

**IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE**

SEDLEY ALLEY,)	
)	No. _____
Petitioner-Appellant,)	
)	From the Court of Criminal Appeals
v.)	at Jackson
)	No. W2006-001179-CCA-R3-PD
STATE OF TENNESSEE,)	
)	CAPITAL CASE
Appellee.)	

**MOTION OF *AMICI CURIAE*,
DOUGLAS WARNEY, CLARENCE ELKINS, CHRISTOPHER OCHOA,
DENNIS FRITZ AND KEVIN GREEN,
FOR LEAVE TO FILE *AMICI* BRIEF**

Pursuant to Tennessee Rule of Appellate Procedure 31, proposed *amici curiae*, Douglas Warney, Clarence Elkins, Christopher Ochoa, Dennis Fritz and Kevin Green, hereby move this Honorable Court for leave to file an *amici curiae* brief in support of Petitioner’s Application for Permission to Appeal urging reversal of the decision of the Court of Criminal Appeals. Contemporaneously herewith, these proposed *amici curiae* are conditionally filing their brief pursuant to Tenn.R.App.P. 31(a).

In support of this Motion, these proposed *amici curiae* state the following:

1. Proposed *amici curiae* are persons once wrongfully convicted and now completely exonerated by precisely the kind of post-conviction DNA testing that is at issue in this case. Specifically, proposed *amici* were all proven innocent only upon post-conviction DNA

analysis that included comparison of the crime scene DNA with the DNA of other known suspects or with DNA profiles stored in a known offender database.

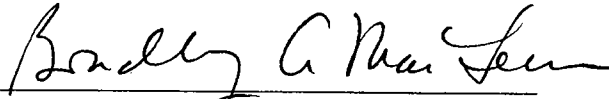
2. Proposed *amici's* interest in this case stems from their concern that the Tennessee Post-Conviction DNA Analysis Act is being construed in a manner that will curtail to a great extent the ability of innocent persons to pursue their own vindication and the ability of the criminal justice system to ensure that true perpetrators are brought to account. Indeed, had *amici's* cases been reviewed under a standard applied by the courts below in this case – limiting post-conviction DNA analysis to a comparison of a defendant's DNA to DNA recovered from a crime scene – every single one would still be incarcerated, if not executed, and the true perpetrator of the crimes of which they were convicted would likely still be at large.

3. Moreover, like the petitioner in this case, each of the *amici* were convicted of – or pleaded guilty to – a heinous crime based on seemingly overwhelming evidence of guilt, including confessions and eyewitness identifications. Also, as has happened here, in many of *amici's* cases, protestations of innocence and requests for DNA testing did not occur until years after the conviction.

4. Proposed *amici* accordingly and respectfully submit that their real world experiences in endeavoring to prove their innocence via post-conviction DNA testing will assist the court in evaluating Mr. Alley's virtually identical request.

WHEREFORE, for the foregoing reasons, and for such other reasons as the Court may deem just and proper, it is respectfully requested that this Court grant this motion and allow proposed *amici* to file their brief which is being conditionally filed herewith.

Respectfully submitted,



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CERTIFICATE OF SERVICE

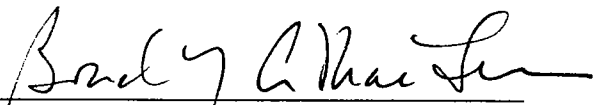
I hereby certify that a true and exact copy of the foregoing been served upon the following:

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on this 26th day of June, 2006.



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DESIGNATION OF ATTORNEY OF RECORD
FOR THE *AMICI CURIAE* IDENTIFIED ABOVE

The *amici curiae* identified above designate the following attorney of record:

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Mr. MacLean prefers that he be notified of orders or opinions of the Court by e-mail.

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6/23/06