

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

SEDLEY ALLEY V. STATE OF TENNESSEE

No. M1991-00019-SC-DPE-DD - Filed May 25, 2004

ORDER

On May 18, 2004, Sedley Alley filed in this Court a “Motion to Assume Jurisdiction” under Tenn. Code Ann. § 16-3-201(d) requesting that this Court assume jurisdiction of Alley’s appeal to the Court of Criminal Appeals challenging the trial court’s denial of his petition for post-conviction DNA analysis. On that same day, Alley also filed in this Court a “Motion to Preserve Evidence for DNA Analysis,” an “Emergency Motion for Production of Biological Samples for DNA Analysis” and a “Motion for Stay of Execution.”

On May 19, 2004, the United States District Court for the Western District of Tennessee filed an order granting Alley’s motion to stay his execution pending the decision of the Sixth Circuit Court of Appeals in Abdur’Rahman v. Bell and the subsequent ruling of the District Court on Alley’s motion for relief under Rule 60(b) of the Federal Rules of Civil Procedure. On May 20, 2004, in light of the stay issued by the United States District Court, Alley filed in this Court a “Motion to Vacate Execution Date.” Alley asserts that vacating the execution date will eliminate the need for expedited consideration by the Court of Criminal Appeals of his currently pending appeal from the order of the Shelby County Criminal Court denying his petition for DNA analysis

Upon due consideration, this Court finds that Alley has presented no legal basis for this Court to assume jurisdiction of the appeal presently pending in the Court of Criminal Appeals or to stay the execution. The Court further finds that the “Motion for Stay of Execution” is moot in light of the stay issued by the United States District Court. It is therefore ORDERED that the “Motion to Assume Jurisdiction” and the “Motion for Stay of Execution” are DENIED. Because this Court has denied the “Motion to Assume Jurisdiction,” the Court has no jurisdiction to act on the “Motion to Preserve Evidence for DNA Analysis” and the “Emergency Motion for Production of Biological Samples for DNA Analysis.” It is therefore further ORDERED that the said “Motion to Preserve Evidence for DNA Analysis” and the “Emergency Motion for Production of Biological Samples for DNA Analysis” are DENIED. It is further ORDERED that the “Motion to Vacate Execution Date” is DENIED.

PER CURIAM

Justice Adolpho A. Birch, Jr. - Dissenting