

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

SEDLEY ALLEY, )  
)  
Plaintiff, )  
) No. \_\_\_\_\_  
v ) **Death Penalty Case**  
) **Execution Date May 17, 2006, 1:00 a.m.**  
GEORGE LITTLE, in his official capacity as )  
Tennessee's Commissioner of )  
Correction; )  
)  
RICKY BELL, in his official capacity as )  
Warden, Riverbend Maximum )  
Security Institution; )  
)  
JOHN DOE PHYSICIANS 1-100; )  
)  
JOHN DOE PHARMACISTS 1-100; )  
)  
JOHN DOE MEDICAL PERSONNEL 1-100; )  
)  
JOHN DOE EXECUTIONERS 1-100; )  
)  
JOHN DOES 1-100, )  
)  
Defendants. )

**COMPLAINT**

**INTRODUCTION**

1. On May 17, 2006 at 1:00 a.m., the State of Tennessee intends to kill Plaintiff Sedley Alley by lethal injection. To kill Mr. Alley, the State intends to use a protocol whereby he would be injected with a dose of sodium thiopental, then with a dose of pancuronium bromide (Pavulon), and third with a dose of potassium chloride. The use of this protocol is unconstitutional. The sodium thiopental does not sufficiently anesthetize any individual. The use of pancuronium bromide is arbitrary, serves no legitimate interest, unreasonably risks the infliction of torture, and, at bottom,

offends the dignity of humanity: Indeed, it cannot be used in Tennessee to kill a dog. Its use violates equal protection. The potassium chloride does not stop the heart. The use of this mixture of chemicals causes a painful death experienced without total unconsciousness. This Court should, *inter alia*, enter a judgment declaring the use of pancuronium bromide unconstitutional and enjoining Defendants from using, seeking to obtain, ordering, writing a prescription, writing a physician's order, prescribing, dispensing, or in any other manner transferring to Defendants Bell or any other Defendants involved in the execution process pancuronium bromide in any form whatsoever. This Court should also declare the protocol unconstitutional and enjoin its use as it is unconstitutional under the Eighth, Ninth, and Fourteenth Amendments.

### **PARTIES**

2. Plaintiff Sedley Alley is a condemned inmate residing at Riverbend Maximum Security Institution, Nashville, Davidson County, Tennessee.

3. Defendant George Little is the Commissioner of the Tennessee Department of Corrections. Plaintiff sues Commissioner Little in his official capacity. Defendant is a state actor acting under color of state law, and his actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.<sup>1</sup>

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<sup>1</sup> In *Abdur'Rahman v. Sundquist*, Abdur'Rahman sued the Governor, Commissioner of the Department of Corrections, and Warden Bell challenging the lethal injection protocol. The Tennessee Supreme Court upheld the Defendants' position in *Abdur'Rahman v. Bredesen*, 181 S.W.3d 292 (Tenn. 2005), and the state continues to defend that judgment before the United States Supreme Court, U.S.No. 05-1036 (cert. pending). Even so, on March 30, 2006, Plaintiff filed with Defendant Little objections to the lethal injection protocol, and requested a response by April 5, 2006. One was not provided. On April 6, Plaintiff again requested a response. The Commissioner followed with a letter stating that a "response will be provided, as soon as possible, following consultation with the Attorney General's office." As of the filing of this complaint, however, Plaintiff has yet to receive the response which he requested last month.

4. Defendant Ricky Bell is the Warden of Riverbend Maximum Security Institution. Bell is directly in charge of executing Plaintiff. Plaintiff sues Warden Bell in his official capacity. Defendant is a state actor acting under color of state law, and his actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.

5. Defendants John Doe Physicians 1-100 are any and all medical doctors involved in the prescription, procurement and/or administration of sodium thiopental, pancuronium bromide, and/or potassium chloride for use upon Plaintiff without the purpose to heal, but to cause Plaintiff's death. Such Defendants are state actors acting under color of state law, and their actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.

6. Defendants John Doe Pharmacists 1-100 are any and all persons involved in procuring, prescribing, dispensing, and/or administering sodium thiopental, pancuronium bromide, and/or potassium chloride for use upon Plaintiff without the purpose to heal, but to cause Plaintiff's death. Such Defendants are state actors acting under color of state law, and their actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.

