IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2005

No. _____

DARYL KEITH HOLTON,
Petitioner,

v.

RICKY BELL, WARDEN
Riverbend Maximum Security Institution

Respondent.

ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS

CAPITAL CASE
EXECUTION SET FOR SEPTEMBER 19, 2006 AT 1 AM

Daryl Keith Holton, #306263
Unit 2, C-204
Riverbend Maximum Security Institut
7475 Cockrill Bend Boulevard
Nashville, TN 37209-1048
Pro Se

Question Presented

Has Petitioner been denied his right to effective assistance of counsel at trial and on the direct appeal of his first degree murder convictions and death sentences, and to adequate review of those issues, *see Evitts v. Lucey, infra*, by denial of supplemental counsel upon direct appeal to raise issues of ineffectiveness on appeal, resulting in representation solely by an ineffective attorney laboring under a conflict of interest, in violation of Petitioner's rights under the Sixth and Fourteenth Amendments?

Has Petitioner's right to review of these constitutional errors been thwarted and unduly delayed by the intervention of state and federal public defenders filing unauthorized petitions on behalf of Petitioner which have impeded Petitioner's ability to raise only the claims he wishes to assert, *see Jones v. Barnes*, 463 U.S. 734 (1983)?

Parties to the Proceedings in the Lower Courts

The caption of the case contains the names of all parties to the proceedings in the lower courts

Exhibit 1

ORIGINAL PETITION FOR WRIT OF HABEAS CORPUS

Daryl Keith Holton respectfully requests that the Court review this original petition for writ of habeas corpus and grant relief from his unconstitutional convictions and sentences. Petitioner does not oppose the death penalty for crimes such as those alleged herein, or even the imposition of the death sentence in this case following a fair trial and appeal; however, if Petitioner successfully prosecutes the claims herein related to his unconstitutional convictions, it is his understanding that the resulting sentences must also be set aside. In support of this petition, Petitioner sets forth the following:

Statement of the Basis for Jurisdiction

The Court has jurisdiction to entertain this original petition under 28 U.S.C. § 2241(a), § 2241(C)(3), §2254(a). *See also Felker v. Turpin*, 518 U.S. 651, 658-662 (1996).

Required Statement Under 28 U.S.C. §2242

Daryl Holton is not making application to the federal district court of the district in which he is held or convicted because any claims he filed in that court could be joined with claims he did not assert or endorse made in an unauthorized petition for habeas corpus filed by federal public defenders. Petitioner asserts he is barred by *Jones v. Barnes*, 463 U.S.734 (1983) from asserting the claims filed herein, and only those claims, if he files in the federal district court while the dismissal of that unauthorized petition is still pending review in the United States Court of Appeals for the Sixth Circuit. Due to delays in the court system, Petitioner may very well be executed before he can exercise his personal right to file the claims he wishes to assert. This would result in a fundamental miscarriage of justice. *Cf. Sawyer v. Whitley*, 505 U.S. 333, 348 (1992); *Smith v. Murray*, 477 U.S. 527, 537-38 (1986).

CONSTITUTIONAL PROVISIONS INVOLVED

The Sixth Amendment, U.S. Constitution, provides:

> In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

The Fourteenth Amendment, Section 1, U.S. Constitution provides:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Exhibit 1

STATEMENT OF THE CASE AND REQUEST FOR RELIEF

Pursuant to all rights available under Article I § 9 and Article III of the United States Constitution; the Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Fourteenth Amendments to the United States Constitution, 28 U.S.C. § 2241(a), § 2241(C)(3), and § 2254(a), comes the Petitioner, pro se, and files this Original Petition for a Writ of Habeas Corpus. In the United States District Court for the Eastern District of Tennessee At Chattanooga, the Federal Defender Services of East Tennessee has previously filed a Petition for a Writ of Habeas Corpus on behalf of Petitioner, in Case No. 1:05-cv-202, which was dismissed as unauthorized, ~~and therefore null and void,~~ by Order of the District Court entered on September 6, 2006. No other federal habeas corpus petition has been filed by Petitioner or on behalf of Petitioner. Petitioner is indigent and has been previously found to be so by the District Court, and therefore requests to be permitted to proceed without costs.

