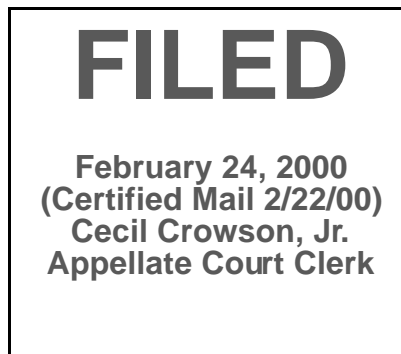


IN THE SUPREME COURT OF TENNESSEE

STATE OF TENNESSEE,

VS.



No. M1999-01313-SC-DPE-PD

ROBERT GLEN COE

**MOTION TO REMAND CASE TO TRIAL COURT TO DEVELOP RECORD
PERTAINING TO THREATS MADE AGAINST TRIAL COURT JUDGE**

COMES NOW, your Appellant, Robert Coe, through his undersigned counsel of record, moves this Court pursuant to Ford v. Wainwright, 477, U.S. 399 (1986), the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to United States Constitution to remand this case to the trial court, to develop a record pertaining to threats received by the trial court. In support of this motion, Mr. Coe would show unto the Court as follows:

2. The trial court conducted a hearing as to Mr. Coe's competency to be executed from January 24 through January 28, 2000.
2. On February 2, 2000, the trial court entered its findings of fact and conclusions of law, determining that Mr. Coe was competent to be executed.
2. At no time during the proceedings, did the trial court inform counsel for the defense that there were threats made against Judge Colton during the proceedings. (See Entire Record).
2. On February 9, 2000, an article appeared in the Jackson Sun entitled, "Judge in Coe Hearing Says He Was Threatened." (A copy of which is

attached hereto as Exhibit 1). In the article there are quotes from Judge Colton including, "We got about ten calls." "They were going to harm him, they were going to harm me." See Exhibit 1.

2. Judge Colton never informed counsel that during the proceedings, the Court was being threatened. The failure of the Court to inform counsel that Judge Colton was being threatened, when the Court was the trier of fact, raises questions as to the particular nature of these threats; and whether such threats could have affected Judge Colton's impartiality.
2. Counsel is entitled to a remand for a hearing, wherein Judge Colton should disclose the nature, substance, and details of the threats in order that counsel might investigate and preserve issues as to Judge Colton's impartiality in ruling the incompetency hearing.

WHEREFORE, premises considered, your Appellant prays that the proceedings before the Supreme Court be stayed, and the case be remanded to the trial court for a hearing in order to develop a record as to the threats received by the trial court, in order to determine whether any additional challenges as to Judge Colton's impartiality should be raised.

Respectfully submitted,

GLANKLER BROWN, PLLC
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Memphis, Tennessee 38103
901/525-1322

By: _____
Robert L. Hutton #15496

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via U.S. regular mail, postage prepaid, this the ____ day of _____, 2000, to the following:

Glen Pruden
Office of the Attorney General
Criminal Division
425 Fifth Avenue North
Cordell Hull Building
Nashville, TN 37243-0493
