

FILED
DEC 30 2019
Clerk of the Appellate Courts
Rec'd By _____

IN THE TENNESSEE SUPREME COURT
AT NASHVILLE

STATE OF TENNESSEE)
)
v.) No. M2016-01869-SC-R11-PD
)
OSCAR SMITH) Capital Case

SYLLABUS

RESPONSE IN OPPOSITION TO MOTION TO SET EXECUTION
DATE AND REQUEST FOR CERTIFICATE OF COMMUTATION

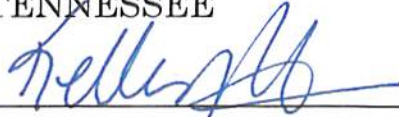
Oscar Smith respectfully requests that this Court deny the Attorney General and Reporter's motion to set an execution date. His trial was plagued by multiple constitutional violations, including (1) a jury comprised of a biased juror, a jury that considered inaccurate, extrajudicial information, and jurors who engaged in misconduct by presenting themselves as experts during jury deliberations; (2) an unreliable conviction, as the prosecution's theory of the case did not account for the physical evidence and the police and prosecutors mishandled evidence; and (3) five errors this Court previously found to be "harmless," which, as is clear now, were not harmless. His death sentence is also the product of a criminal justice system that unconstitutionally metes out death sentences in a racist manner and contrary to evolving standards of decency. The many due process

violations shown here demand a procedural remedy such that Mr. Smith may establish his entitlement to a new trial.

In the alternative, Mr. Smith requests this court certify to the Honorable Bill Lee, Governor of the State of Tennessee, that there are extenuating circumstances attending this case and the punishment of death should be commuted.

Respectfully submitted this 30th day of December, 2019.

FEDERAL PUBLIC DEFENDER
FOR THE MIDDLE DISTRICT OF
TENNESSEE



KELLEY J. HENRY, BPR #21113
Supervisory Asst. Federal Public
Defender



AMY D. HARWELL, BPR #18691
Asst. Chief, Capital Habeas Unit

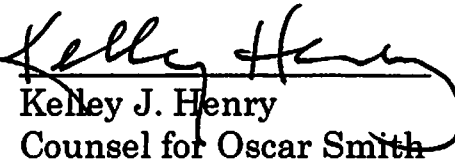


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CERTIFICATE OF SERVICE

I, Kelley J. Henry, certify that a true and correct copy of the foregoing Syllabus to the Response in Opposition to Request to Set Execution Date was served via email and United States Mail to opposing counsel, Amy Tarkington, Associate Solicitor General, P.O. Box 20207, Nashville, Tennessee, 37202.

BY: 
Kelley J. Henry
Counsel for Oscar Smith