

**IN THE CIRCUIT COURT OF LIMESTONE COUNTY, ALABAMA**

STATE OF ALABAMA,

*Plaintiff,*

*vs.*

AUSTIN SMITH CLEM,

*Defendant,*

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CASE NO: CC 2012-770

**MOTION TO STAY PROCEEDINGS**

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COMES NOW, the STATE OF ALABAMA, and respectfully requests that this Honorable Court stay the proceedings, suspend execution of the imposed sentence, and incarcerate the defendant pending the Alabama Court of Criminal Appeals' review of a petition for writ of mandamus filed in this matter. In support of said motion, the State asserts as follows:

1. The filing of a petition for writ of mandamus does not stay the proceedings in the trial court. Ex parte St. John, 805 So.2d 684 (Ala.2001). To ensure that the trial court retains subject-matter jurisdiction once the Court of Criminal Appeals rules on the petition, a motion to stay proceedings at the time of the filing of the petition is necessary. Ex parte Denson, 57 So. 3d 195, 197 (Ala. 2010).
2. The issues presented in the petition for writ of mandamus currently before the Court of Criminal Appeals relate to the legality of the sentence imposed in this case. As a result, the execution of the imposed sentence should be suspended pending the ruling by the Court of Criminal Appeals.

3. If the execution of the imposed sentence is suspended, the defendant should be held in the Limestone County Jail, where he was incarcerated without bond prior to this Court's pronouncement of sentence, pending a decision by the Court of Criminal Appeals.

**WHEREFORE**, premises considered, the **STATE OF ALABAMA** respectfully requests that this Honorable Court stay the proceedings, suspend execution of the imposed sentence, and incarcerate the defendant pending the Alabama Court of Criminal Appeals' review of a petition for writ of mandamus filed in this matter.

Respectfully submitted this the 16<sup>th</sup> day of November, 2013.



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Brian C.T. Jones (JON086)  
District Attorney  
39<sup>th</sup> Judicial Circuit

#### **CERTIFICATE OF SERVICE**

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I do hereby certify that on this the 16<sup>th</sup> day of November, 2013, a copy of the foregoing was served on counsel for all parties in accordance with the requirements of the Alafile e-filing system.



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Brian C.T. Jones (JON086)  
District Attorney  
39<sup>th</sup> Judicial Circuit