

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

STATE OF TENNESSEE V. SEDLEY ALLEY

No. M1991-00019-SC-DPE-DD

Filed January 16, 2004

ORDER

On December 9, 2003, the State filed a Motion to Set Execution Date for Sedley Alley. The motion stated that Alley had completed the standard three-tier appeals process and that an execution date should therefore be set under Tennessee Supreme Court Rule 12.4(A).

On December 19, 2003, Sedley Alley filed a Response in Opposition to Motion to Set Execution Date and/or Request for Certificate of Commutation. The response alleged that the standard three-tier appeals process was not yet complete in this case because Alley has a motion for relief from judgment under Fed. R. Civ. P. 60(b) pending in the United States Federal District Court for the Western District of Tennessee. The response also alleged that it is very likely that Alley will become incompetent to be executed at or around the time of execution and requested that further proceedings should be ordered under Ford v. Wainwright, 477 U.S. 399, 106 S.Ct. 2595, 91 L.Ed. 2d 335 (1986). In addition, the response requested that this Court issue a certificate of commutation and/or deny the State's motion because Alley had been denied his fundamental right to have the sentencing jury consider mitigating evidence under State v. Carter, 114 S.W.3d 895 (Tenn. 2003).

Having considered the Motion to Set Execution Date and the Response, this Court finds that Alley has presented no legal basis for denying the State's Motion to Set Execution Date. Therefore, the State's motion is GRANTED. Sedley Alley's requests for further proceedings under Ford v. Wainwright, supra, and for the issuance of a certificate of commutation are DENIED. Should a substantial change in Alley's competency occur, counsel may file with the Court an affidavit specifically alleging facts establishing a claim of incompetency. It is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the third day of June, 2004, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Sedley Alley shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

PER CURIAM