

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

02/22/2022

Clerk of the
Appellate Courts

STATE OF TENNESSEE vs. DONALD RAY MIDDLEBROOKS

**Criminal Court for Davidson County
No. 87F1682**

No. M2001-01865-SC-R11-PD

ORDER

On September 20, 2019, the State of Tennessee filed a motion to set an execution date for Donald Ray Middlebrooks, indicating Mr. Middlebrooks has completed the standard three-tier appeals process and that an execution date should be set in accordance with Tennessee Supreme Court Rule 12(4)(A). On December 30, 2019, Mr. Middlebrooks filed a response opposing the State's motion and asking the Court to issue a certificate of commutation under Tennessee Code Annotated section 40-27-106. The Court's consideration of the motion and response was delayed due to the COVID-19 pandemic.

As grounds for the issuance of a certificate of commutation, Mr. Middlebrooks asserts: (1) his execution would violate the United States and Tennessee Constitutions because he is seriously mentally ill; and (2) Tennessee is out of step with the evolving standards of decency. Upon careful review of the motion, the response, and the documentation submitted with the response, the Court concludes that under the principles announced in *Workman v. State*, 22 S.W.3d 807 (Tenn. 2000), Mr. Middlebrooks has presented no extenuating circumstances warranting issuance of a certificate of commutation. It is therefore ordered that the request for a certificate of commutation is denied.

Mr. Middlebrooks has also raised the issue of his present competency to be executed and requests a competency hearing under *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999). In accordance with the procedures adopted by this Court in *Van Tran v. State* and the standard set forth in *State v. Irick*, 320 S.W.3d 284 (Tenn. 2010); *see also Madison v. Alabama*, 139 S.Ct. 718 (2019), the issue is remanded to the Criminal Court for Davidson County, where Mr. Middlebrooks was originally tried

and sentenced, for a determination of his present competency, including the initial determination of whether he has met the required threshold showing. To ensure the determination of Mr. Middlebrooks' competency to be executed occurs in close proximity to his scheduled execution date, the filing requirements established in *Van Tran* are hereby modified. Mr. Middlebrooks shall file his petition alleging incompetency to be executed in the trial court no sooner than October 3, 2022, and no later than October 5, 2022. In all other respects, the proceedings shall be conducted in accord with the procedures and timelines set forth in *Van Tran*.

Upon due consideration, the State's motion to set an execution date for Donald Ray Middlebrooks is GRANTED. Accordingly, under the provisions of Rule 12(4)(E), it is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the 8th day of December, 2022, unless otherwise ordered by this Court or other appropriate authority. No later than November 22, 2022, the Warden or his designee shall notify Mr. Middlebrooks of the method that the Tennessee Department of Correction (TDOC) will use to carry out the execution and of any decision by the Commissioner of TDOC to rely upon the Capital Punishment Enforcement Act. *See* Tenn. Code Ann. § 40-23-114. Counsel for Donald Ray Middlebrooks shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

PER CURIAM