

IN THE COURT OF CRIMINAL APPEALS
OF TENNESSEE
AT JACKSON

SEDLEY ALLEY)

Petitioner-Appellant)

v.)

STATE OF TENNESSEE)

Respondent-Appellee)

No. _____
Lower Court No. P-8040
(Shelby County)
Execution Date: June 3, 2004

FILED

MAY 17 2004

Clerk of the Courts
Rec'd By: *[Signature]*

MOTION TO PRESERVE EVIDENCE
FOR DNA ANALYSIS

Petitioner-Appellant Sedley Alley respectfully moves this Court to order the preservation of biological samples on which he seeks to perform DNA analysis. Specifically, pending the outcome of Sedley Alley's appeal in this matter and his pending emergency motion for production of biological samples, this Court should order all state agents, including the Shelby County Office of the Medical Examiner and University of Tennessee Toxicology and Chemical Pathology Laboratory in Memphis, Tennessee to preserve and protect all biological samples related to the case of Suzanne Collins, Lab No. 85-1775, 85-1778, Medical Examiner Case No. 85-1681. In particular, this Court should order the preservation of the following specimens:

- (1) Vaginal swabs from the victim;¹
- (2) Swab taken from the victim's right inner thigh;²

¹ University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #1, Lab No. 85-1778, Case No. 85-1681, Item 11 (Attached as Exhibit 1 to this motion).

² University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #1, Lab No. 85-1778, Case No. 85-1681, Item 12 (Exhibit 1).

- (3) Swab taken from the victim's left inner thigh;³
- (4) Nasopharyngeal swabs from the victim;⁴
- (5) Oral swabs from the victim;⁵
- (6) Rectal swabs from the victim;⁶
- (7) Head hairs from an African-American individual found on the victim's socks, which do not match Sedley Alley, who is caucasian (Q7);⁷
- (8) A caucasian body hair found on the victim's waistband (Q6);⁸
- (9) A caucasian pubic hair found on the victim's left shoe (Q1);⁹
- (10) A hair found on a stick found in the victim;¹⁰ and

³ University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #1, Lab No. 85-1778, Case No. 85-1681, Item 13 (Exhibit 1).

⁴ University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #2, Lab No. 85-1775, Case No. 85-1681, Item 3 (Exhibit 2).

⁵ University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #2, Lab No. 85-1775, Case No. 85-1681, Item 4 (Exhibit 2).

⁶ University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #2, Lab No. 85-1775, Case No. 85-1681, Item 5 (Exhibit 2).

⁷ Trial Transcript 883 (Craig Lahren: Item Q7 consists of 2 strands of hair from a black individual found on victim's sock)(Contained in attached Exhibit 3).

⁸ Trial Transcript 882 (Craig Lahren: Item Q6 collected from waistband of victim and identified as medium-brown caucasian body hair)(Exhibit 3).

⁹ Trial Transcript 879 (Craig Lahren: Item Q1 hair collected inside shoe of victim)(contained in attached Exhibit 3). See also Excerpt of Shelby County Sheriff's Report Concerning Evidence, AG File pp. 269, 271 (Attached as Exhibit 4).

¹⁰ See Search Warrant Affidavit, July 17, 1985 ("hair was found on an instrument" used in sexual assault)(Attached as Exhibit 5).

(11) Blood and hair samples of the victim.¹¹

All of these samples contain biological evidence which will establish the identity of the person or persons who committed the sexual assault and murder of the victim in this case. Therefore, they should be ordered preserved to allow DNA analysis by the Petitioner-Appellant in this case. See Tenn. Code Ann. §40-30-309 (courts may order preservation of biological specimens for DNA testing).

Respectfully Submitted,



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¹¹ See e.g., University of Tennessee Toxicology And Chemical Pathology Laboratory, July 19, 1985 Report #1, Lab No. 85-1778, Case No. 85-1681, Items 1 & 2; Trial Transcript 872 (Exhibit 3).

AFFIDAVIT OF COUNSEL

I affirm that all the information contained in this "Motion To Preserve Evidence For DNA Analysis" is true and correct to the best of my knowledge.

Donald E. Dawson
Donald E. Dawson

Subscribed and sworn before me this 10th day of May, 2004

William H. Crankford
Notary Public, State of Tennessee

My Commission Expires:
May 29, 2005



CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion has been served this day upon the District Attorney General for the 30th Judicial District and the Office of the Attorney General, 425 Fifth Avenue North, Nashville, Tennessee 37243.

Date: May 17, 2004

Donald E. Dawson