

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE)
)
 v.) No. M1999-00019-SC-DPE-PD
) Filed: May 31, 2006
)
 SEDLEY ALLEY)

SUPPLEMENT TO RESPONSE TO MOTION TO RE-SET EXECUTION DATE

The Criminal Court for the Thirtieth Judicial District scheduled a May 30, 2006 evidentiary hearing on Sedley Alley’s motion for DNA testing under Tennessee’s Post-Conviction DNA Analysis Act, Tenn. Code Ann. §40-30-301 *et seq.* The Criminal Court, however, refused to allow Sedley Alley to present any witnesses in support of his petition and, on May 30, orally denied the petition. The judge stated that a written order would be issued today: As of the filing of this supplement, Sedley Alley has yet to receive that written order. Sedley Alley fully intends to appeal the denial of relief by the trial court. There are significant issues to be addressed on appeal. He will be filing a notice of appeal, and he has already requested a transcript of the May 30 proceedings necessary for an appeal.

It is only when “[t]here exists no procedure, no method, and no means by which the conviction or the sentence can be further tested or scrutinized under the procedural guidelines within which this Court must function” that a case is “ripe for the setting of an execution date.” Workman v. State, 22 S.W.3d 807, 809 (Tenn. 2000). That is not the case here. Given the pendency of the trial court’s written order as well as the imminent appeal under the Post-Conviction DNA Analysis Act, Sedley Alley has not exhausted “all possible procedures and venues in an effort to seek judicial relief from his sentence of death.” Workman v. State, 22 S.W.3d at 814 (Barker, J., concurring). Thus, pending the disposition of the appeal, no execution date should be set. See e.g., Workman v. State,

No. M1999-01334-SC-DPE-PD (Tenn. Feb. 7, 2002)(denying state's motion to reset execution date during pendency of *coram nobis* proceedings on appeal).

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by first-class mail upon counsel for the state, Joseph Whalen, Office of the Attorney General, 425 Fifth Avenue North, Nashville, Tennessee 37243, this ___ day of May, 2006.
