

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

IN RE: EDWARD JEROME) **SHELBY COUNTY**
HARBISON) **S.Ct. No.**
) **M1986-00093-SC-OT-DD**
) **Filed: May 4, 2007**

MOTION TO RE-SET EXECUTION DATE

The State of Tennessee requests the setting of a new execution date for Edward Jerome Harbison for the 1983 first-degree murder of Edith Russell. *State v. Harbison*, 704 S.W.2d 314 (Tenn.), *cert. denied*, 476 U.S. 1153 (1986). This Court previously scheduled Harbison's execution for February 22, 2007. *State v. Harbison*, No. M1986-00093-SC-OT-DD (Tenn. Aug. 15, 2006) (copy attached). That date passed, however, when, on February 1, 2007, the governor granted a reprieve until May 2, 2007, after directing the Commissioner of Correction to conduct a comprehensive review of the manner in which death sentences are administered in Tennessee and to provide new protocols and related written procedures for administering death sentences in Tennessee. On April 30, 2007, the Commissioner completed his review and forwarded the revised execution protocols to the governor.

The executive reprieve having now expired by its terms, and there being no legal impediment to Harbison's lawful execution, the State of Tennessee requests that the Court set a new execution date. *See* Tenn. Sup. Ct. R. 12.4(E) ("Where the date set by the Court for execution has passed by reason of a stay or reprieve . . . [a]ny new date of execution shall be no less than seven (7) days from the date of the order setting the new execution date.").

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing has been sent via fax and by first-class mail, postage prepaid, to:

Dana C. Hansen Chavis
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on this _____ day of May, 2007.

GORDON W. SMITH
Associate Solicitor General