

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE V. PERVIS T. PAYNE

No. M1988-00096-SC-DPE-DD - Filed: September 19, 2006

ORDER

On September 5, 2006, the State filed a “Motion to Set Execution Date” for Pervis T. Payne. The motion stated that Payne had completed the standard three-tier appeals process and that an execution date should therefore be set under Tennessee Supreme Court Rule 12.4(A).

On September 15, 2006, Pervis T. Payne filed a “Response to Motion to Set Execution Date.” The response contended that the motion should be denied because two cases that would affect the validity of Payne’s conviction and the method of his execution are currently pending in the state and federal courts. The response stated that on September 7, 2006, Payne had filed in the Criminal Court for the 30th Judicial District of Tennessee a petition seeking DNA testing of blood found on himself and the victims and of vaginal swabs from one victim, which he alleged would prove that another man had committed the murders. The response further stated that on August 21, 2006, Payne had filed an action under 42 U.S.C. § 1983 in the United State District Court for the Middle District of Tennessee in which he challenged the constitutionality of Tennessee’s lethal injection protocol. In the alternative, should the Court decide to grant the State’s motion, the response asked that the date of execution be set far enough in the future to allow for “judicious consideration” of the claims in the pending state and federal proceedings and for a “meaningful clemency process.”

Upon due consideration of the Motion to Set Execution Date and the Response, the State’s motion is GRANTED. 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 eleventh day of April, 2007, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Pervis T. Payne 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