

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

ROBERT GLEN COE,

Petitioner-Appellant,

v.

RICKY BELL, Warden,

Respondent-Appellee

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Case No. 00-5419

**CONSOLIDATED RESPONSE TO MOTIONS FOR
BRIEFING SCHEDULE AND ORAL ARGUMENT**

Petitioner-appellant Coe has this day filed motions with the Court requesting that a briefing schedule be established and oral argument be granted in his appeal concerning the meaning and application of *Ford v. Wainwright*, 477 U.S. 399 (1986). He cites 6th Cir. R. 22(c)(7)-(8); Fed. R. App. P. 28, 6th Cir. R. 28, 6th Cir. I.O.P. 28(c); Fed. R. App. P. 34, 6th Cir. R. 34; and, *In re* Certificates of Appealability, 106 F.3d 1306, 1308 (6th Cir. 1997), as authority for his requests. Respondent-Appellee Warden Bell submits that Coe's requests should be denied.

Contrary to Coe's assertion, this appeal involves no significant issues concerning the meaning and application of *Ford v. Wainwright* in this Circuit. The claims asserted in his habeas petition and this appeal are frivolous, amounting to nothing more than a blatant attempt at the eleventh hour to manipulate the judicial process for the sole

1

purpose of even further delaying the State's legitimate interests in achieving finality in an already protracted case.

The district court record is more than sufficient to allow this Court to decide Coe's appeal. All of the issues raised in this appeal were adequately briefed and presented to both the district court and the state courts of Tennessee. To grant further briefing so that the parties may repeat their already articulated positions serves no meaningful purpose. As Judge Trauger succinctly stated in her March 29, 2000 Memorandum, "This is not a close case. . . ." [Docket 36 at p. 7] [emphasis supplied]

A state's interests in finality are compelling when a federal court of appeals has already issued a mandate denying habeas relief, as has already occurred in Coe's case. Such finality acquires "an added moral dimension" because only with the assurance of such finality can the State execute its moral judgment upon the defendant. *Calderson v. Thompson*, 523 U.S. 528, 536 (1998). In recognition of the added moral dimension finality acquires, this Court noted that its grant of a stay to Coe imposed on it "the concomitant duty to take all steps necessary to ensure prompt resolution of the matter, consistent with its duty to give full and fair consideration to all of the issues in the case." *Coe v. Bell*, No. 00-5419, Order, April 4, 2000 at 2-3 (citing *In re Blodgett*, 502 U.S. 236, 240 (1992)). Both Fed. R. App. P. 2 and 6th Cir. R. 2 permit this Court to decide this case based upon the district court record currently before the Court without additional briefing and oral argument, while at the same time allowing it to fulfill the


2

duty imposed upon it by the Supreme Court in *In re Blodgett*.

Based upon the foregoing, Cor's Motions for a Briefing Schedule and Oral Argument should be denied.

Respectfully submitted,


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