7. Defendants John Doe Medical Personnel 1-100 are any and all persons involved in using, preparing, or otherwise handling Plaintiff or sodium thiopental, pancuronium bromide, and/or potassium chloride in any attempt to administer sodium thiopental, pancuronium bromide, and/or potassium chloride upon Plaintiff without the purpose to heal, but to cause Plaintiff's death. Such Defendants are state actors acting under color of state law, and their actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.

8. Defendants John Doe Executioners 1-100 are any and all persons involved in using, preparing, or otherwise handling Plaintiff or sodium thiopental, pancuronium bromide, and/or potassium chloride in any attempt to administer sodium thiopental, pancuronium bromide, and/or potassium chloride upon Plaintiff without the purpose to heal, but to cause Plaintiff's death. Such Defendants are state actors acting under color of state law, and their actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.

9. Defendants John Does 1-100 are any and all other persons who are, or would be, involved in the prescription, procurement, dispensing and/or administration of sodium thiopental, pancuronium bromide, and/or potassium chloride for use upon Plaintiff without the purpose to heal, but to cause Plaintiff's death; or otherwise involved in the actual execution of Sedley Alley through the use of sodium thiopental, pancuronium bromide, and/or potassium chloride. Such Defendants are state actors acting under color of state law, and their actions in seeking to execute or executing Plaintiff as described *infra* violate Plaintiff's constitutional rights, as described *infra*.

#### **JURISDICTION/VENUE**

10. In this action, Plaintiff invokes 28 U.S.C. §§1331, 2201, and 2202; 42 U.S.C. §1983; and the Eighth, Ninth, and Fourteenth Amendments to the United States Constitution.

11. Venue is proper in this district because the Defendants would intend to procure and inject Plaintiff with chemicals and execute him in the Middle District of Tennessee. 28 U.S.C. §1391.

#### **FACTS**

12. The State of Tennessee, through Defendants, intends to execute Plaintiff by lethal injection on May 17, 2006 at 1:00 a.m. using the protocol described *infra*.

## **Defendants' Execution Protocol**

13. The entire Tennessee Department of Correction lethal injection protocol is set forth in its "Execution Manual."

14. Under the protocol, an execution by lethal injection requires the participation of the Commissioner, the Warden, the Deputy Warden, the Administrative Assistant, the Death Watch Supervisor and assigned officers, a Chaplain, a Medical Doctor and associate, an "Execution Team," an "IV Team," and an "Extraction Team."

15. The Officer in Charge and/or the Assistant Officer in Charge is responsible for the care and maintenance of the Death Chamber and all appliances and equipment, the training of the Execution Team, and carrying out the execution of the condemned prisoner.

16. The Officer in Charge and assistant shall assemble the Execution Team in the Death Chamber four (4) days prior to a scheduled execution to prepare and test all appliances and equipment for the scheduled execution.

17. The state, claiming a privilege under T.C.A. § 10-7-504(h), has refused to reveal the identities of the various individuals involved in an execution other than the Warden.

18. There is no discussion in the protocol of the qualifications or training of the Officer in Charge or his assistant.

19. It appears that the actual lethal injection procedure is carried out entirely by the three Teams mentioned above.

20. The Execution Team consists of one (1) Officer in Charge, one (1) Assistant Officer in Charge, and seven (7) members.

21. There is no description of the "IV Team" or the "Extraction Team."

22. The protocol is silent on how these teams are to be selected, or whether members of these teams shall have any specialized training or qualifications.

23. The protocol prescribes the sequence of events surrounding an execution as follows: At the appointed hour, the Warden or Assistant Warden and the Extraction Team will remove the inmate from his cell, secure him on the gurney, and take him to a “designated area” in the “death chamber,” a room where the inmate is to be killed.

24. IV Technicians will insert a catheter into each arm, attach the tubing, and start an IV consisting of saline solution. The IV team will then leave the execution chamber and return to the holding cell area.

25. The physician is to be available in the designated waiting area and able to perform a cutdown procedure if the IV Technicians are unable to find a vein that is adequate enough to insert the catheters.

26. The physician, in other words, is not present during the catheterization process, but is available to perform a “cutdown,” a surgical procedure, if the IV Team, with its indeterminate background and unspecified training, is unable to successfully place the IV’s into the veins in both of the Plaintiff’s arms.

27. The protocol is equally silent as to the physician’s qualifications to perform this function.

28. After the catheterization process is completed, the witnesses will be secured, the closed circuit television camera and audio system will be activated, and the Commissioner will be contacted.