Petitioner was convicted and sentenced to death on June 15, 1999. His conviction and sentence were affirmed on direct appeal. *State v. Holton*, 126 S.W.3d 845 (Tenn. 2004), rehearing denied, 2004 Tenn. LEXIS 129. Holton's counsel then appealed to the United States Supreme Court, where he was denied certiorari. *Holton v. Tennessee*, __U.S.__, 125 S.Ct. 62, 160 L.Ed.2d 22 (Oct. 4, 2004).

A state petition for post-conviction relief was filed on Petitioner's behalf in the Circuit Court for Bedford County on April 29, 2005. The Tennessee Supreme Court found that the petition was not "properly filed" under state law, as an issue of first impression, and vacated the petition, order of appointment, and order staying execution. *Daryl Keith Holton v. State and Paul Dennis Reid, Jr. v. State*, Nos. M2005-01870-SC-S10- PD, M2005-02398-SC-S10-PD, --- S.W.3d ----, 2003 WL

24314330 (Tenn. May 4, 2006) (trial court lacked authority to consider a petition for post-conviction relief filed by the Post-Conviction Defender on behalf of Reid where the petition was not signed or verified by Reid and where the Defender failed to establish a "next friend" basis upon which to proceed).

Petitioner is entitled to a stay of the scheduled execution upon filing this Petition as it is "necessary to prevent the case from becoming moot by the petitioner's execution...." *Barefoot v. Estelle*, 463 U.S. 880, 893-894 (1983); *Lonchar v. Thomas*, 116 S. Ct. 1293, 1297 (1996). Petitioner understands he is entitled to appointment of counsel, and requests leave to consider requesting counsel at a future date.

CLAIMS FOR RELIEF:

I. Denial of direct appeal (by guardian ad litem) of denial of supplemental counsel by trial court.

A. Both *Jones v. Barnes*, 463 U.S.734, 103 S.Ct. 308 (1983) and *Leslie v. State*, 36 S.W. 3d 34 (Tenn. 2001) hold that the right to initiate an appeal is personal to the defendant. This initiation was denied by the inaction of the guardian ad litem in seeking a Rule 9 appeal despite collateral order doctrine to the contrary. *See* Trial Transcript, Vol. XVII, Transcript of post-trial hearings on Nov. 19, 1999 and Jan. 14, 2000, pages 79, line 4-8 and 24-25, page 80, lines 1-3, 21-25, page 81, lines 1-13. *See also* Technical Record, Vol. VII, pages 999-1001.

1. The denial of supplemental counsel was *res adjudicata* in the trial court. The reason given was that "the defendant had no right to represent himself on appeal." *See* Trial Transcript, Vol. XVII, pages 77, line 3-25, page 78, lines 1-10. *See also Martinez v. Court of*

Appeals of California, 4th Appellate District, 120 S.Ct. 684 (2000). (Right of appeal is statutory and therefore any individual right to self-representation must be grounded in the Due Process Clause.) The trial court's perplexing interpretation of federal precedent rendered the decision to deny supplemental counsel effectively un-reviewable. *See Southern Pacific Terminal Co. v. ICC*, 31 S.Ct. 279, 283 (capable of repetition, yet evading review.)

However, the appointment of a guardian ad litem, with no finding of incompetency, indicates the trial court recognized a conflict of interests. See Trial Transcript, Vol. XVII, page 79, lines 4-25, page 80, lines 1-3, 21-25, pages 81, lines 1-13.

2. A defendant is guaranteed the effective assistance of direct appeal appellate counsel by both the U. S. Constitution and the Tennessee Constitution. *See Evitts v. Lucey*, 469 U.S. 387, 105 St. Ct. 830 (1985). *See also Campbell v. State*, 904 S.W. 2d 594, 596 (Tenn. 1995).

3. The guardian ad litem/attorney ad litem utilized the incorrect appellate rule, T.R.A.P., Rule 9, (interlocutory appeal only under specified circumstances.), instead of the correct and appropriate direct appeal process, T.R.A.P. 3 (c), contrary to the collateral order doctrine, *see* Leibman and Hertz Habeas Practice. (5th Ed) 2005

B. To require the appeal of the denial of supplemental counsel via a post-conviction petition would constitute an undue burden on the appellant.

