

The Supreme Court of South Carolina

The State, Respondent,

v.

Stephen Corey Bryant, Appellant.

Appellate Case No. 2008-103130

ORDER

By order dated March 3, 2011, we granted a request for a stay of execution in this matter and assigned the Honorable R. Ferrell Cothran, Jr. to petitioner's post-conviction relief action. The order stated that, absent an extension of time by this Court, a final hearing shall be held and a final order issued in this matter within one year of the date of the order.

In November 2011, Judge Cothran informed the Court that petitioner's lead counsel, Melissa J. Armstrong, had a death penalty case scheduled for trial in Horry County in January 2012 and that it may run into February. Judge Cothran stated Ms. Armstrong had requested an extension of time, but felt she would be ready to try petitioner's case in May or June of 2012. Judge Cothran stated he could hear the case the week of June 11, 2012, without the need for reassignment or any rearranging of his court schedule. Accordingly, we granted Judge Cothran an extension of time until September 4, 2012, to hold a final hearing and issue a final order in this matter.

In a status update dated July 13, 2012, Ms. Armstrong informed the Court that petitioner's case was called on June 11, 2012, however, the hearing was continued so that his counsel could address concerns about petitioner's competency to assist them in the matter. Ms. Armstrong informed the Court that she anticipated the case would be rescheduled for a hearing on the merits of petitioner's application in the near future.

However, on August 9, 2012, Judge Cothran informed the Court that Ms.

Armstrong indicated petitioner has competency issues and petitioner has been examined by Dr. Donna Schwartz-Watts. Judge Cothran stated it is not likely the case can be tried before September 4, 2012.

Indeed, Dr. Schwartz-Watts has since submitted an affidavit in which she states that she met with petitioner on three occasions and on two of those dates – May 1, 2012 and June 5, 2012 – she determined petitioner was not competent to proceed with this action. Due to Dr. Schwartz-Watts' concern that petitioner's intermittent incompetence and psychosis could be the result of a neurological impairment, a neurologist was retained and a neuroimaging study was performed on petitioner on August 1, 2012. Dr. Schwartz-Watts states that due to her workload, she is unable to review the results of the neuroimaging study and consult with petitioner's counsel earlier than late August or early September. Dr. Schwartz-Watts states that without the results of the neuroimaging study, any assessment of petitioner's mental functioning would be incomplete.

Based on the issues surrounding petitioner's competency and the fact that it appears those issues are being assessed in a timely and efficient, yet thorough, manner, we grant Judge Cothran a three month extension of time from September 4, 2012, to hold a final hearing and issue a final order in this matter. Ms. Armstrong and Judge Cothran shall provide the Clerk of this and Court Administration with an update on the status of this matter every thirty days from the date of this order.

 C.J.
FOR THE COURT

Columbia, South Carolina

August 29, 2012

cc:

Cecil Kelly Jackson
Alan McCrory Wilson
Robert Michael Dudek
Donald J. Zelenka
John W. McIntosh

Melissa J. Armstrong
The Honorable R. Ferrell Cothran, Jr.