29. The Warden then signals the execution to proceed and the injection procedure will

continue until all the chemicals have been injected into the condemned and the person is presumed dead.

30. The Execution Manual does not describe the physical configuration of the death chamber or the lethal injection device.

31. The drugs to be used in the lethal injection are as follows, in the following order and amounts:

a. Sodium Pentothal [a/k/a Sodium Thiopental] (50 cc: 5 grams diluted by 48 ml of diluent)

b. Saline (50 cc)

c. Pancuronium bromide [a/k/a Pavulon] (50 cc: 5-10 cc vials containing 1 mg pancuronium bromide)

d. Pancuronium bromide [a/k/a Pavulon] (50 cc: 5-10 cc vials containing 1 mg pancuronium bromide)

e. Saline (50 cc)

f. Potassium Chloride (50 cc)(injectable solution)

g. Potassium Chloride (50 cc)(injectable solution)

32. The administration of all such drugs is to occur within a span of 2-2.5 minutes.

#### **Defendants' Procurement Of Drugs For Use Upon Plaintiff**

33. To obtain the drugs used to kill Plaintiff, Defendant Bell will request them through Defendant(s) employed by the Department of Corrections, and such Defendant(s) will seek to secure such drugs from some pharmacy or source presently unknown to Plaintiff.

34. A physician's order will be written by one or more of the Defendant(s) asking for the

dispensing of the sodium thiopental, pancuronium bromide, and potassium which Defendants would intend to administer to Plaintiff to cause his death. It is unclear that such “physician’s order” is actually written by a physician who may prescribe medicine.

35. One or more of the Defendant(s) will then deliver or dispense the drugs to Defendants, including Defendant Bell, who, following receipt, will, at some point before execution, prepare the sodium thiopental, pancuronium bromide, and potassium chloride for syringes to be used upon Plaintiff.

### **Anesthesia And Consciousness With Sodium Thiopental**

36. Anesthesia is the process of blocking the perception of pain and other sensations, creating insensibility to pain.

37. Sodium Thiopental is a short acting barbiturate.

38. In the Tennessee protocol, its alleged purpose is to cause anesthesia.

39. Induction of anesthesia using thiopental occurs quickly, but its effect wears off in a matter of minutes.

40. Sodium thiopental is used as an anesthetic in surgery because it enables an anesthesiologist to quickly awaken a patient should complications arise.

41. There are differing levels of anesthesia, and thus consciousness.

42. The human body reacts to various stimuli differs depending upon the level of anesthesia.

43. For example, when a person is administered sodium thiopental, a person will continue to have the following states of consciousness at the following serum levels of thiopental:

- a. 0-13 mg/l: Consciousness



- b. 13-18 mg/l: Loss of purposeful movement in response to verbal stimulation;
- c. 23-28 mg/l: Loss of purposeful movement in response to tetanic nerve stimulation;
- d. 33-46 mg/l: Loss of purposeful movement in response to trapezius muscle squeeze;
- e. 45-57 mg/l: Loss of movement in response to larangoscopy;
- f. 63 mg/l >: Loss of movement in response to intubation

See Leonidas Koniaris et al, *Inadequate Anaesthesia In Lethal Injection For Execution*, 365 Lancet 1412-1414 (2005).

44. In fact, one study establishes that, upon administration of thiopental, EEG brain activity peaks at 13.3 mg/l, after which it drops back to normal activity at 31.2 mg/l, and zero brain waves per second occurs only with serum levels above 50 mg/l. See Buhner et al., Thiopental Pharmacodynamics, *Anesthesiology* 77: 226-236 (1992).

45. Sodium thiopental as used in the Tennessee protocol does not adequately anesthetize a person prior to the introduction of pancuronium bromide and potassium chloride.

46. This is confirmed by findings made as a result of the autopsy of Robert Coe, whose serum thiopental levels were 10 mg/l, which as recent research establishes, is inadequate to establish unconsciousness. See Leonidas Koniaris et al, *Inadequate Anaesthesia In Lethal Injection For Execution*, 365 Lancet 1412-1414 (2005).

47. As a result, Plaintiff would be inadequately anesthetized under the Tennessee protocol, and as shown *infra*, would experience a gruesome and horrifying death through the painful use of pancuronium bromide followed by the introduction of potassium chloride.