1. Tennessee's post-conviction procedure is not a constitutionally effective remedy. There is no recognized constitutional guarantee to the effective assistance of counsel in a post-conviction proceeding. *See House v. State*, 911 S.W.2d 705, 712 (Tenn. 1995). Utilization of the post-conviction process requires waiver of this right.

a.) Time required for automatic review under T.C.A. § 39-13-206(c) would postpone the presentation of the claim, and result in unnecessary litigation. Petitioner was convicted and sentenced on June 15, 1999. The convictions and sentences were affirmed by the Tennessee Supreme Court on January 5, 2004.

b.) The waiver of attorney-client privilege is personal to the client and unnecessary for legally based as opposed to factually based claims. A claim based upon purely legal grounds can proceed on direct appeal, upon the record at trial. *See* Rule 10, Rules of the Court of Criminal Appeals or *State v. Bunch*, 648 S.W. 2d 158, 160 (Tenn. 1983), *State v. Roberts*, 755 S.W.2d 833, 836 (Tenn. Crim. App. 1988). (Appellate Court is precluded from considering an issue not supported by a sufficient record.)

II. The denial of supplemental counsel by the trial court was a denial of a direct appeal of the ineffective assistance of trial counsel. This denial was based upon federal case law precedent and was a denial of the effective assistance of direct appeal appellate counsel. *See Evitts v. Lucey*, 469 U.S. 387, 105 S.Ct. 830 (1985). *See also Campbell v. State*, 904 S.W. 2d 594, 596 (Tenn. 1995).

A. The denial of supplemental counsel deprived the defendant of conflict-free representation. This denial by the trial court was based upon the perplexing interpretation of federal precedent that the defendant has no right to represent himself on appeal. *See Martinez v. Court of Appeals of California, 4th Appellate District*, 120 S.Ct. 684 (2000). *See also* Trial Transcript: Transcript of post-trial hearings on Nov. 19, 1999 and Jan. 14, 2000, page 77, lines 3-14.

However, the appointment of a guardian ad litem, with no finding of incompetency indicates the trial court recognized a conflict of interests. *See Evitts v. Lucey*, 469 U.S. 387, 105 S.Ct. 830 (1985). *See also Campbell v. State*, 904 S.W. 2d 594, 596 (Tenn. 1995).

B. Deferment of presentation of the claim of ineffective assistance of trial counsel by supplemental counsel poses an undue burden on the appellant.

1. Post-conviction procedure (*See* Tennessee Post-Conviction Procedure Act, Tenn. Code. Ann. § 40- 30-100, et. seq., and TN. Sup. Ct. R. 28.) is not a constitutionally effective remedy. The effective assistance of counsel is constitutionally guaranteed at trial and during direct review. *See Evitts v. Lucey*, 469 U.S. 387, 105 S.Ct. 830 (1985). *See also Campbell v. State*, 904 S.W. 2d. 594, 596 (Tenn. 1995). There is no constitutional right to the effective assistance of counsel during post-conviction proceedings. *See House v. State, supra; Murray v. Giarratano*, 492 US 1 (1989).

2. Post-conviction proceedings are not an equitable remedy.

a. The waiver of attorney-client confidentiality is personal to the client and unnecessary for a claim based on purely legal grounds as opposed to a factually based claim. A legally based claim can proceed upon the record at trial. *See* Rule 10, Rules of the Court of Criminal Appeals.

b. Current federal and state precedent hold the right to initiate an appeal is personal. *See Jones v. Barnes*, 463 U.S.734, 103 S.Ct. 308 (1983). *See also Campbell v. State*, 904 S.W. 2d 594, 596 (Tenn. 1995). However, once a post-conviction challenge is initiated; a petition amended by appointed counsel which excludes the appellant's claims, or includes claims with

which the petitioner disagrees, can be prosecuted in disregard of the wishes of the petitioner. *See Leslie v. State*, 36 S.W. 3d 34 (Tenn. 2001).

c. While a petitioner might allow the statute of limitation for state post-conviction to expire in order to waiver those issues preferred by counsel, the only equitable tolling options are incompetence or new evidence. *See* Tenn. Code Ann. § 40-30-117. Neither apply to the present case.

3. Time required for automatic review under Tenn. Code Ann. §39-13-206(c) would postpone the presentation of this claim and result in unnecessary litigation.

