

Exhibit 5

AFFIDAVIT OF BRUCE LEVY, M.D.

STATE OF TENNESSEE)
COUNTY OF DAVIDSON)

I, Bruce Levy, M.D., having been duly sworn, do hereby affirm the following:

1. I am over the age of 18 years and have direct knowledge of the matters stated herein;

2. I am County Medical Examiner for the Metropolitan Government of Nashville and Davidson County;

3. I have worked in this capacity since 1997;

4. I am charged, pursuant to T.C.A. Title 38, Chapter 7 with investigating the circumstances and performing the autopsies upon the body of any person dies of unnatural causes within the boundaries of Davidson County;

5. When Sedley Alley is executed by the state, this execution will have occurred in Davidson County and will be a death by an unnatural cause;

6. Based on my education, experience, and understanding of my duties as County Medical Examiner, I hold the opinion that there are several important reasons for why it is necessary to perform an autopsy of Mr. Alley.

First, T.C.A. 38-7-108 specifically requires the death of all prisoners to be reported to the County Medical Examiner in the county in which the death occurred for investigation.

Second, T.C.A. 38-7-106 provides the legal authority for the County Medical Examiner to order an autopsy on the body of any person who dies as a result of a homicide or suspected homicide or unnatural death. The legal execution of a prisoner is a

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homicide and the manner of death on the death certificate will be certified as a homicide. Further, the Davidson County Medical Examiner's Office is accredited by the National Association of Medical Examiners and this accreditation requires the autopsy of greater than ninety-five (95) percent of all persons who have died as a result of a homicide or suspected homicide

Third, the only way in which I, as the County Medical Examiner, can confirm the prisoner's execution as the etiologically specific cause of his death is to perform an autopsy. Further, the only way in which I can confirm that the execution was carried out according to state law is to perform an autopsy. Without an autopsy it would be my professional opinion that the cause and manner of death of this prisoner would have to be classified as undetermined.

Fourth, the only way in which I, as County Medical Examiner, can determine whether any other event may or may not have contributed to or caused the death of this person is to perform an autopsy. In addition, an autopsy is the only method by which I can determine whether any other event caused harm to this person is to perform an autopsy. An autopsy is the only way I can rule out any possibility that the state failed to protect the rights of the inmate during incarceration and establish that the execution was carried out in the manner prescribed by law.

Fifth, It is my opinion that any time the State takes a person's life by legal execution that it is in the public interest that an autopsy be performed by an authority that is independent of the agency that conducted the execution.

Sixth, the autopsy will not interfere in any way with the ability of the prisoner's family to make the arrangements for his body as they may chose.