48. The lack of inadequate anesthesia would apparently be even more pronounced in Plaintiff than in Robert Coe, as Mr. Coe only weighed 179.5 pounds when he was executed, and Plaintiff weighs significantly more than 200 pounds.

#### **Pancuronium Bromide (Pavulon)**

49. Pancuronium Bromide, marketed under the name Pavulon, is a neuromuscular blocking agent which causes paralysis of the skeletal muscles of an individual.

50. Pancuronium Bromide does not affect the brain or nervous system, nor does it block the actual reception of nerve impulses in the brain or the passage of such impulses within the brain.

51. Pancuronium Bromide does not affect consciousness or the sensation of pain or suffering.

52. An individual under the influence of pancuronium bromide, though paralyzed, still has the ability to think, to be oriented to where he is, to experience fear or terror, to feel pain, and to hear.

53. While pancuronium bromide paralyzes the diaphragm to prevent breathing, it does not affect the heart muscle.

54. Pancuronium bromide causes death by asphyxiation or suffocation.

55. If an individual is not properly anesthetized when injected with pancuronium bromide, he will consciously experience extreme pain while being completely paralyzed.

56. In this state, the person will undergo the terrorizing and excruciating experience of suffocation without the ability to move or to express the pain and suffering which he is experiencing as he is being suffocated.

57. Because pancuronium bromide paralyzes all skeletal muscles including facial muscles

and those used to speak or communicate through noises, an observer cannot detect, from outward appearance, any expression of pain, horror, or suffering experienced because of the use of pancuronium bromide.

58. Moreover, the paralyzing effect of pancuronium bromide also prevents any expression of the pain, horror, or suffering from any other source, such as potassium chloride. See infra, ¶¶ 59-67, incorporated by reference.

59. Death caused by the use of pancuronium bromide is gruesome, horrible, and painful.

**The Use Of Pancuronium Bromide Is Arbitrary,  
Unreasonable, Degrading To Human Dignity, And Serves No Legitimate Interest**

60. Because pancuronium bromide causes paralysis, suffocation, and the suffering attendant to such paralysis and suffocation, in 2001, Tennessee declared in the “Nonlivestock Humane Death Act” (Tenn. Code Ann. 44-17-301 *et seq.*) that pancuronium bromide cannot be used to euthanize animals, because its use is not humane.

61. Where the use of pancuronium bromide is not “humane” to use on non-humans, it is arbitrary to claim that its use is “humane” on humans, and its use on humans to cause death violates basic precepts of human dignity.

62. The use of pancuronium bromide in execution is arbitrary.

63. The use of pancuronium bromide in execution is unreasonable.

64. The use of pancuronium bromide in execution serves no legitimate state interest and is not narrowly tailored to any compelling state interest.

65. As Chancellor Ellen Hobbs Lyle has explained elsewhere:

[T]he use of Pavulon is . . . unnecessary. . . [T]he State [has] failed to demonstrate any reason for its use. The record is devoid of proof that the Pavulon is needed. Thus, the Court concludes that . . . the State’s use of Pavulon is . . . in legal terms

‘arbitrary.’

*Abdur’Rahman v. Sundquist*, No. 02-2236-III, In The Chancery Court For The State Of Tennessee, Twentieth Judicial District, p. 13 (June 2, 2003).

### **Potassium Chloride**

66. As used in Tennessee’s execution protocol, potassium chloride is supposed to cause cardiac arrest.

67. The administration of potassium chloride is extremely painful, because it activates all the nerve fibers inside the venous system.

68. Because veins are replete with nerve fibers, the administration of potassium chloride into the veins creates extreme pain.

69. In the absence of adequate anesthesia, the introduction of potassium chloride, like the introduction of pancuronium bromide, creates extreme and excruciating pain.

70. Under Tennessee’s protocol, 200 mEq of potassium chloride are introduced into the body through a vein.

71. This method of administering this amount of potassium chloride is inadequate to stop the heart.

72. This is confirmed by the autopsy of Robert Coe, which demonstrates that his vitreous potassium was 9 mEq/l (9mmol/l).

73. It actually takes a serum concentration of more than 16 mEq/l (16mmol/l) of potassium to arrest the heart.

74. The failure to arrest Plaintiff’s heart would likely be even more pronounced *vis-a-vis* Robert Coe, as Plaintiff is significantly larger than Mr. Coe, assuming Plaintiff’s larger blood

volume and body surface area.

