

**IN THE CRIMINAL COURT
OF DAVIDSON COUNTY, TENNESSEE**

ABU-ALI ABDUR'RAHMAN)	
Petitioner)	Post-Conviction No. _____
)	DEATH PENALTY CASE
v.)	Trial Case No. 87-W-417)
)	
STATE OF TENNESSEE)	Execution set April 10, 2002 at 1:00am
Respondent)	

MOTION TO APPOINT COUNSEL

Abu-Ali Abdur' Rahman moves this Court to appoint the Office of the Post-Conviction Defender to represent him in the matter of his motion to reopen his post-conviction petition which is currently pending before this Court. Mr. Abdur' Rahman is In support of this motion, he offers the following:

LEGAL STANDARD AND ARGUMENT

“If a petitioner not represented by counsel requests counsel and the court is satisfied that the petitioner is indigent as defined in § 40-14-201, the court **shall** appoint counsel to represent the petitioner.” Tenn. Code Ann. § 40-30-207(b)(1) (emphasis added). Mr. Abdur' Rahman has filed a motion to reopen his post-conviction petition. Mr. Abdur' Rahman avers that he needs counsel to protect the constitutional rights raised in and involved in litigating this motion. (Aff. of Abdur'Rahman, attached)

It is appropriate for the Court to appoint the Office of the Post-Conviction Defender, 530 Church St., Suite 600, Nashville, TN 37243. “It is the primary responsibility of the post- conviction defender to represent, . . . any person convicted and sentenced to death in this state who is without counsel and who is unable to secure counsel due to indigency . . .” Tenn. Code Ann. § 40-30-306(a). Rule 13 Section 1(h) of the Rules of the Tennessee Supreme Court also mandates the appointment of the Post-Conviction Defender in post-conviction matters. The Office of the Post-Conviction Defender is presumptively the appropriate public defender organization to be appointed in a post-conviction case filed by an indigent petitioner under a sentence of death.

CONCLUSION

Pursuant to the simultaneous filing of a motion to reopen his post-conviction petition and affidavit of indigency, Abu-Ali Abdur' Rahman is statutorily entitled to have the Office of the Post-Conviction Defender appointed to represent him in his post-conviction proceedings.

Respectfully submitted,

_____ Donald E. Dawson, BPR 10723

Post-Conviction Defender

Paul J. Morrow, Jr., BPR 5559
Deputy Post-Conviction Defender

Jefferson Dorsey, BPR 15434
Assistant Post-Conviction Defender

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