

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

DON JOHNSON,)	
)	
Plaintiff,)	
)	
v)	No. 3:06-cv-00946
)	Death Penalty Case
)	Execution Date October 25, 2006,
GEORGE LITTLE, in his official capacity as)	1:00 a.m.
Tennessee's Commissioner of)	
Correction;)	
)	
RICKY BELL, in his official capacity as)	
Warden, Riverbend Maximum)	
Security Institution;)	
)	
JOHN DOE EXECUTIONERS 1-100;)	
)	
)	
Defendants.)	

AMENDMENT TO COMPLAINT

Plaintiff, Donnie Johnson, hereby amends his complaint as set forth below. The amendments are for purposes of clarification and do not alter the substantive legal claims presented by the Complaint. However, it is extremely important to Mr. Johnson that he makes clear to all parties his position that he should never have been forced to make a selection on the Execution Form. Mr. Johnson maintains that because he was sentenced to death by electrocution, it is a violation of his constitutional rights to change the method of execution or force him to make a "choice" as to how he shall be killed. See T.C.A. 39-11-112. As such, Mr. Johnson would amend his complaint as follows:

AMENDMENT

Paragraph #14 to read:

14. On September 28, 2006, Warden Bell presented Mr. Johnson with an “Affidavit Concerning Method of Execution.” Prior to being presented with this document, Mr. Johnson filed a formal grievance challenging the constitutionality of the entire “choice” process. Mr. Johnson informed Warden Bell that he believed it was a violation of his constitutional rights to be forced to “choose” a method of execution because he had been sentenced to death by electrocution and any attempt to change the method of execution was an ex post facto violation as to Mr. Johnson. Mr. Johnson had initiated proceedings to challenge the ex post facto nature of the “choice” process in this Court prior to the Warden presenting the Execution Form to Johnson. *See Johnson v. Little*, No. 3:06cv00946. Because no injunction was in place prior to the Warden presenting the form to Mr. Johnson, he had no alternative but to cooperate with what he believed was an unconstitutional process.

WHEREFORE, Plaintiff should be permitted to amend his complaint as outlined above.

Respectfully submitted,

/s/ Kelley J. Henry
Kelley J. Henry
Gretchen L. Swift
Asst. Federal Public Defender
Office of the Federal Public Defender
Middle District of Tennessee
810 Broadway, Suite 200
Nashville, Tennessee 37203
(615) 736-5047
FAX (615)736-5265

CERTIFICATE OF SERVICE

I certify that a copy of this notice was served via electronic filing upon Mark Hudson, Assistant Attorney General, Office of the Attorney General, 425 Fifth Avenue North, Nashville, Tennessee 37243 this 18th day of October, 2006.

/s/ Kelley J. Henry
Counsel for Plaintiff