

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

**FILED**

**March 10, 2000**

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

ROBERT GLEN COE )  
)  
Petitioner-Appellant, ) SHELBY COUNTY  
) Capital Case  
v. ) S.Ct.No. M1999-01313-SC-DPE-PD  
)  
STATE OF TENNESSEE )  
)  
Respondent/Appellee. )

MOTION FOR STAY OF EXECUTION PENDING  
PETITION FOR WRIT OF CERTIORARI

COMES NOW, your Appellant, Robert Glen Coe, and moves this Court pursuant to Rules 42 (c), and 42 (d) of the Tennessee Rules of Appellate Procedure to recall the mandate issued in this cause and enter a Stay of Execution Pending Robert Coe's filing and litigation of a Petition for Writ of Certiorari to the United States Supreme Court seeking review of this Honorable Court's Judgment entered on March 6, 2000 as to Robert Coe's competency to be executed. In support of this Motion, Robert Coe would show unto the Court as follows:

1. On March 6, 2000, this Honorable Court entered it's decision in Coe v. State of Tennessee, S.Ct No M 1999-01313-SC-DDE-PD. This Honorable Court decided in Coe a question of first impression under state law, namely whether the procedures utilized by the trial court in Mr. Coe's case comported with Ford v. Wainwright, 477 U.S. 399 (1986); the 4th, 5th, 6th, 8th, and 14th Amendments;

and the U.S. Constitution's Guarantee of due process to be afforded to a person sentenced to death, who is mentally incompetent to be executed.

2. In this Honorable Court's Opinion, it affirmed the trial court's holding that Robert Coe was competent to be executed and interpreted the United States Constitution as requiring very nominal procedural safeguards.
3. Respectfully, Robert Glen Coe submits that this Court's holdings in Coe vs. State of Tennessee do not comply with the due process requirements of Ford v. Wainwright, and the 4th, 5th, 6th, 8th and 14th Amendments to the United States Constitution. Consequently, there are several meritorious issues for certiorari to be presented to the United States Supreme Court. Robert Coe plans to timely file a Petition for Writ of Certiorari in the United States Supreme Court seeking review of this Court's Application of Ford v. Wainwright, the 4th, 5th, 6th, 8th, and 14th Amendments, to Robert Coe's competency hearing.
4. Rule 13 (1) of the United States Supreme Court Rules provides Robert Coe with 90 days after the entry of this Honorable Court's Judgment within which to file a Petition for Writ of Certiorari.
5. Rule 42(c) of the Tennessee Rules of Appellate Procedure provides in relevant part as follows:

In cases in which review by the Supreme Court of United States may be sought, the Appellate Court whose decision is sought to be reviewed or a judge thereof, in any event the Supreme Court of Tennessee or a judge thereof, may stay the mandate.

T.P.A.P. 42(c)

6. Furthermore, Rule 42(d) of the Tennessee Rules of Appellate Procedure provides

as follows:

“The power to stay a mandate includes the power to recall a mandate.” TR.A.P. 42(d).

7. Since this Honorable Court in its March 6, 2000 Opinion, in Coe v. State of Tennessee ordered the mandate to be immediately issued, in derogation of Rule 42(a) of the Tennessee Rules of Appellate Procedure, Robert Coe prays that this Court recall its mandate and enter a Stay of Execution Pending Robert Coe’s litigation of a Petition for Writ of Certiorari in the United States Supreme Court.

Respectfully submitted,

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Attorney for Appellant  
Robert Glen Coe

Certificate of Service

I hereby certify that a copy of the foregoing Opening Brief was mailed, first-class postage prepaid, to the Office of the Attorney General, Criminal Division, 425 Fifth Avenue North, Cordell Hull Building, Nashville, TN 37243-0493, this the \_\_\_\_\_ day of \_\_\_\_\_, 2000.

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Attorney