, future, and speculative events?

It is further ORDERED that the parties designate for filing in the trial court clerk's office by February 20, 2015, only those portions of the record necessary for resolution of the first issue presented in the application. The trial court clerk is hereby ordered to file only those portions of the record designated by the parties with the Appellate Court Clerk's Office in Nashville on or before March 2, 2015. No additional briefing is required. If the parties wish to file supplemental briefs, the defendants' brief is due to be filed by March 13, 2015, and the plaintiffs' briefs are due to be filed by April 10, 2015. Oral argument is scheduled in this matter for May 6, 2015, in Knoxville.

Justice Gary R. Wade dissents from this order because, in his view, the trial court has not "so far departed from the accepted and usual course of judicial proceedings as to require immediate review," and review at this time is not "necessary for complete determination of

the action on appeal.” Tenn. R. App. P. 10(a); see also Gilbert v. Wessels, No. E2013-00255-SC-R11-CV, 2014 WL 7184306, at \*3 (Tenn. Dec. 18, 2014) (“Rule 10 appeals are reserved only for extraordinary departures from the accepted and usual course of judicial proceedings.”).

PER CURIAM