

e. The prosecutor abused his discretion in seeking a death sentence;

f. Petitioner's death sentence is disproportionate to sentences given out for like

crimes;

g. Pretrial publicity prejudiced Petitioner from receiving a fair trial;

h. The identification procedures utilized in Petitioner's case were unduly

suggestive;

i. The State denied Petitioner counsel prior to a lineup;

j. Police violated Petitioner's Fifth Amendment rights when they took a statement;

5 and (k);

k. Petitioner's death sentence was imposed absent a finding that Petitioner

intended to kill the victim;

l. Petitioner's jury considered matters outside the record during sentencing

deliberations;

m. The prosecution committed misconduct during closing argument;

n. The Tennessee death penalty statute discriminates against persons guilty of

7 killing a white victim; and

o. Jury instructions given in Petitioner's case were unconstitutional.

In the second post-conviction proceeding, Petitioner raised the following grounds:

a. The State withheld exculpatory evidence;

b. The State interfered with defense counsel's investigation;

c. Counsel rendered ineffective assistance;

d. The State committed prosecutorial misconduct;

e. The trial court's jury instructions were unconstitutional; and

f. Tennessee's death penalty statute is unconstitutional.

8. The basis for this Motion to Reopen is new scientific evidence that Petitioner did not fire the bullet that killed the victim. This evidence consists of (1) an x-ray demonstrating that the bullet that killed Memphis Police Lieutenant Ronald Oliver did not fragment - it emerged from his body intact; and (2) an Affidavit from Dr. Kris Sperry that because the x-ray establishes this fact, he believes to a reasonable degree of medical certainty that Petitioner did not shoot

(n) there is a significant possibility that the death sentence will be invalidated and that there is a significant possibility that the death sentence will be carried out before consideration of the petition is concluded. (See T.C.A. § 40-30-220).

18. Petitioner further relies upon the "Memorandum in Support of Motion to Reopen Post Conviction Petition" which is also filed contemporaneously herewith.

I swear under penalty of perjury that the foregoing is true and correct.

Philip K. Workman
Philip K. Workman

SWORN AND SUBSCRIBED before me this the 29 day of January, 2001.

James G. Giddens
Notary Public

My commission expires:
My Commission Expires 04/01/03

Respectfully submitted,

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