

IN THE SUPREME COURT OF TENNESSEE

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**FILED**

February 24, 2000

(Certified Mail 2/22/00)

Cecil Crowson, Jr.  
Appellate Court Clerk

STATE OF TENNESSEE,

VS.

No. M1999-01313-SC-DPE-PD

ROBERT GLEN COE

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**MOTION TO STAY PROCEEDINGS PENDING COMPLETION  
OF THE RECORD, MOTION FOR THE SUPREME COURT TO DIRECT TRIAL  
COURT TO COMPLETE THE RECORD**

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COMES NOW, your appellant, Robert Glen Coe, pursuant to Ford v. Wainwright, the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the U.S. Constitution, and to Rule 24 (e) of the Tennessee Rules of Appellate Procedure, and moves this court to stay proceedings pending completion of the record, and further moves this Court to direct the trial court to complete the record in this cause. In support of this motion, your appellant would show unto the Court as follows:

1. Prior to the trial, the Court entered an Order allowing the electronic media to be present in the courtroom. (Rec. Vol I, 145-149).
2. During the hearing, the Appellant Robert Coe, exhibited manifestations of his mental illness by making verbal comments and other noise. Furthermore,

the trial court alluded to the demeanor and comments of Robert Coe in it's "Findings of fact and conclusions of law in petition to declare Robert Coe mentally incompetent to be executed" (Rec. I, 176-203).

3. Pursuant to Tennessee Supreme Court Rule 26, various media television personnel took turns videotaping proceedings in the trial court. Subsequently, both the State and Robert Coe orally moved the Court to order the television media to produce copies of video tapes taken at the competency hearing to be attached as an exhibit to the proceedings and included in the record, in order that there could be preserved evidence of the demeanor of Robert Coe during the competency hearing. (Rec. X, 502-503). Judge Colton granted the motion and entered his "Order for media to produce video tapes of competency hearing proceedings". (Rec. I, 170-174).
4. Furthermore, Judge Colton ordered that the video tapes be designated as Exhibit 15 to the competency hearing proceedings. (See Rec. Vol I, 174).
5. Judge Colton's order was distributed to all the media. Though proceedings lasted five days, only Channel 3 in Memphis produced video tapes pursuant to the Court's order, preserving only a small portion of the proceedings. Consequently, the record is not complete, because Exhibit 15 is to contain all of video tape of the entire proceedings.
6. Rule 24 (e) of the Tennessee rules of Appellate Procedure provides in relevant part as follows:

If any matter properly includable is omitted from the record, is improperly included, or is misstated therein, the record may be corrected or modified

to conform to the truth. Any differences regarding whether the record accurately discloses what occurred in the trial court shall be submitted to and settled by the trial court regardless of whether the record has been transmitted to the appellate court. Absent extraordinary circumstances, the determination of the trial court is conclusive. If necessary, the appellate or trial court may direct that a supplemental record be certified and transmitted.

7. The trial court has made a determination that the video tapes generated by the media should be included in the record, and entered an order reflecting same. Thus, since the record is not at this time complete, proceedings may not continue until the complete record is before the Court.

WHEREFORE, premises considered, your Appellant prays that the proceedings before the Supreme Court be stayed, and the trial court be instructed to enforce its Order requiring the media to produce all video tapes of the proceedings in order that there may be a complete record for this Court.

Respectfully submitted,

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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  
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