

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

JAMES LEE JONES, aka ABU-ALI ABDUR'RAHMAN v. STATE OF TENNESSEE

No. M1988-00026-SC-DPE-PD

Filed December 11, 2001

ORDER

On December 3, 2001, the State filed a motion requesting that this Court set an execution date for James Lee Jones a/k/a Abu-Ali Abdur'Rahman because Jones has completed the standard three-tier appeals process. Jones has now filed a motion in which he asks this Court to strike the State's motion to set an execution date because it is premature and because a stay of execution issued by the United States District Court for the Middle District of Tennessee on May 28, 1996, remains in effect. In the alternative, if this Court determines that the State's motion is not premature, Jones requests a ten-day extension of time to file the response required by Tenn. Sup. Ct. R.12.4(A).

As grounds for his motion, Jones asserts that he has not completed the standard three-tier appeals process because he has filed in the United States Court of Appeals for the Sixth Circuit a "Motion to Withhold the Mandate and Grant Rehearing En Banc or Remand for Further Proceedings" and because he has also filed in the United States District Court for the Middle District of Tennessee a "Motion for Relief from Judgment Pursuant to Fed. R. Civ. P. 60(b)," which has now been transferred to the Sixth Circuit. In addition, Jones asserts that so long as these proceedings are pending the stay of execution issued by the District Court remains in effect.

Upon due consideration, it appears that the United States Supreme Court has denied both the petition for writ of certiorari and the petition to rehear filed by Jones. Therefore, the State's motion to set an execution date is not premature. See Tenn. Sup. Ct. R. 12.4(A). In addition, the federal courts may grant a stay of execution as needed to litigate the pending claims. See Coe v. State, 17 S.W.3d 241 (Tenn. 2000). Therefore, the motion to strike is DENIED.

However, the request for a ten-day extension of time to file a response to the State's motion is GRANTED. The response shall be filed on or before December 21, 2001.

PER CURIAM