

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

FILED
SEP 20 2019
Clerk of the Appellate Courts
Rec'd By *Jim*

STATE OF TENNESSEE,)

Movant,)

v.)

Case No. *M1988-00096-SC-DPE-DD*

Shelby County

PERVIS T. PAYNE,)

87-04408

87-04409

Defendant.)

MOTION TO SET EXECUTION DATE

As Tenn. Sup. Ct. R. 12.4(A) requires the State to do when a death-row prisoner has completed the standard three-tier appeals process, the State of Tennessee moves this Court to set an execution date for Pervis Tyrone Payne. In support of this motion, the State relies on the following:

1. Payne was convicted by a Shelby County jury for the 1987 first-degree murders of Charisse Christopher and her two-and-one-half-year-old daughter Lacie, and for the assault with intent to commit murder of her three-and-one-half-year-old son Nicholas. Payne was sentenced to death for each of the murders and to thirty years in prison

for the assault. This Court affirmed the judgments. *State v. Payne*, 791 S.W.2d 10 (Tenn. 1990). The United States Supreme Court granted certiorari, in part, and affirmed the judgment of this Court. *Payne v. Tennessee*, 501 U.S. 808 (1991).

2. Payne filed a petition for post-conviction relief in the trial court in January 1992. Following a hearing, the trial court denied relief. The Court of Criminal Appeals affirmed, and this Court denied a discretionary appeal. *Payne v. State*, No. 02C01-9703-CR-00131, 1998 WL 12670 (Tenn. Crim. App. Oct. 20, 2000), *perm. app. denied* (Tenn. June 8, 1998).

3. Payne filed a petition for writ of habeas corpus in the United States District Court for the Western District of Tennessee in November 1998. On March 25, 2002, the district court granted the Warden's motion for summary judgment and dismissed the habeas petition. The United States Court of Appeals for the Sixth Circuit affirmed the district court's judgment denying habeas relief. *Payne v. Bell*, 418 F.3d 644 (6th Cir. 2005). The United States Supreme Court denied a petition for writ of certiorari on June 26, 2006, and denied a petition for rehearing on September 1, 2006. *Payne v. Bell*, 548 U.S. 908 (2006); *Payne v. Bell*, 548 U.S. 939 (2006).

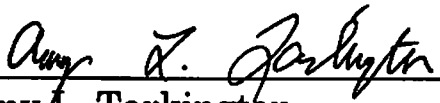
4. Payne has completed the standard three-tier appeals process, making the setting of an execution date appropriate. See Rule 12.4(A). There are no current judicial or executive orders staying defendant's execution or granting a reprieve.

This Court should set an execution date in accordance with the judgments of the Criminal Court of Shelby County, Tennessee.

Respectfully submitted,

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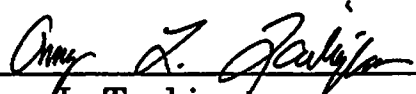
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion was forwarded by United States mail, first-class postage prepaid, on the 20th day of September , 2019, to the following:

Kelley J. Henry, Assistant Federal Public Defender
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The undersigned attorney of record prefers to be notified of any orders or opinions of the Court by e-mail at Amy.Tarkington@ag.tn.gov.



Amy L. Tarkington
Associate Solicitor General