

IN THE CRIMINAL COURT  
FOR THE THIRTIETH JUDICIAL DISTRICT  
AT MEMPHIS  
DIVISION 2

SEDLEY ALLEY	)	
	)	
Petitioner	)	No. _____
	)	Previous No. P-8040
v.	)	<b>== Expedited Consideration</b>
	)	<b>Requested ==</b>
STATE OF TENNESSEE	)	
	)	
Respondent	)	

PETITION FOR POST-CONVICTION DNA ANALYSIS  
PURSUANT TO TENN. CODE ANN. §40-30-301 ET SEQ.

Petitioner Sedley Alley respectfully requests that this Court order the production of DNA samples so that he may conduct DNA analysis of those samples to establish any and all exculpatory evidence exonerating him, evidence which would establish a reasonable probability that Sedley Alley would not have been prosecuted or convicted (Tenn. Code Ann. §40-30-304) and/or a reasonable probability that the jury’s verdict as to guilt and/or sentence would have been more favorable had the jury learned the results of the requested DNA testing. See Tenn. Code Ann. §40-30-305.

The victim in this case was sexually assaulted and killed. Sedley Alley was convicted of first-degree murder and sentenced to death. There was no DNA evidence presented at the trial. However, it is clear that the state has had in its possession numerous samples containing biological evidence which can be subjected to DNA analysis to identify the person who assaulted and killed the victim.

There are various fluid samples and hair specimens which were never tested for DNA. The existence of such specimens is shown by the trial testimony of: (a) Craig Lahren of the University of Tennessee Center for Health Sciences (Excerpts attached as Exhibit 1); (b) Reports from the University of Tennessee Toxicology and Chemical Pathology Laboratory (Attached as Exhibits 2

& 3); and (c) An affidavit in support of a search warrant seeking biological samples from Sedley Alley (Attached as Exhibit 4). The proof would show that those items include the following:

- (1) Black head hairs found on the victim's socks, which do not match Sedley Alley, who is caucasian (Q7);<sup>1</sup>
- (2) A caucasian body hair found on the victim's waistband (Q6);<sup>2</sup>
- (3) A caucasian pubic hair found on the victim's left shoe (Q1);<sup>3</sup>
- (4) A hair found on a stick found in the victim;<sup>4</sup>
- (5) Nasopharyngeal swabs from the victim;<sup>5</sup>
- (6) Oral swabs from the victim;<sup>6</sup>
- (7) Rectal swabs from the victim;<sup>7</sup>
- (8) Vaginal swabs from the victim;<sup>8</sup>

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<sup>1</sup> Trial Transcript 883 (Craig Lahren: Item Q7 consists of 2 strands of hair from a black individual found on victim's sock)(contained in attached Exhibit 1).

<sup>2</sup> Trial Transcript 882 (Craig Lahren: Item Q6 collected from waistband of victim and identified as medium-brown caucasian body hair)(contained in attached Exhibit 1).

<sup>3</sup> Trial Transcript 879 (Craig Lahren: Item Q1 hair collected inside shoe of victim)(contained in attached Exhibit 1). See also Excerpt of Shelby County Sheriff's Report Concerning Evidence, AG File pp. 269, 271 (Attached as Exhibit 5).

<sup>4</sup> See Search Warrant Affidavit, July 17, 1985 ("hair was found on an instrument" used in sexual assault)(Attached as Exhibit 4).

<sup>5</sup> July 19, 1985 Report #1, Item 3 (Report attached as Exhibit 2).

<sup>6</sup> July 19, 1985 Report #1, Item 4 (Report attached as Exhibit 2).

<sup>7</sup> July 19, 1985 Report #1, Item 5 (Report attached as Exhibit 2).

<sup>8</sup> July 19, 1985 Report #2, Item 11 (Attached as Exhibit 3).

- (9) Swab taken from the victim's right inner thigh;<sup>9</sup>
- (10) Swab taken from the victim's left inner thigh.<sup>10</sup>

Given the existence of this evidence, Sedley Alley respectfully requests that this Court order the following, so that he may conduct DNA analysis of the evidence:

(1) That all the above-cited evidence be preserved and protected wherever it may now be located (Tenn. Code Ann. §40-30-309);

(2) That all the above-cited evidence be produced for Sedley Alley by those in possession of all such evidence, including the University of Tennessee Center for Health Sciences and the University of Tennessee Toxicology and Chemical Pathology Laboratory or anyone else in possession of such evidence;

(3) That known hair and blood samples from the victim likewise be produced for Sedley Alley. It appears that the UT Toxicology and Chemical Pathology Laboratory has a sample of the victim's blood, identified as their Item 1 in a July 19, 1985 report. It also appears that the University of Tennessee Center For Health Sciences has samples of the victim's head and pubic hair, identified as K1 in a February 4, 1986 report.

