

**IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2005**

No. _____

**DARYL KEITH HOLTON,
Petitioner,**

v.

**RICKY BELL, WARDEN
Riverbend Maximum Security Institution**

Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

**CAPITAL CASE
EXECUTION SET FOR SEPTEMBER 19, 2006 AT 1 AM**

Daryl Keith Holton, #306263
Unit 2, C-204
Riverbend Maximum Security Institution
7475 Cockrill Bend Boulevard
Nashville, TN 37209-1048
Pro Se

Petitioner moves for leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. In support of this motion, Petitioner states:

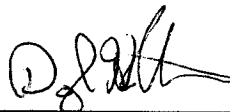
1. Petitioner is an inmate in the custody of the Tennessee Department of Corrections under sentence of death. The death sentence was affirmed on direct appeal by the Tennessee Supreme Court. *State v. Holton*, 126 S.W.3d 845 (Tenn. 2004).

2. Petitioner has previously been declared to be indigent and permitted to proceed *in forma pauperis* in the United States District Court for the Eastern District of Tennessee at Chattanooga, the Tennessee Supreme Court, the Tennessee Court of Criminal Appeals, and the Circuit Court for Bedford County, Tennessee.

3. A copy of an Affidavit of Indigency executed by Petitioner on September 16, 2006 is attached to this motion. Petitioner asserts that the affidavit complies with the requirements of the Rules of the United States Supreme Court, Rule 39.

Wherefore, Petitioner respectfully requests that this Court grant him leave to proceed *in forma pauperis* and any other relief the Court deems just.

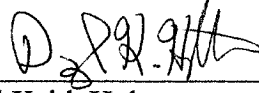
Respectfully submitted,



Daryl Keith Holton, #306263
Unit 2, C-204
Riverbend Maximum Security Institution
7475 Cockrill Bend Boulevard
Nashville, TN 37209-1048
Pro Se

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this pleading was hand delivered to attorney Kelly Gleason to lodge and/or file in the Supreme Court of the United States on this the 16th day of September, 2006.



Daryl Keith Holton

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, Danyl Keith Holtz, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$ N/A	\$	\$
Self-employment	\$ 0	\$	\$	\$
Income from real property (such as rental income)	\$ 0	\$	\$	\$
Interest and dividends	\$ 0	\$	\$	\$
Gifts	\$ 24	\$	\$	\$
Alimony	\$ 0	\$	\$	\$
Child Support	\$ 0	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$	\$
Unemployment payments	\$ 0	\$	\$	\$
Public-assistance (such as welfare)	\$ 0	\$	\$	\$
Other (specify): _____	\$ 0	\$	\$	\$
Total monthly income:	\$ 24	\$	\$	\$

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Ø			\$ _____
			\$ _____
			\$ _____

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A			\$ _____
			\$ _____
			\$ _____

4. How much cash do you and your spouse have? \$ 5.12
 Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
Zinnate Acct		\$ 5.12	\$ _____
		\$ _____	\$ _____
		\$ _____	\$ _____

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

- Home Ø Other real estate
 Value _____ Value _____
- Motor Vehicle #1 Ø Motor Vehicle #2
 Year, make & model _____ Year, make & model _____
 Value _____ Value _____
- Other assets
 Description _____
 Value _____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ <u>N/A</u>	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ <u>N/A</u>	\$ _____
Home maintenance (repairs and upkeep)	\$ <u>N/A</u>	\$ _____
Food	\$ <u>N/A</u>	\$ _____
Clothing	\$ <u>N/A</u>	\$ _____
Laundry and dry-cleaning	\$ <u>N/A</u>	\$ _____
Medical and dental expenses	\$ <u>N/A</u>	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>N/A</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>N/A</u>	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ <u>N/A</u>	\$ _____
Life	\$ <u>N/A</u>	\$ _____
Health	\$ <u>N/A</u>	\$ _____
Motor Vehicle	\$ <u>N/A</u>	\$ _____
Other: _____	\$ <u>N/A</u>	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ <u>N/A</u>	\$ _____
Installment payments		
Motor Vehicle	\$ <u>N/A</u>	\$ _____
Credit card(s)	\$ <u>N/A</u>	\$ _____
Department store(s)	\$ <u>N/A</u>	\$ _____
Other: _____	\$ <u>N/A</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>N/A</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>N/A</u>	\$ _____
Other (specify): _____	\$ <u>N/A</u>	\$ _____
Total monthly expenses:	\$ <u>N/A</u>	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

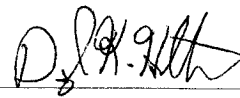
If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 16th Sep, 2006



(Signature)

Holtton # 306263

CERTIFICATE
(Prisoner Accounts Only)

I hereby Certify that the Applicant named herein has the sum of 5.12, on
account to his credit at the Riverland Max Security
Institute, where he is confined. I further Certify that the Applicant likewise has the following
securities to his credit according to the records of said Institution NA

I further Certify that during the last six (6) months the Applicant's average balance was
\$ 47.66

Linda Fallock 9-15-06
Authorized Officer of Institution

ORDER OF THE COURT

The application is hereby denied. _____

JUDGE

DATE

The application is hereby GRANTED . Let the applicant proceed without prepayment of cost or
fee or the necessity of giving security therefor. _____

JUDGE
OR MAGISTRATE

DATE

Account: 00306263 HOLTON, DARYL K.
 Status: ACTV Sex: M Race: W Age: 44
 Current Balance: 5.12 Pending Balance:

Actual Site: RMSI
 Assigned Site: RMSI

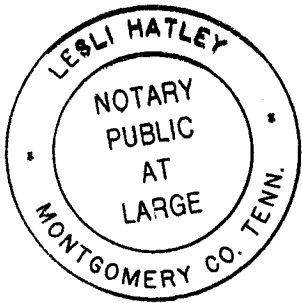
S	Trans Date	Seq No	Transaction Type/Code/Amount	Trans Site	Current Amount	Pend Amount
	09/12/2006	2	D COM 0.98	RMSI	5.12	
	09/12/2006	1	D COM 9.50	RMSI	6.10	
	09/06/2006	2	C PMO 15.00	RMSI	15.60	
	09/06/2006	1	D COM 11.91	RMSI	0.60	
	08/28/2006	2	D COM 1.92	RMSI	12.51	
	08/28/2006	1	D COM 15.39	RMSI	14.43	
	08/21/2006	3	C MON 20.00	RMSI	29.82	
	08/21/2006	2	D COM 0.98	RMSI	9.82	
	08/21/2006	1	D COM 9.11	RMSI	10.80	
	08/14/2006	2	D COM 5.35	RMSI	19.91	

Search:
 NEXT FUNCTION: DATA:
 F1-HELP F8-PAGEDOWN F9-QUIT F11-SUSPEND

TOP OF LIST

Linda Pollock
Trust fund
@ RMSI
9-15-06

15.00 +
 20.00 +
 31.00 +
 35.00 +
 30.00 +
 20.00 +
 20.00 +
 31.00 +
 30.00 +
 34.00 +
 20.00 +
 286.00 +
 286.00 +
 6.00 =
 47.66 *



Lesli Hatley

My Commission Expires June 19, 2007