

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

STATE OF TENNESSEE

v.

SEDLEY ALLEY

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No. M1999-00019-SC-DPE-PD

Filed: December 9, 2005

SUPPLEMENT TO
RESPONSE TO MOTION TO SET EXECUTION DATE

As noted in his response to the state's motion, Sedley Alley is entitled to file a motion for reconsideration under Fed.R.Civ.P. 59 in the U.S. District Court, and he can seek appellate review as well. Sedley Alley respectfully informs this Court that, on December 8, 2005, he sent to the United States District Court via overnight delivery both a timely Rule 59 motion and a timely notice of appeal. Under federal law, the notice of appeal would become effective upon any ruling on the Rule 59 motion. See Fed.R.App. 4(a)(4).

Sedley Alley's case thus remains pending in the United States District Court on reconsideration. Should reconsideration be granted, the case obviously would not be finally concluded in the District Court. Should reconsideration be denied, Sedley Alley's case still would not be final in the federal courts, as it would then be pending on appeal in the Sixth Circuit – just as it was the last time this Court denied a motion to reset an execution date. Given the ongoing proceedings in the federal courts, this Court should deny the state's motion, as it did so previously.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served by first-class mail upon counsel for the state, Joseph Whalen, Office of the Attorney General, 425 Fifth Avenue North, Nashville, Tennessee 37243, this ___ day of December, 2005.
