

**IN THE TENNESSEE SUPREME COURT  
WESTERN DIVISION  
AT JACKSON**

<b>SEDLEY ALLEY</b>	)	
	)	<b>No.</b> _____
<b>Petitioner-Appellant,</b>	)	
	)	<b>W2006-01179-CCA-R3-PD</b>
<b>v.</b>	)	
	)	<b>Death Penalty Case</b>
<b>STATE OF TENNESSEE</b>	)	<b>EXECUTION DATE: June 28, 2006</b>
	)	<b>1:00 A.M.</b>
<b>Respondent-Appellee</b>	)	

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**MOTION FOR ADMISSION OF COUNSEL *PRO HAC VICE***

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Comes now, Sedley Alley, by and through counsel and hereby moves that this Court permit the appearance of attorneys Barry Scheck, Vaness Potkin, and Colin Starger *pro hac vice* for the purpose of litigating Mr. Alley's Appeal from the Shelby County Criminal Court's Denial of his Petition for Post-Conviction DNA Analysis. In support of this motion, Mr. Alley states as follows.

1. Mr. Alley was scheduled to be executed on May 17, 2006. Eight hours before the execution, Governor Phil Bredesen granted Mr. Alley a fifteen day reprieve with instructions to return to the Shelby County Criminal Courts to file a Petition for Access to DNA testing pursuant to the State Post-Conviction DNA Act which Mr. Alley filed on May 19, 2006. Co-counsel in this case are Mr. Barry Scheck, Ms. Vanessa Potkin and Mr. Colin Starger. Mr. Scheck, Ms. Potkin and Mr. Starger are attorneys with the Innocence Project and are experts in post-conviction DNA testing. Mr. Scheck, Ms. Potkin and Mr. Starger's assistance in this case is vital to a fair and thorough adjudication of the matter. Mr. Scheck, Ms. Potkin, and Mr. Starger

were all permitted to appear *pro hac vice* in the trial court. After the trial court dismissed Mr. Alley's Petition, a timely Notice of Appeal was filed. . Mr. Sheck, Ms. Potkin, and Mr. Starger were all permitted to appear *pro hac vice* in the Court of Criminal Appeals.

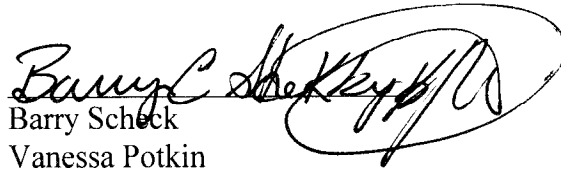
2. Mr. Scheck, Ms. Potkin, and Mr. Starger are members in good standing of the bars in which they are admitted and meet all requirements for admission *pro hac vice* as stated in Supreme Court Rule 19. Mr. Scheck, Ms. Potkin and Mr. Starger are seeking admission as pro bono counsel.

4. Because of the exigency of today's filing and the location of Mr. Scheck, Ms. Potkin, and Mr. Starger it was not possible to obtain original affidavits or certificates of good standing for counsel. The originals were sent to local counsel's home address via fed ex for weekend delivery, but, due to a clerical error, will not be delivered until Monday, June 26, 2006. As soon as practicable, the originals will be provided to the Clerk of Court. Originals of such certificates and affidavits have been filed in both the Criminal Court of Shelby County and, last week, in the Court of Criminal Appeals in Jackson. Faxed copies of the motion, affidavits, and certificates of good standing are attached to this motion.

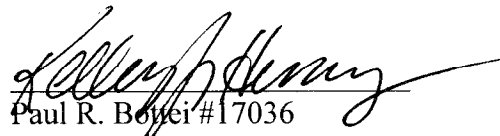
5. This motion is fully supported by the attached affidavit of local counsel, Ms. Kelley Henry.

WHEREFORE, Mr. Alley requests this Court permit the admision of Mr. Scheck, Ms. Potkin, and Mr. Starger *pro hac vice*.

Respectfully Submitted,



Barry Schöck  
Vanessa Potkin  
Colin Starger  
The Innocence Project  
100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
New York, NY 10011  
(212) 364-5359  
FAX 364-5341



Paul R. Boyer #17036  
Kelley J. Henry, #02113  
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 the foregoing has been served by hand delivery upon counsel for the State, Ms. Jennifer Smith, on this 26<sup>th</sup> day of June, 2006.



