

Docket Nos. CV05-4000409 and CV03-0004219 (Judicial District of Rockville)

GEORGE GOULD and : APPELLATE COURT
RONALD TAYLOR

v. : STATE OF CONNECTICUT

COMMISSIONER OF CORRECTION : MARCH 17, 2010

EMERGENCY MOTION FOR STAY OF EXECUTION

Pursuant to Practice Book §§ 60-2 and 61-14, the Commissioner of Correction, the respondent in this matter, requests that this court order an emergency stay in the above captioned case to permit counsel for the respondent time to review the decision of the habeas court and determine whether to seek appellate review of the decision.

Following petitioner's in the above-captioned case were convicted of felony murder, in violation of General Statutes § 53a-54c in the Judicial District of New Haven and were sentenced to lengthy terms of imprisonment. The petitioner's filed petitions for writs of habeas corpus challenging their convictions and seeking release from the incarceration. On March 17, 2010, after a joint hearing on their petitions, the habeas court, *Fuger J.*, issued a fifty-eight page memorandum decision granting the petitioners relief. The court, however, took the extraordinary step of releasing only the last page of its decision to counsel. On the page, the court indicated that the automatic stay of execution provided by Practice Book § 61-11 did not apply in this case. Moreover, the court set aside and vacated the sentence imposed by the trial court, the verdicts of guilty, the results of the hearing in probable cause and the arrest warrants issued in the case. The court also faxed a copy of the first and last pages of the memorandum of decision to the Department of Correction, in effect ordering the Commissioner to release the petitioners immediately.

Compliance with the habeas court's order would result in the immediate release of two individuals who have been convicted of a brutal homicide and would effectively deny the state of its opportunity for orderly appellate review of the habeas court's order.

II. LEGAL GROUNDS RELIED UPON

The respondent-commissioner brings this motion pursuant to Practice Book §§ 60-2 and 61-14.

Respectfully submitted,

BRIAN K. MURPHY
COMMISSIONER OF CORRECTION
STATE OF CONNECTICUT

RESPONDENT

By:

MICHAEL E. O'HARE
Supervisory Assistant State's Attorney
Civil Litigation Bureau
Office of the Chief State's Attorney
300 Corporate Place
Rocky Hill, Connecticut 06067
Telephone No. (860) 258-5887
Facsimile No. (860) 258-5968
E-mail: michael.ohare@po.state.ct.us
Juris No. 402480

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via first class mail, postage prepaid and/or facsimile to the following parties on this 17th day of March 2010:

Peter Tsimbidaros, Esq.
P.O. Box 320482
Fairfield, Connecticut 06825

Starble & Harris, LLC
Avon Park South
One Darling Drive
Avon, Connecticut 06001

John M. Waddock, Esq.
State's Attorney's Office
245 Church Street
New Haven, Connecticut 06510

Joseph Visone, Esq.
41 Miscoe Road
Mendon, Massachusetts 01756

MICHAEL E. O'HARE
Supervisory Assistant State's Attorney