

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

SEDLEY ALLEY,)
)
 Plaintiff,)
)
 vs.)
)
 GEORGE LITTLE, in his official)
 capacity as Tennessee’s Commissioner)
 of Correction;)
)
 RICKY BELL, in his official capacity as)
 Warden, Riverbend Maximum Security)
 Institution,)
)
 JOHN DOE PHYSICIANS 1-100;)
)
 JOHN DOE PHARMACISTS 1-100;)
)
 JOHN DOE MEDICAL PERSONNEL)
 1-100;)
)
 JOHN DOE EXECUTIONERS 1-100;)
)
 JOHN DOES 1-100,)
)
 Defendants.)

**No. 3:06-0340
JUDGE TRAUGER**

**MOTION TO DISMISS
OF DEFENDANTS LITTLE AND BELL**

Defendants George Little and Ricky Bell, appearing in their official capacities only, move, pursuant to Fed. R. Civ. P. 12(b) (6), for this Court to dismiss this case for failure to state a claim for which relief can be granted.

The defendants’ motion is further based upon the following;

1. The plaintiff has been dilatory in filing his complaint seeking equitable

relief;

2. The statute of limitations bars the plaintiff's action;
3. The facts are insufficient to warrant relief, and the plaintiff's claims

should be dismissed on the merits;

4. The plaintiff fails to state an equal protection claim;
5. The Public Defender's Office is barred from bringing a private civil

action.

In support of this motion, the defendants rely upon the memorandum of law filed contemporaneously herewith.

Respectfully submitted,

PAUL G. SUMMERS
Attorney General

s. Joseph F. Whalen

JOSEPH F. WHALEN, BPR #19919
Associate Solicitor General
Office of the Attorney General
P. O. Box 20207
Nashville, TN 37202-0207
(615) 741-3499

s. Mark A. Hudson

MARK A. HUDSON, BPR #12124
Senior Counsel
Office of the Attorney General
P. O. Box 20207
Nashville, TN 37202-0207
(615) 741-7401

CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2006, a copy of the foregoing response was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

s. Joseph F. Whalen
JOSEPH F. WHALEN, BPR #19919
Associate Solicitor General
Office of the Attorney General
P. O. Box 20207
Nashville, TN 37202-0207
(615) 741-3499