**IN THE TENNESSEE SUPREME COURT  
WESTERN DIVISION  
AT JACKSON**

<b>SEDLEY ALLEY</b>	)	
	)	No. _____
<b>Petitioner-Appellant,</b>	)	
	)	<b>W2006-01179-CCA-R3-PD</b>
v.	)	
	)	<b>Death Penalty Case</b>
<b>STATE OF TENNESSEE</b>	)	<b>EXECUTION DATE: June 28, 2006</b>
	)	<b>1:00 a.m.</b>
<b>Respondent-Appellee</b>	)	

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**AFFIDAVIT OF KELLEY J. HENRY  
IN SUPPORT OF MOTION FOR ADMISSION OF COUNSEL *PRO HAC VICE***

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COUNTY OF DAVIDSON        )  
  )  
STATE OF TENNESSEE        )

I, Kelley J. Henry, being of lawful age, swear that the following is true to the best of my information and belief:

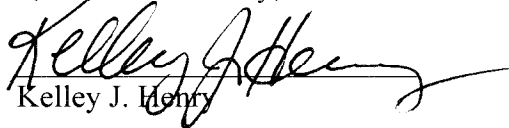
1. I am a member in good standing of the Tennessee State Bar. My BPR number is 021113.
2. I am co-counsel for Mr. Sedley Alley.
3. Mr. Alley was scheduled to be executed on May 17, 2006. Eight hours before the execution, Governor Phil Bredesen granted Mr. Alley a fifteen day reprieve with instructions to return to the Shelby County Criminal Courts to file a Petition for Access to DNA testing pursuant to the State Post-Conviction DNA Act which Mr. Alley filed on May 19, 2006. Co-counsel in this case are Mr. Barry Scheck, Ms. Vanessa Potkin and Mr. Colin Starger. Mr. Scheck, Ms. Potkin and Mr. Starger are attorneys with the Innocence Project and are experts in post-conviction DNA testing. Mr. Scheck, Ms. Potkin and Mr. Starger's assistance in this case is vital to a fair and thorough adjudication of the matter. Mr. Scheck, Ms. Potkin, and Mr. Starger were all permitted to appear *pro hac vice* in the trial court. After the trial court dismissed Mr. Alley's Petition, a timely Notice of Appeal was filed. . Mr.

Sheck, Ms. Potkin, and Mr. Starger were all permitted to appear *pro hac vice* in the Court of Criminal Appeals.

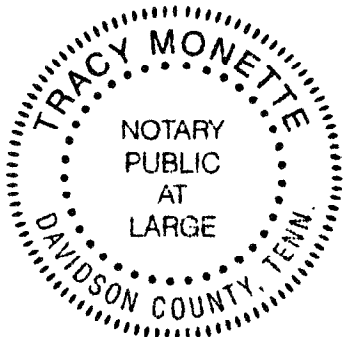
4. Mr. Scheck, Ms. Potkin, and Mr. Starger are members in good standing of the bars in which they are admitted and meet all requirements for admission *pro hac vice* as stated in Supreme Court Rule 19. Mr. Scheck, Ms. Potkin and Mr. Starger are seeking admission as pro bono counsel.
5. Because of the exigency of today's filing and the location of Mr. Scheck, Ms. Potkin, and Mr. Starger it was not possible to obtain original affidavits or certificates of good standing for counsel. The originals were sent to local counsel's home address via fed ex for weekend delivery, but, due to a clerical error, will not be delivered until Monday, June 26, 2006. As soon as practicable, the originals will be provided to the Clerk of Court. Originals of such certificates and affidavits have been filed in both the Criminal Court of Shelby County and, last week, in the Court of Criminal Appeals in Jackson. Faxed copies of the motion, affidavits, and certificates of good standing are attached to this motion.

Further affiant sayeth not.

Dated this 26<sup>th</sup> day of June, 2006, in Nashville, Davidson County, Tennessee.

  
Kelley J. Henry

Subscribed and sworn to before me this 26<sup>th</sup> day of June, 2006.



