

**IN THE CRIMINAL COURT OF TENNESSEE
FOR THE THIRTIETH JUDICIAL DISTRICT
AT MEMPHIS, TENNESSEE
DIVISION III**

STATE OF TENNESSEE)

No.: B-73812

vs.)

Death Penalty

ROBERT GLEN COE)

**ORDER TO PRODUCE MEDICAL/ PSYCHOLOGICAL RECORDS PURSUANT TO
TENNESSEE CODE ANNOTATED § 33-3-104(10)(iv)**

This matter comes before the Court on a MOTION TO QUASH SUBPOENAS, filed by the Movant, Robert Glen Coe. Movant requests that this Court quash subpoenas issued by the State of Tennessee and served upon Dr. John Meltzer, Dr. Pamela Auble and Dr. James Walker. The subpoenas at issue requested the records of the evaluations/examinations performed on the Movant by the mental health professionals listed above. This Court has examined Movant's motion and the response of the State and finds that Movant's motion does have merit, and should be **GRANTED**. However, this does not end the inquiry of the Court as to whether the medical records in question should be produced to this Court.

Tenn. Code Ann. § 33-3-104(10)(iv) provides as follows:

(10) All applications, certificates, records, reports, and all legal documents, petitions and records made or information received pursuant to this title and directly or indirectly identifying a patient or resident or former patient or resident under this title or prior law of this state shall be kept confidential and shall not be disclosed by any person except insofar as:

(iv) A court may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to public interest or to the detriment of either party to the proceedings.

In accordance with the procedures set forth in Van Tran v. State, W1998-00175-SC-

R11-PD, Nov. 23, 1999, this Court ordered that a hearing to determine the competency of

Movant to be executed be held January 24, 2000. It is the sole responsibility of this Court to determine whether Movant is competent to be executed. To assist the Court with this determination, mental health experts for both the State and the Movant were appointed by this

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Court for the purpose of performing mental evaluations of Robert Glen Coe. The results of all such examinations were to be submitted to this Court prior to the scheduled competency hearing.

It has come to this Court's attention that Movant has been evaluated by mental health professionals other than those appointed to the Movant by this Court. These mental health professionals include Dr. Herbert Meltzer, M.D., of the Vanderbilt Psychiatric Hospital and Dr. James Walker, Ph.D., of the Vanderbilt Clinic.

In Van Tran, the Court stated that the prisoner and the State should freely disclose to each other all information relating to the prisoner's competency for the purpose of a competency hearing. Id., at 20. Certainly, mental evaluations of the Movant relate to his competency, and pursuant to Van Tran, should be freely disclosed to the State. Additionally, as it is the sole responsibility of this Court to determine Movant's mental competency to be executed, this Court finds that any information relevant to Movant's mental competency should be turned over to this Court so that this Court will have all relevant information available to assist in its determination of Movant's competency to be executed.

It appears to this Court that records of mental evaluations performed on Movant by the above named mental health experts are relevant to the determination of Movant's mental competency to be executed, and should be obtained for use by all of the Court appointed experts.

Therefore, it is **ORDERED, ADJUDGED AND DECREED**: pursuant to Tennessee Code Annotated § 33-3-104(10)(iv) and Van Tran v. State, the entire files created by Dr. Herbert Meltzer, M.D. and James Walker, Ph.D. during their assessments of Robert Glen Coe are relevant to the determination of Movant's mental competency to

be executed and should be sent to the Clerk of this Court, under seal, for use by the mental health experts appointed to evaluate the Movant by this Court and for further in camera investigation and rulings of this Court.

Entered this 21st day of January, 2000.

FILED
WILLIAM B. KEY, CLERK
BY JK D.C.

John Colton
John Colton, Judge
Division III