

State v. Davis, 141 S.W.3d 600, 615 n.12 (Tenn. 2004)). Thus, this Court should not accept Petitioner's *pro se* filing and the Motion to Strike may be granted on this basis alone.

Mr. Hodges' *pro se* filing is focused on his belief that "State v. Burkhardt" does not apply to his case and his contention that he has no claims pending and no counsel. *See*, presumably, [*State v. Burkhardt*, 566 S.W.2d 871, 872 \(Tenn. 1978\)](#), (addressing trial courts' on-going power to correct illegal sentences prior to expiration of the sentence) *superseded by rule*, [*State v. Brown*, 479 S.W.3d 200 \(Tenn. 2015\)](#). While Mr. Hodges' reference to *Burkhardt* is inscrutable, Mr. Hodges does, in fact, have filings pending in this Court that must be ruled upon before a date may be set.

Prior to any the setting of any execution date, the issue of Mr. Hodges' competency to be executed must be addressed. Specifically, in the December 30, 2019 Response in Opposition to the State's Motion to set an Execution Date, counsel for Mr. Hodges asserted a claim that he is incompetent to be executed pursuant to [*Ford v. Wainwright*, 477 U.S. 399, 406 \(1986\)](#) and its progeny, and requested an evidentiary hearing thereon. Resp. in Opp. at 4-17. Indeed, as with prior filings, Petitioner's recent *pro se* submission to this Court is emblematic of the psychotic, delusional, and irrational manifestations of the serious mental illness that constitutionally prohibits the State of Tennessee from executing him.

Mr. Hodges is undisputedly seriously mentally ill. As early as childhood, Mr. Hodges was hospitalized and treated with powerful antipsychotic medications. He was eventually diagnosed with Bipolar Disorder and post-traumatic stress disorder.

These conditions cause him to suffer “significant symptoms of agitated depression, including suicidal ideations, psychomotor agitation, social deterioration, and impulsivity,” as well as disassociation, psychotic symptoms, “delusional precepts [and] powerful forces that overwhelm him.” Ex. 01 to Resp. in Opp., at 4, 8; Resp. in Opp at 10-11. Additionally, Mr. Hodges brain scans show cortical atrophy. Despite being treated with powerful antipsychotic medications, he has continued to exhibit signs of psychosis in prison, including visual and auditory hallucinations, altered thought processes and paranoid delusions regarding prison and medical staff, scatolia, suicide attempts and other forms of self-harm. *See* Resp. in Opp. at 11-16.

In November 2009, Dr. George Woods concluded, to a reasonable degree of medical certainty that Mr. Hodges was “suffering from an exacerbation of his bipolar disorder, which has disabled him in the past,” including “impulsivity and poor judgment,” and the development of “a grandiose delusion[.]” Ex. 01 to Resp. in Opp., at 26-27. Dr. Woods concluded that Mr. Hodges’ “profound mental illness” rendered him incompetent for execution.

And it is the same today. Mr. Hodges’ recent handwritten letter to this Court requesting that the Court allow his execution to be carried out immediately stems from the same behavior, including impulsivity, and disordered thinking, that has plagued him since he was a teenager because of his Bipolar Disorder and traumatic stress disorder. This is yet another example of his extremely impaired decision-making due to the severe mental illness that renders Mr. Hodges incompetent for execution under *Ford, Panetti v. Quarterman*, 551 U.S. 930 (2007), and *Madison v. Alabama*, 139 S.Ct. 718 (2019).

Accordingly, undersigned counsel for Mr. Hodges requests that this Court strike this *pro se* filing and remand this case for a full and fair hearing on Mr. Hodges' *Ford* competency claim.



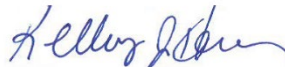
KELLEY J. HENRY, BPR #21113
Supervisory Asst. Federal Public Defender

FEDERAL PUBLIC DEFENDER
FOR THE MIDDLE DISTRICT OF TENNESSEE
810 Broadway, Suite 200
Nashville, TN 37203
Phone: (615) 736-5047
Fax: (615) 736-5265
Email: Kelley_Henry@fd.org

CERTIFICATE OF SERVICE

I, Kelley J. Henry, certify that a true and correct copy of the foregoing Motion to Strike *Pro Se* Filing was served via email and United States Mail to opposing counsel, Zach Thomas Hinkle, Associate Solicitor General, P.O. Box 20207, Nashville, Tennessee, 37202.

BY: _____



Kelley J. Henry