

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**ROBERT GLEN COE, Movant v. STATE OF TENNESSEE, Respondent**

For Publication

\_\_\_\_\_  
No. M1999-01313-SC-DPE-PD  
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**ORDER**

**FILED**

**April 3, 2000**

**Cecil Crowson, Jr.  
Appellate Court Clerk**

Robert Glen Coe has filed a “Motion to Rescind Order Setting Execution Date; or in the Alternative for Stay of Execution.” He asks this Court to rescind its order of March 30, 2000, setting his execution for April 5, 2000. In the alternative, he requests that this Court stay his execution so that he can appeal the recent denial of his petition for writ of habeas corpus by the United States District Court.

Coe contends that this Court’s order setting his execution violates the procedures set forth in Van Tran v. State, 6 S.W.3d 257 (Tenn. 1999), which, he argues, indicated that this Court would set an execution date only upon motion by the Attorney General. Van Tran addressed only the procedure for initially setting the date for a prisoner’s execution upon exhaustion of the prisoner’s standard three-tier appeals process. See Coe v. State, \_\_\_ S.W.3d \_\_\_ (Tenn., Dec. 15, 1999). Once an execution date is initially set, this Court possesses continuing jurisdiction to set a new date should the original date of execution expire as the result of a stay issued by a federal court or other appropriate authority. A second motion by the Attorney General is unnecessary.

Coe further contends that the date set by this Court interferes with the federal courts’ ability to consider his claims “in an orderly and judicious manner.” A request for stay of execution in order to litigate claims in a federal court is more appropriately addressed to that court.

Upon due consideration, a majority of the Court concludes that the motion should be and is hereby DENIED.

FOR THE COURT:

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E. RILEY ANDERSON,  
CHIEF JUSTICE

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FRANK F. DROWOTA, III,  
JUSTICE

Dissenting-See Separate Order  
ADOLPHO A. BIRCH, JR.,  
JUSTICE

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JANICE M. HOLDER,  
JUSTICE

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WILLIAM M. BARKER,  
JUSTICE