  
Notary Public

My Commission Expires JULY 21, 2007

IN THE SUPREME COURT OF TENNESSEE  
WESTERN DIVISION AT JACKSON

SEDLEY ALLEY )  
 )  
Petitioner-Appellant ) No. \_\_\_\_\_  
 )  
v. )  
 )  
STATE OF TENNESSEE )  
 )  
Respondent-Appellee )

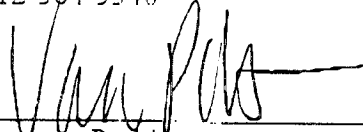
**MOTION OF BARRY SCHECK, VANESSA POTKIN AND COLIN STARGER  
FOR ADMISSION PRO HAC VICE**

Comes now, Barry Scheck, Vanessa Potkin and Colin Starger of the Innocence Project, and request permission to appear as counsel pro hac vice for Plaintiff Sedley Alley in association with Kelly Henry in the above-entitled action. In support of this motion, affidavits and certificates of good standing of Barry Scheck, Vanessa Potkin, and Colin Starger are attached as Exhibit A. The local attorney of record for Sedley Alley is Kelly Henry (#021113), an active member in good standing of the State Bar of Tennessee. Ms. Henry's office is located at: Federal Public Defender, 810 Broadway, Suite 200, Nashville, Tennessee, 37203, (phone) 615-337-0469.

RESPECTFULLY SUBMITTED,



Harry Scheck  
The Innocence Project  
100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
New York, NY 10011  
212-364-5340



Vanessa Potkin  
The Innocence Project  
100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
New York, NY 10011  
212-364-5340



Colin Starger  
The Innocence Project  
100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor  
New York, NY 10011  
212-364-5340

IN THE SUPREME COURT OF TENNESSEE  
WESTERN DIVISION AT JACKSON

SEDLEY ALLEY )  
 )  
Petitioner-Appellant ) No. \_\_\_\_\_  
 )  
v. )  
 )  
STATE OF TENNESSEE )  
 )  
Respondent-Appellee )

**AFFIDAVIT OF BARRY SCHECK**  
**IN SUPPORT OF MOTION FOR ADMISSION PRO HAC VICE**

I, Barry Scheck, being of lawful age, declare under penalty of perjury:

1. I request permission to appear as counsel pro hac vice for Appellant Sedley Alley in association with Kelley Henry in the above-entitled action, an appeal of the post-conviction court's denial of his petition for DNA testing under the Post Conviction DNA Analysis of Act of 2001, which is now pending before this Court. Ms. Henry is licensed (#021113) to practice law in this State, she is in good standing, she resides in Tennessee and her law office is located at: Office of the Federal Public Defender, 810 Broadway, Suite 200, Nashville, Tennessee, 37203, (phone) 615-337-0469.

2. My residence address is Brooklyn, New York and my office address is The Innocence Project, 100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor, New York, NY 10011, (212)-364-5359. I am a member in good standing of the Bar of the State of New York, having been admitted to that Bar in 1975 and am duly licensed to practice law in the State of New York, and before the courts of the State of California, the United States District Court for the Northern District of California,



the United States District Court for the Southern District of New York, the United States District Court for the Eastern District of New York and the United States Court of Appeals for the Second Circuit. My New York State Bar attorneys registration number is 1634765.

3. I have not sought pro hac vice status in any previous case in the State of Tennessee within the past three years. In this matter, I was admitted below to represent Mr. Alley in his Petition for Access to DNA testing under the State Post-Conviction DNA Act before the Shelby County Criminal Courts and also his appeal of the denial of this petition in the Court of Criminal Appeals.

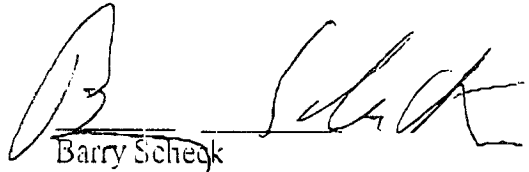
4. I am pro bono counsel in this matter and as such am exempt from paying any fees to the Tennessee Board of Professional Responsibility.