### **Death Under Tennessee's Lethal Injection Protocol**

75. The person being lethally injected under Tennessee's protocol thus actually dies from the suffocation caused by the pancuronium bromide and the resulting anoxic state, and not from cardiac arrest due to the administration of potassium chloride.

76. Because the person being lethally injected under Tennessee's protocol is not adequately anesthetized, he or she experiences the sensation and horror of suffocation from the pancuronium bromide, as well the excruciating pain associated with the introduction of potassium chloride.

### **CLAIMS FOR RELIEF**

#### **A.**

#### **Violation Of Fourteenth Amendment: Due Process Of Law (Pancuronium Bromide)**

77. Plaintiff incorporates paragraphs 1-76 in their entirety by reference.

78. The use of pancuronium bromide is arbitrary, unreasonable, and serves no legitimate or compelling state interest. The use of pancuronium bromide shocks the conscience and is inhumane. The use of pancuronium bromide violates Plaintiff's right to due process of law under the Fourteenth Amendment.

79. It is well-settled under the due process clause of the Fourteenth Amendment that a state cannot act in a way which fails to serve a legitimate state interest. City of Cleburne v. Cleburne Living Center, 473 U.S. 432, 105 S.Ct. 3249 (1985). Likewise, when fundamental interests are involved (such as life) the state must act in a way that is necessary to promote a compelling state interest. Troxel v. Granville, 530 U.S. 57, 120 S.Ct. 2054 (2000).

80. Without question, there is no legitimate interest in the use of pancuronium bromide

upon Plaintiff or any other human being. As Chancellor Ellen Hobbs Lyle has held:

[T]he use of Pavulon is . . . unnecessary. . . [T]he State [has] failed to demonstrate any reason for its use. The record is devoid of proof that the Pavulon is needed. Thus, the Court concludes that . . . the State's use of Pavulon is . . . in legal terms 'arbitrary.'

*Abdur'Rahman v. Sundquist*, No. 02-2236-III, In The Chancery Court For The State Of Tennessee, Twentieth Judicial District, p. 13 (June 2, 2003).

81. Further, use of pancuronium bromide violates substantive due process for the separate reason that its use shocks the conscience. See Rochin v. California, 342 U.S. 165 (1952). Without question, under Tennessee's "Nonlivestock Animal Humane Death Act," pancuronium bromide cannot be used to euthanize a non-livestock animal in Tennessee. Tenn.Code Ann. §44-17-301 *et seq.*, including §44-17-303(c)(any substance which "acts as a neuromuscular blocking agent . . . may not be used on any nonlivestock animal for the purpose of euthanasia."). If pancuronium bromide can't be used to kill a dog or a cat because it is not "humane," it shocks the conscience to think that it can be used in an attempt to kill a human being.

## **B.**

### **Violation Of Eighth And Fourteenth Amendments (Pancuronium Bromide)**

82. Plaintiff incorporates paragraphs 1-81 in their entirety by reference.

83. The use of pancuronium bromide is inhumane, violates the dignity of the human person, and is contrary to the evolving standards of decency.

84. The use of pancuronium bromide violates Plaintiff's right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments.

85. The Eighth and Fourteenth Amendments prohibit punishments which do not comport with the evolving standards of decency that mark the progress of a maturing society. Trop v. Dulles,

356 U.S. 86 (1959).

86. In 2001, the State of Tennessee declared as inhumane – and illegal – the use of pancuronium bromide or any other neuromuscular blocking agent on nonlivestock animals. Tenn. Code Ann. §44-17-303(c); 44-17-303(j)(criminal sanctions for violation of Humane Death Act). *A fortiori*, the legislative judgment of Tennessee establishes the fundamental baseline concerning the evolving standards of decency applicable to human beings. Especially where the Tennessee Legislature passed the Nonlivestock Humane Death Act in 2001 – after Defendants’ established their protocol – the very existence of the Act establishes an Eighth Amendment violation of the evolving standards of decency.

87. Further, where Tennessee has already determined that use of pancuronium bromide to kill animals is not “humane,” using such a substance to kill a human being is not humane either. It is likewise degrading to humanity itself to allow the Defendants to do what they would intend to do. It sends a message that the State can treat human being with the type of contempt and cruelty that is not befitting an animal.

