

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

SEDLEY ALLEY)	
)	No. _____
Petitioner-Appellant)	Lower Court No. P-8040
)	(Shelby County)
v.)	CCA No. _____
)	Execution Date: June 3, 2004
STATE OF TENNESSEE)	
)	S.Ct.No. M1991-00019-DPE-DD
Respondent-Appellee)	Filed May 18, 2004

MOTION FOR STAY OF EXECUTION

Pursuant to Tenn. Code. Ann. §§40-30-311, 40-30-312 and 40-30-120, Sedley Alley moves this Court to enter a stay of execution, should the requested biological evidence not be ordered immediately produced. See People v. Enoch, 701 N.E.2d 1106 (Ill. 1998)(granting stay of execution to allow DNA testing); Echols v. State, 84 S.W.3d 424 (Ark. 2002)(staying proceedings to allow full review of petitioner’s motion for DNA testing). In support of this motion, Petitioner-Appellant states:

1. Petitioner-Appellant Sedley Alley has requested that this Court order the immediate production of biological samples under the Post-Conviction DNA Analysis Act of 2001. Those samples should be ordered produced immediately so that Sedley Alley may undertake and complete DNA Analysis before a current June 3, 2004, execution date.

2. Should this Court not immediately order the production of the evidence, however, in light of the execution date, Sedley Alley faces losing his statutory and constitutional rights to DNA testing. In other words, absent immediate production of the evidence, Sedley Alley could be executed without being able to test the evidence.

3. Thus, should this Court not immediately order production of the evidence to allow

DNA analysis, this Court should enter a stay of execution pending the final ruling of this Court on the petition and completion of the testing.

4. Under the Post-Conviction DNA Analysis Act of 2001, a Court “may in its discretion make such other orders as may be appropriate.” Tenn. Code Ann. §40-30-311. A stay of execution is such an appropriate order, should this Court not immediately order production of the requested evidence, especially where tests are necessary for this Court to proceed with the petition. See Tenn. Code Ann. §40-30-312(court shall order a hearing where DNA results are favorable). See also Tenn. Code Ann. §40-30-120(a)(stay of execution proper where petitioner unable to file petition before execution date). See People v. Enoch, 701 N.E.2d 1106 (Ill. 1998)(granting stay to allow DNA testing).

CONCLUSION

If the requested evidence is not ordered immediately produced, this Court should enter a stay of execution pending this Court’s final disposition of Sedley Alley’s petition requesting DNA analysis, including all proceedings on remand under Tenn. Code Ann. §40-30-312.

Respectfully Submitted,

Donald E. Dawson, BPR # 010723
Post-Conviction Defender
530 Church Street, Suite 600
Nashville, Tennessee 37243
(615) 741-9331/FAX (615) 741-9340

AFFIDAVIT OF COUNSEL

I affirm that all the information contained in this "Motion For Stay" is true and correct to the best of my knowledge.

Donald Dawson

Subscribed and sworn before me this ____ day of May, 2004

Notary Public, State of Tennessee

My Commission Expires:

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: _____

Donald E. Dawson

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ORDER

THIS CAUSE CAME TO BE HEARD this day upon the motion of the Petitioner-Appellant, Sedley Alley, to stay his execution pending this Court's final disposition of his petition requesting DNA analysis, including all proceedings on remand under Tenn. Code Ann. §40-30-312. It appearing to the Court that the motion is well taken and should be granted, good cause being shown,

IT IS, THEREFORE, ORDERED THAT Petitioner-Appellant Sedley Alley's execution be stayed pending final disposition of proceedings on his petition for DNA analysis.

This the ____ day of _____, 20__.

Justice, Tennessee Supreme Court

Submitted for entry:

Donald E. Dawson, BPR # 010723
Post-Conviction Defender
Office of the Post-Conviction Defender
530 Church Street, Suite 600
Nashville, Tennessee 37243
(615) 741-9331

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing order 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: _____

Donald E. Dawson