5. There is not now pending any action seeking disbarment, suspension or any other form of discipline or sanction against me, nor is there pending an investigation of my conduct

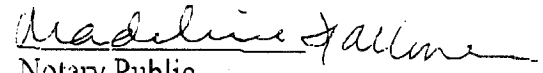
6. I agree to subject myself to the jurisdiction of the courts of Tennessee in any matter arising out of my conduct in the above captioned proceeding and agree to be bound by the Rules of Professional Conduct applicable to Tennessee lawyers and the interpretation thereof by Tennessee courts.

7. I have served notice of my request to be admitted as counsel pro hac vice in this matter to the Tennessee Board of Professional Responsibility, 1101 Kermit Drive, Suite 730, Nashville, TN 37217.

Dated this 23<sup>rd</sup> day of June, 2006.

  
Barry Scheck

Subscribed and Sworn to before me this 23<sup>rd</sup> day of June, 2006.

  
Notary Public  
NYS New York County  
# 02 DE 5057325  
exp. 3/18/10

Appellate Division of the Supreme Court  
of the State of New York  
First Judicial Department

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I, Catherine O'Hagan Wolfe, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

**BARRY CHARLES SCHECK**

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on the 12th day of May, 1975 has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my  
hand and affixed the seal of this court on

June 14, 2006

Catherine O'Hagan Wolfe

Clerk

5683

IN THE SUPREME COURT OF TENNESSEE  
WESTERN DIVISION AT JACKSON

SEDLEY ALLEY )  
 )  
Petitioner-Appellant ) No. \_\_\_\_\_  
 )  
v. )  
 )  
STATE OF TENNESSEE )  
 )  
Respondent-Appellee )

**AFFIDAVIT OF VANESSA POTKIN**  
**IN SUPPORT OF MOTION FOR ADMISSION PRO HAC VICE**

I, Vanessa Potkin, being of lawful age, declare under penalty of perjury:

1. I request permission to appear as counsel pro hac vice for Appellant Sedley Alley in association with Kelley Henry in the above-entitled action, an appeal of the post-conviction court's denial of his petition for DNA testing under the Post Conviction DNA Analysis of Act of 2001, which is now pending before this Court. Ms. Henry is licensed (#021113) to practice law in this State, she is in good standing, she resides in Tennessee and her law office is located at: Office of the Federal Public Defender, 810 Broadway, Suite 200, Nashville, Tennessee, 37203, (phone) 615-337-0469.

2. My residence address is Brooklyn, New York and my office address is The Innocence Project, 100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor, New York, NY 10011, (212)-364-5359. I am a currently member in good standing of the Bar of the State of New York, having been admitted and licensed to practice as an attorney in all the courts (including the court of last resort) of the State of New York in 2001. My New York State Bar registration number 3966413.

3. I have been admitted pro hac vice in the State of Tennessee, in the year of 2004, in the case of State v. Jesse Haddox. In this matter, I was admitted below to represent Mr. Alley in his Petition for Access to DNA testing pursuant to the State Post-Conviction DNA Act before the Shelby County Criminal Courts and also his appeal of the denial of this petition in the Court of Criminal Appeals.

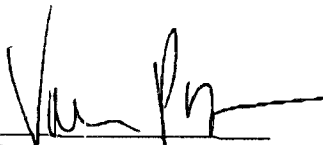
4. I am pro bono counsel in this matter and as such am exempt from paying any fees to the Tennessee Board of Professional Responsibility.

5. There is not now pending any action seeking disbarment, suspension or any other form of discipline or sanction against me, nor is there pending an investigation of my conduct

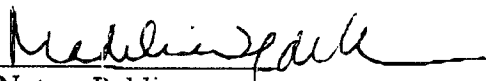
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7. I have served notice of my request to be admitted as counsel pro hac vice in this matter to the Tennessee Board of Professional Responsibility, 1101 Kermit Drive, Suite 730, Nashville, TN 37217.

Dated this 23<sup>rd</sup> day of June, 2006.

  
Vanessa Potkin

Subscribed and Sworn to before me this 23<sup>rd</sup> day of June, 2006.