III. Extraordinary Circumstances

A. Prisoner petitioning for habeas corpus relief of a state conviction is limited to one petition. *See* Federal Habeas Corpus, 28 U.S.C. §2254. The statute does not require the prisoner to present one or more claims entitled to statutory tolling. *Id.*

B. While the decision to initiate an appeal is personal to the prisoner, *See Jones v. Barnes*, an amended petition can be signed 'on behalf' of the prisoner by appointed counsel, as evidenced by the 'putative petition.' *See* 28 U.S.C. §2254. *See also Holton v. Bell*, No. 1:05-cv-00202 (E.D. Tenn.) (Phillips, District Judge).

C. As all state post-conviction claims were procedurally defaulted, the only claims entitled to statutory tolling of the statute of limitation were those claims previously determined or exhausted during direct review. *See* 28 U.S.C. §2554. No previously determined claim represented the instant petitioner's actual position. *See* Trial Transcript. Vol. XVII, page 78, line 11-15; page 81, lines 7-13. To require the petitioner to risk the exclusion of his actual claim(s) in favor of garden

variety, meritless, albeit more popular claims preferred by counsel would constitute an undue burden on the instant petitioner.

IV. Due Diligence

A. *State v. Holton*, No. M2005-01870-SC-S10-PD

B. *Holton v. Bell*, No. 1:05-cv-00202 (E.D. Tenn.) (Phillips, District Judge)

Petitioner exercised due diligence in exhausting the claims raised by the attorneys, so that Petitioner may now assert his claims herein, by refusing to cooperate with intervening counsel, except to the extent ordered by any court.

UNEXHAUSTED CLAIMS PETITIONER WISHES TO RAISE:

State: Direct Appeal Claims

The appellant was denied a fair trial due to the ineffective assistance of trial counsel.

A. The appellant was denied a fair trial due to counsel's failure to challenge the constitutionality of the diminished capacity 'rule of evidence,' which is burden-shifting per se.

1. In *State v. L. Hall*, 958 S.W. 2d 679 (Tenn. 1977), the Tn. Sup. Crt. found that the defense of diminished capacity was a 'rule of evidence,' However, T.C.A. 39-11-203(e) (negation of an element is a defense..), provides that any ground that tends to negate an element of an offense, is a defense.

2. The Tn. Sup. Ct. in *State v. Burns*, held that there are 3 categories of lesser included offenses in Tennessee. Parts a) and c) were recognized as those offenses that contain at least one element of the charged offense or those offenses that involve facilitation, solicitation or attempt of the charged offense, respectively, cite ... Part b) was reserved for another day. *Ibid.* That day came in *State v. Ely*, 48 S.W. 3d 710 (2001) & 40-18-110. In *Ely* the Court held that part b) lesser included offense was one that involved a different mental state with a lesser culpability, *Ibid.*

3. In Tennessee, a defendant that presents evidence of diminished capacity at trial is required to assume the burden of culpability for a 'less serious' offense. TCA dim. Cap. The jury is permitted infer culpability by virtue of the defendant's presentation. Technical record, exhibit #129, Jury instructions, pages 14-15.

4. To require the defendant to prove an element of a lesser included offense in order to negate an element of the charged offense is burden-shifting. *In re Winship*, 90 S Ct. 1068 (1970); *Mullaney v. Wilbur* , 421 U.S. 684, 691 (1975) The admission of evidence of diminished capacity conditioned on the assumption of culpability for a lesser included offense is burden-shifting per se. This is constitutionally impermissible under the dictates of *Winship* and *Patterson*.

B. The appellant was denied a fair trial due to counsel's presentation of an insanity defense in concert with the defense/evidence of diminished capacity which is inherently contradictory. *Ibid.* Technical Record: Volume VI, pages 807-808, n. 2.

1. Carbon monoxide intoxication is a mental disease or defect which can affect reasoning and judgment. Trial transcript: Volume XIII, page 746, lines 9-21.

2, a) Evidence of mental disease or defect is a prerequisite to the defense of insanity. TCA; Technical record, exhibit #129, Jury Instructions, page 12. V §39-11-501(a)

3, b) Evidence of diminished capacity is evidence of a mental disease or defect. *Ibid*, page 14

4, c) To claim a total lack of culpability while simultaneously claiming a lesser degree of culpability is a self-defeating and inherently contradictory. *In re Winship*, 90 S. Ct 1068 (1970); *Patterson, v. N.Y.*, 97 S. Ct 1068 (1970); *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975).