### C.

#### **Violation Of Fourteenth Amendment: Equal Protection (Pancuronium Bromide)**

88. Plaintiff incorporates paragraphs 1-87 in their entirety by reference.

89. The use of pancuronium bromide upon Plaintiff while its use is legally prohibited for use on animals because it is not “humane,” is inhumane, arbitrary, unreasonable, and serves no legitimate interest, nor is it narrowly tailored to serve a compelling state interest. The use of pancuronium bromide violates Plaintiff’s right to the equal protection of the laws under the Fourteenth Amendment.

90. By procuring and using pancuronium bromide upon Plaintiff, Defendants would

invidiously discriminate against Sedley Alley: Under Tenn. Code Ann. §44-17-303(h) & §39-14-201(3), the State of Tennessee has protected the following animals against the use of pancuronium bromide: any “pet normally maintained in or near the household or households of its owner or owners, other domesticated animal, previously captured wildlife, an exotic animal, or any other pet, including but not limited to, pet rabbits, a pet chick, duck, or pot bellied pig that is not classified as "livestock" pursuant to this part.” Tenn.Code Ann.§44-17-201(3). There is no legitimate basis – let alone a compelling state reason – for Tennessee to provide dogs, cats, chicks, ducks, and pot-bellied pigs more protection from cruelty than it would Sedley Alley, who is a human being who retains a fundamental right to life. This classification is arbitrary, unreasonable, and serves no legitimate interest, let alone a compelling state interest. Defendants’ procurement and use of pancuronium bromide is therefore unconstitutional.

**D.**

**Violation Of Eighth and Fourteenth Amendments: Cruel And Unusual Punishment**

91. Plaintiff incorporates paragraphs 1-90 in their entirety by reference.

92. Defendants’ use of sodium thiopental, pancuronium bromide, and potassium chloride under the Tennessee protocol causes unnecessary pain and suffering and does not conform with evolving standards of decency.

93. Defendants’ use of the protocol violates the dignity of the human person and Plaintiff’s right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments.

**E.**

**Violation Of Eighth and Fourteenth Amendments: Cruel And Unusual Punishment**

94. Plaintiff incorporates paragraphs 1-93 in their entirety by reference.



95. Defendants' inadequate procedures in the use of sodium thiopental, pancuronium bromide, and potassium chloride under the Tennessee protocol creates the risk of unnecessary pain and suffering and does not conform with evolving standards of decency.

96. Defendants' use of the protocol violates the dignity of the human person and Plaintiff's right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments.

**F.  
Violation Of Ninth Amendment**

97. Plaintiff incorporates paragraphs 1-96 in their entirety by reference.

98. Defendants' use of sodium thiopental, pancuronium bromide, and potassium chloride under the Tennessee protocol causes unnecessary pain and suffering and torture.

99. Defendants' use of the protocol violates the dignity of the human person and Plaintiff's right to human dignity under the Ninth Amendment.

**PRAYER FOR RELIEF**

WHEREFORE, based on the foregoing complaint (paragraphs 1-99 incorporated herein by reference) this Court should do the following:

100. Enter an order granting a declaratory judgment to Plaintiff declaring unconstitutional the use of pancuronium bromide by Defendants under the circumstances, and prohibiting Defendants from using, seeking to obtain, ordering, writing a prescription, writing a physician's order, prescribing, dispensing, or in any other manner transferring to Defendants Bell or any other Defendants involved in the execution process pancuronium bromide in any form whatsoever.

101. Enter an order granting a declaratory judgment to Plaintiff declaring unconstitutional the use of pancuronium bromide by Defendants under the circumstances, and enjoin Defendants

from seeking to execute, or executing, Plaintiff using the above-described protocol which employs pancuronium bromide.

102. Enter an order granting a declaratory judgment to Plaintiff declaring unconstitutional the execution protocol because it utilizes inadequate anesthesia through the use of sodium thiopental, and grant an injunction against the use upon Plaintiff of this execution protocol which uses sodium thiopental.

103. Enter an order granting a declaratory judgment to Plaintiff declaring unconstitutional the execution protocol, and grant an injunction against the use of the protocol upon Plaintiff.

104. Grant further relief that this Court finds necessary and just.

Respectfully submitted,

Paul R. Bottei  
Kelley J. Henry  
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Gretchen L. Swift

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By: /s/ *Paul R. Bottei*

#### CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been served upon the Defendants Little and Bell this 11<sup>th</sup> day of April, 2006.

*/s/ Paul R. Bottei*