

IN THE TENNESSEE SUPREME COURT
AT NASHVILLE

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

STATE OF TENNESSEE)
)
 v.) No.M2001-01865-SC-R11-PD
)
 DONALD RAY MIDDLEBROOKS) CAPITAL CASE

SYLLABUS
TO THE RESPONSE IN OPPOSITION TO MOTION TO SET
EXECUTION DATE; NOTICE THAT DEFENDANT IS
INCOMPETENT TO BE EXECUTED AND REQUEST FOR A
HEARING; AND REQUEST FOR CERTIFICATE OF COMMUTATION

Mr. Middlebrooks gives notice that he is incompetent to be executed and categorically excluded from the death penalty under the United States and Tennessee constitutions. He suffers from a well-documented constellation of serious, debilitating psychiatric and medical diseases, including: a seizure disorder that is poorly controlled with medication – he falls to the ground, convulses violently, and must wear a helmet to protect his head. When he does not have his helmet, correctional officers and other inmates have to hold his head until the seizure finally subsides. He has experienced as many as six seizures in one day, even though he takes anti-seizure medication. He also suffers schizophrenia. He hears voices and sees a shadow figure. He has both neurological and neuropsychological impairments that impact his daily


functioning. His neurocognitive functioning has declined over the course of the past fifteen years. He has a progressive form of dementia (Major Neurocognitive Disorder).

In addition to these co-morbid conditions, Mr. Middlebrooks also has chronic post-traumatic stress disorder. His exposure to childhood sexual torture, violence, and neglect is among the worst imaginable. As a child, Mr. Middlebrooks was sexually trafficked by his mother, raped by multiple perpetrators (including his mother), was sadistically tortured, abused, and neglected. The resulting chronic Post-Traumatic Stress Disorder currently impacts his daily living and contributes to acute psychiatric decompensation. Mr. Middlebrooks' several illnesses do not act independently of one another. Rather they interact synergistically, each amplifying the severity of the other.

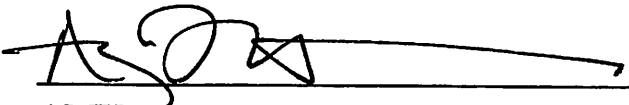
Execution of Mr. Middlebrooks violates the Eighth and Fourteenth Amendments to the United States Constitution and Article 1, Section 16 of the Tennessee Constitution, because he is mentally ill. Mr. Middlebrooks is entitled to a full and fair hearing. He submits that the procedures created under *Van Tran* do not comport with procedural due process or the Eighth and Fourteenth Amendment and should be modified. He respectfully requests that his case be remanded to the criminal court for a full and fair adjudication of his claim.

Furthermore, Tennessee is out of step with the evolving standards of decency that have led most of the country to stop executing its citizens and which render Tennessee's death penalty unconstitutional. Mr. Middlebrooks requests this court deny the State's request for an execution date, and issue a certificate of commutation.

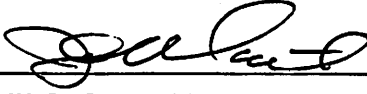
Respectfully submitted this 30th day of December, 2019.



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



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



JAMES O. MARTIN, III, BPR #18104
Asst. Federal Public Defender

FEDERAL PUBLIC DEFENDER
FOR THE MIDDLE DISTRICT OF
TENNESSEE

810 Broadway, Suite 200


Nashville, TN 37203

Phone: (615) 736-5047/ Fax: (615) 736-5265

Email: Kelley_Henry@fd.org

CERTIFICATE OF SERVICE

I, Kelley J. Henry, certify that a true and correct copy of the foregoing 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