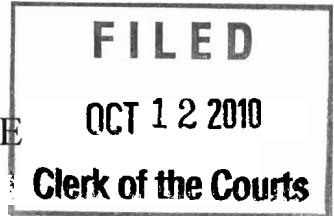


IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



STATE OF TENNESSEE v. EDWARD JEROME HARBISON

**Criminal Court for Hamilton County
No. 15361-62**

No. M1986-00093-SC-OT-DD - Filed: October 12, 2010

ORDER

On September 14, 2010, the Court granted the State's Motion to Re-Set Execution Date for Edward Jerome Harbison and scheduled Mr. Harbison's execution for February 15, 2011. On September 22, 2010, Mr. Harbison filed a Petition for Rehearing on Order Setting Execution Date. Mr. Harbison asserts that rehearing is required because the State does not have enough sodium thiopental, one of the drugs used for lethal injection, to carry out his execution. In support of his allegations, Mr. Harbison has submitted several attachments to his petition, including transcripts of media reports regarding the shortage of sodium thiopental, correspondence with the State to the effect that the State possesses sufficient amounts of sodium thiopental to carry out executions by lethal injection, and letters written by Kentucky governmental officials indicating that the manufacturer of sodium thiopental will be unable to supply the drug to that state until the first quarter of 2011. On September 27, 2010, Mr. Harbison filed as supplemental authority a letter from the drug's manufacturer stating that it did not "support the use of any of [its] products in capital punishment procedures."

In his petition Mr. Harbison also claims that the State abused this Court's process and inflicted psychological torture upon him by not revealing its inability to carry out the execution when it sought to have his execution date re-set. Finally, Mr. Harbison says that executing him under the State's current protocol will violate the Federal Controlled Substances Act, 21 U.S.C. §§ 801, et seq., and the Federal Food, Drug & Cosmetic Act, 21 U.S.C. §§301, et seq.

Upon due consideration of the Petition for Rehearing and the attachments thereto, it is hereby ORDERED that the petition is DENIED.

PER CURIAM