  
Notary Public  
NYS, New York County  
# 02 DE 5057325  
expiration 3/18/10

Appellate Division of the Supreme Court  
of the State of New York  
First Judicial Department

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I, Catherine O'Hagan Wolfe, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

**VANESSA C. POTKIN**

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on the 23rd day of April, 2001 has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my  
hand and affixed the seal of this court on

June 14, 2006

Catherine O'Hagan Wolfe

Clerk

5675

**IN THE SUPREME COURT OF TENNESSEE  
WESTERN DIVISION AT JACKSON**

SEDLEY ALLEY	)	
	)	
Petitioner-Appellant	)	No. _____
	)	
v.	)	
	)	
STATE OF TENNESSEE	)	
	)	
Respondent-Appellee	)	

**AFFIDAVIT OF COLIN STARGER  
IN SUPPORT OF MOTION FOR ADMISSION PRO HAC VICE**

I, Colin Starger, being of lawful age, declare under penalty of perjury:

1. I request permission to appear as counsel pro hac vice for Appellant Sedley Alley in association with Kelley Henry in the above-entitled action, an appeal of the post-conviction court's denial of his petition for DNA testing under the Post Conviction DNA Analysis of Act of 2001, which is now pending before this Court. Ms. Henry is licensed (#021113) to practice law in this State, she is in good standing, she resides in Tennessee and her law office is located at: Office of the Federal Public Defender, 810 Broadway, Suite 200, Nashville, Tennessee, 37203, (phone) 615-337-0469.

2. My residence address is Brooklyn, New York and my office address is The Innocence Project, 100 5<sup>th</sup> Avenue, 3<sup>rd</sup> Floor, New York, NY 10011, (212)-364-5359. I am a member in good standing of the Bar of the State of New York, having been admitted to that Bar in 2003, and am duly licensed to practice law in the State of New York, and the United State District Court for the Southern District of New York. My New York State Bar registration

number is 4123212.

3. I have not sought pro hac vice status in any previous case in the State of Tennessee within the past three years. In this matter, I was admitted below to represent Mr. Alley in his Petition for Access to DNA testing pursuant to the State Post-Conviction DNA Act before the Shelby County Criminal Courts and also his appeal of the denial of this petition in the Court of Criminal Appeals.

4. I am pro bono counsel in this matter and as such am exempt from paying any fees to the Tennessee Board of Professional Responsibility.

5. There is not now pending any action seeking disbarment, suspension or any other form of discipline or sanction against me, nor is there pending an investigation of my conduct

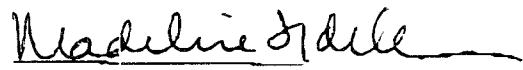
6. I agree to subject myself to the jurisdiction of the courts of Tennessee in any matter arising out of my conduct in the above captioned proceeding and agree to be bound by the Rules of Professional Conduct applicable to Tennessee lawyers and the interpretation thereof by Tennessee courts.

7. I have served notice of my request to be admitted as counsel pro hac vice in this matter to the Tennessee Board of Professional Responsibility, 1101 Kermit Drive, Suite 730, Nashville, TN 37217.

Dated this 23<sup>rd</sup> day of June, 2006.

  
Colin Starger

Subscribed and Sworn to before me this 23<sup>rd</sup> day of June, 2006.

  
Notary Public  
NYS, New York County  
# 02DE5057325  
expiration 3/18/10



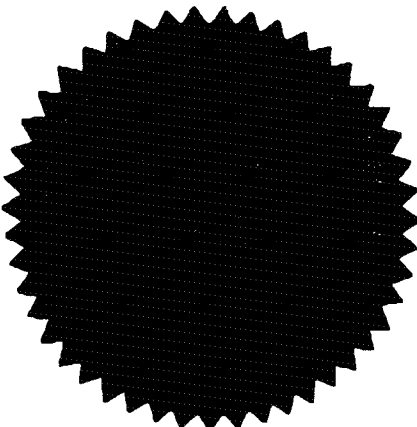


Appellate Division of the Supreme Court  
of the State of New York  
Second Judicial Department

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I, James Edward Pelzer, Clerk of the Appellate Division of the Supreme Court of the State of New York, Second Judicial Department, do hereby certify that **Colin Patrick Starger** was duly licensed and admitted to practice as an Attorney and Counselor at Law in all the courts of the State, according to the laws of the State and the court rules and orders, on the **7<sup>th</sup>** day of **May 2003** has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counselors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counselor at law.

In Witness Whereof, I have hereunto set my hand and affixed  
the seal of said Appellate Division on **June 20, 2006**



*James Edward Pelzer*

Clerk