For the reasons set forth herein, Daryl Keith Holton respectfully requests that the Court stay his execution now scheduled for 1:00 a.m. CDT, September 19, 2006, entertain this original petition, order an evidentiary hearing to resolve any disputed facts, and grant relief from Mr. Holton's convictions and sentences. Petitioner is indigent and requests to proceed without costs. A motion to proceed in forma pauperis is either attached or will follow shortly.

Respectfully submitted,

Daryl Keith Holton, #306263
Unit 2, C-204
Riverbend Maximum Security Institution
7475 Cockrill Bend Boulevard
Nashville, TN 37209-1048
Pro Se

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this pleading was hand delivered to attorney Kelly Gleason to lodge and/or file in the Supreme Court of the United States on this the 16th day of September, 2006.

Daryl Keith Holton

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 2005

No. _____

DARYL KEITH HOLTON,
Petitioner,

v.

RICKY BELL, WARDEN
Riverbend Maximum Security Institution

Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

CAPITAL CASE
EXECUTION SET FOR SEPTEMBER 19, 2006 AT 1 AM

Daryl Keith Holton, #306263
Unit 2, C-204
Riverbend Maximum Security Institution
7475 Cockrill Bend Boulevard
Nashville, TN 37209-1048

Petitioner moves for leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*. In support of this motion, Petitioner states:

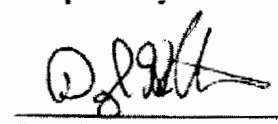
1. Petitioner is an inmate in the custody of the Tennessee Department of Corrections under sentence of death. The death sentence was affirmed on direct appeal by the Tennessee Supreme Court. *State v. Holton*, 126 S.W.3d 845 (Tenn. 2004).

2. Petitioner has previously been declared to be indigent and permitted to proceed *in forma pauperis* in the United States District Court for the Eastern District of Tennessee at Chattanooga, the Tennessee Supreme Court, the Tennessee Court of Criminal Appeals, and the Circuit Court for Bedford County, Tennessee.

3. A copy of an Affidavit of Indigency executed by Petitioner on September 16, 2006 is attached to this motion. Petitioner asserts that the affidavit complies with the requirements of the Rules of the United States Supreme Court, Rule 39.

Wherefore, Petitioner respectfully requests that this Court grant him leave to proceed *in forma pauperis* and any other relief the Court deems just.

Respectfully submitted,



Daryl Keith Holton, #306263
Unit 2, C-204
Riverbend Maximum Security Institution
7475 Cockrill Bend Boulevard
Nashville, TN 37209-1048

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of this pleading was hand deliv Gleason to lodge and/or file in the Supreme Court of the United States on September, 2006.

Daryl Keith Holton

Exhibit 1

AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, Daryl Keith Holton, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	$ 0	$ N/A	$	$
Self-employment	$ 0	$	$	$
Income from real property (such as rental income)	$ 0	$	$	$
Interest and dividends	$ 0	$	$	$
Gifts	$ 24	$	$	$
Alimony	$ 0	$	$	$
Child Support	$ 0	$	$	$
Retirement (such as social security, pensions, annuities, insurance)	$ 0	$	$	$
Disability (such as social security, insurance payments)	$ 0	$	$	$
Unemployment payments	$ 0	$	$	$
Public-assistance (such as welfare)	$ 0	$	$	$
Other (specify):	$ 0	$	$	$
Total monthly income:	$ 24	$	$	$

Exhibit 1

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Ø			$
			$
			$

3. List your spouse's employment history for the past two years, most recent employer first (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
NA Ø			$
			$
			$

4. How much cash do you and your spouse have? $ 5.12
Below, state any money you or your spouse have in bank accounts or in any other financia institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
Inmate Acct		$ 5.12	$
		$	$
		$	$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Ø

☐ Home
Value

☐ Other real estate
Value

☐ Motor Vehicle #1
Year, make & model
Value

☐ Motor Vehicle #2
Year, make & model
Value

☐ Other assets
Description

6. State every person, business, or organization owing you or your spouse money, and t amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spous
	$	$
	$	$
	$	$

