

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE:) ROBERTSON COUNTY
EDMUND ZAGORSKI) Supreme Court No. 84-54-I
)

MOTION TO SET EXECUTION DATE

Pursuant to Rule 12.4(A), Rules of the Supreme Court of Tennessee, the State of Tennessee respectfully requests that the Court set an execution date for Edmund Zagorski. In support of this motion, the State would show the following:

1. In 1984, a Robertson County, Tennessee, jury convicted Zagorski of two counts of felony murder in the deaths of John Dotson and Jimmy Porter. He was sentenced to death for both murders. This Court affirmed his convictions and sentence on direct appeal, and the United States Supreme Court denied a petition for writ of certiorari. *State v. Zagorski*, 701 S.W.2d 808 (Tenn. 1985), *cert. denied*, 478 U.S. 1010 (1986).

2. Zagorski filed a petition for post-conviction relief in 1987 and an amended petition in 1989. Following an evidentiary hearing, the trial court denied relief. The Tennessee Court of Criminal Appeals affirmed the trial court's judgment. *Zagorski v. State*, No. 01C01-9609-CC-00397, 1997 WL 311926 (Tenn. Crim. App.

June 6, 1997). This Court granted Zagorski's application for permission to appeal under Tenn. R. App. P. 11 and, on December 7, 1998, affirmed the judgment of the Court of Criminal Appeals. *Zagorski v. State*, 983 S.W.2d 654 (Tenn. 1998), *cert. denied*, 528 U.S. 829 (1999).

3. Zagorski filed a *pro se* Petition for Writ of Habeas Corpus in the United States District Court for the Middle District of Tennessee on December 23, 1999, and an amended petition on August 4, 2000. *Zagorski v. Bell*, No. No. 3:99-cv-01193 (M.D. Tenn.) (Trauger, J.). The district court granted judgment in favor of the respondent, Warden Ricky Bell, on March 31, 2006. The United States Court of Appeals for the Sixth Circuit affirmed the district court's judgment denying habeas relief on April 15, 2009. *Zagorski v. Bell*, 326 Fed. Appx. 336, 2009 WL 996307 (6th Cir. 2009) (reh. denied). The United States Supreme Court denied a petition for a writ of certiorari on April 19, 2010, *Zagorski v. Bell*, 130 S.Ct. 2094 (2010), and denied a petition for rehearing on June 21, 2010. *Zagorski v. Bell*, 78 USLW 3744, 2010 WL 2471124 (U.S. 2010).

4. Zagorski has completed the standard three-tier appeals process, making the setting of an execution date appropriate. *See* Rule 12.4(A).

For the reasons stated, an execution date should be set.

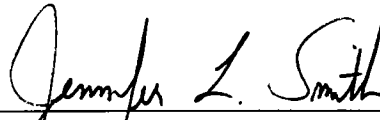
Respectfully submitted,



ROBERT E. COOPER, JR.
Attorney General & Reporter



GORDON W. SMITH
Associate Solicitor General



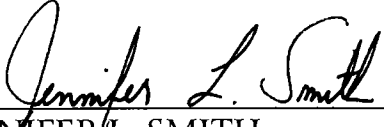
JENNIFER L. SMITH
Associate Deputy Attorney General
Attorney of Record
425 Fifth Avenue North
P.O. Box 20207
Nashville, Tennessee 37202-0207
Jennifer.Smith@ag.tn.gov
Phone: (615) 741-3487
Fax: (615) 532-7791

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion has been forwarded via Facsimile and First-Class U.S. mail, postage prepaid on the 6th day of July, 2010 to:

Paul Bottei
Office of the Federal Public Defender
810 Broadway, Suite 200
Nashville, TN 37203

The undersigned attorney of record prefers to be notified of any orders or opinions of the Court by Facsimile at (615) 532-7791.



JENNIFER/L. SMITH
Associate Deputy Attorney General