(4) That all such samples be sent for analysis to a qualified DNA expert of Petitioner's choosing. Sedley Alley does not object to being able to test no more than half of each sample and returning the remainder of all such evidence to the Court or the custodian of such evidence. Sedley Alley will also expedite any analysis of such evidence.

(5) That this Court appoint undersigned counsel to represent Petitioner, as

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<sup>9</sup> July 19, 1985 Report #2, Item 12 (Attached as Exhibit 3).

<sup>10</sup> July 19, 1985 Report #2, Item 13 (Attached as Exhibit 3).

required under Tenn. Code Ann. §40-30-202 et seq., including Tenn. Code Ann. §40-30-206(a)-(e), because Sedley Alley is indigent and has been indigent throughout all proceedings in this Court (See also Tenn. Code Ann. §40-30-307);

(6) That this Court order the payment of all expenses related to this testing because: (a) Sedley Alley is indigent and is therefore entitled to payment of all such expenses as a matter of due process under the Fourteenth Amendment and the Tennessee Constitution (See Affidavit of indigency, *infra*, p. 6); and (b) such payment is authorized and warranted under Tenn. Code Ann. §40-30-306 & 40-30-313.

(7) That this Court enter any and all other appropriate orders to ensure that Sedley Alley receive necessary access to all such requested evidence without delay so that he can conduct an independent and accurate DNA analysis of all such evidence, and afterwards present to this court (or any other court) any and all exculpatory results from such DNA testing. See e.g., Tenn. Code Ann. §40-30-311; and

(8) That this Court order a hearing following the completion of testing so that Sedley Alley may present to this court (and any other court) any and all exculpatory evidence resulting from such testing which demonstrates that Sedley Alley was unjustly or inaccurately convicted and/or sentenced to death, and/or that his conviction and/or sentence suffer from any unconstitutionality, unfairness and/or illegality. See Tenn. Code Ann. §40-30-312.

Especially since it violates the Eighth and Fourteenth Amendments to execute an innocent person, and where it is likewise a violation of due process under the Eighth and Fourteenth Amendments and Tennessee law to allow the continued incarceration of one who is not guilty of a

criminal offense, this Court should order the production and disclosure of all the requested evidence to ensure that Sedley Alley will not be denied his fundamental rights under the Eighth and Fourteenth Amendments and the Tennessee Constitution, including Article I §16.

Sedley Alley has made this request specifically to ensure a fair determination of his guilt. He makes this request for the express purpose of demonstrating his innocence, and not to unreasonably delay the execution of sentence or administration of justice. In fact, should this Court promptly order the requested testing, the exculpatory results of such testing would be available prior to any execution date.<sup>11</sup> He is entitled to disclosure of the evidence under Tennessee law and the Sixth, Eighth, and Fourteenth Amendments. His request is made in good faith. This request should be granted.

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Sedley Alley  
Unit II  
Riverbend Maximum Security Institution  
7475 Cockrill Bend Industrial Road  
Nashville, Tennessee 37209

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Donald E. Dawson  
Post-Conviction Defender  
530 Church Street  
Suite 600  
Nashville, Tennessee 37243  
(615) 741-9331

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<sup>11</sup> Sedley Alley currently has a June 3, 2004 execution date. Alley's counsel in federal proceedings has contacted a qualified DNA expert who, upon receipt of the evidence, can complete all cellular DNA analysis within 2 weeks and mitochondrial analysis within 3 weeks. Therefore, prompt production of the evidence will permit analysis before June 3.

VERIFICATION

I affirm under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: \_\_\_\_\_

\_\_\_\_\_  
Sedley Alley  
Unit II  
Riverbend Maximum Security Institution  
7475 Cockrill Bend Industrial Road  
Nashville, Tennessee 37209

Sworn to and subscribed before me this the \_\_\_\_ day of \_\_\_\_\_, 2004

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**AFFIDAVIT OF INDIGENCY**

I, Sedley Alley do solemnly affirm that because of my poverty, I am not able to bear the expenses of the action which I am about to commence. I further affirm that, to the best of my knowledge, I am justly entitled to the relief sought.

\_\_\_\_\_  
Signature of Petitioner

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing motion has been served this day upon the District Attorney General for the 30<sup>th</sup> Judicial District.

Date:

\_\_\_\_\_

EXHIBIT 1

EXHIBIT 2

EXHIBIT 3

EXHIBIT 4

EXHIBIT 5