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age

8. Estimate the average monthly expenses of you and your family. Show separately the amou paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? ☐ Yes ☐ No Is property insurance included? ☐ Yes ☐ No	$ N/A	$
Utilities (electricity, heating fuel, water, sewer, and telephone)	$ N/A	$
Home maintenance (repairs and upkeep)	$ N/A	$
Food	$ N/A	$
Clothing	$ N/A	$
Laundry and dry-cleaning	$ N/A	$
Medical and dental expenses	$ N/A	$

	You	Your spouse
Transportation (not including motor vehicle payments)	$ N/A	$
Recreation, entertainment, newspapers, magazines, etc.	$ N/A	$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	$ N/A	$
Life	$ N/A	$
Health	$ N/A	$
Motor Vehicle	$ N/A	$
Other:	$ N/A	$
Taxes (not deducted from wages or included in mortgage payments)		
(specify):	$ N/A	$
Installment payments		
Motor Vehicle	$ N/A	$
Credit card(s)	$ N/A	$
Department store(s)	$ N/A	$
Other:	$ N/A	$
Alimony, maintenance, and support paid to others	$ N/A	$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ N/A	$
Other (specify):	$ N/A	$
Total monthly expenses:	$ N/A	$

9. Do you expect any major changes to your monthly income or expenses or in your assets c liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

.0. Have you paid – or will you be paying – an attorney any money for services in connectior with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

:1. Have you paid—or will you be paying—anyone other than an attorney (such as a paralega a typist) any money for services in connection with this case, including the completion of t form?

☐ Yes ☒ No

If yes, how much? _____

f yes, state the person's name, address, and telephone number:

.2. Provide any other information that will help explain why you cannot pay the costs of this c:

declare under penalty of perjury that the foregoing is true and correct.

Executed on: 16th Sep, 2006

_____

Exhibit 1

Holton # 306263

CERTIFICATE
(Prisoner Accounts Only)

I hereby Certify that the Applicant named herein has the sum of 5.1 account to his credit at the Riverland Max Security Institute, where he in confined. I further Certify that the Applicant likewise l securities to his credit according to the records of said Institution NA

I further Certify that during the last six (6) months the Applicant's avera

$ 47.66

Linda Pollock

Authorized Officer of Institution

ORDER OF THE COURT

The application is hereby denied. _____

JUDGE DATE

The application is hereby GRANTED . Let the applicant proceed without prepay fee or the necessity of giving security therefor. _____

JUDGE DATE

OR MAGISTRATE

Exhibit 1

Account: 00306263 HOLTON, DARYL K. Actual Site: RMS
Status: ACTV Sex: M Race: W Age: 44 Assigned Site: RMS
Current Balance: 5.12 Pending Balance:

S	Trans Date	Seq No	Transaction Type/Code/Amount		Trans Site	Current Amount	Pend Amc
	09/12/2006	2	D COM	0.98	RMSI	5.12	
	09/12/2006	1	D COM	9.50	RMSI	6.10	
	09/06/2006	2	C PMO	15.00	RMSI	15.60	
	09/06/2006	1	D COM	11.91	RMSI	0.60	
	08/28/2006	2	D COM	1.92	RMSI	12.51	
	08/28/2006	1	D COM	15.39	RMSI	14.43	
	08/21/2006	3	C MON	20.00	RMSI	29.82	
	08/21/2006	2	D COM	0.98	RMSI	9.82	
	08/21/2006	1	D COM	9.11	RMSI	10.80	
	08/14/2006	2	D COM	5.35	RMSI	19.91	

Search:
NEXT FUNCTION: DATA:
F1-HELP F8-PAGEDOWN F9-QUIT F11-SUSPEND

TOP OF LIST

Linda Pollock
Trust fund
@ RMSI
9-15-06

LESLI HATLEY NOTARY PUBLIC AT LARGE MONTGOMERY CO. TENN.

Lesli Hatley

My Commission Expires June 19, 2007

15·00 +
20·00 +
31·00 +
35·00 +
30·00 +
20·00 +
20·00 +
31·00 +
30·00 +
34·00 +
20·00 +
286·00 T

286·00 +
6·00 =

Exhibit 1