

OFFICE OF THE POST-CONVICTION DEFENDER  
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October 11, 1999

Ms. Michelle Jones Long  
Governor's Legal Counsel  
State Capitol  
Nashville, Tennessee 37243-0001  
Via Facsimile 532.2244 and U.S. Mail

Ms. Donna Drake  
Tennessee Board of Pardons  
404 James Robertson Parkway  
Suite 1300  
Nashville, Tennessee 37243-0850  
Via Facsimile 532.8581 and U.S. Mail

Dear Ms. Long and Ms. Drake:

Thank you for providing me the recent clemency materials. After reviewing them, I have the following concerns.

One of the reasons Mr. Workman intends to present in support of any clemency request he files is that he is actually innocent of any capital offense. The materials provided me indicate that the Governor and Board cannot consider such a claim.

The Application For Pardon provided me states that "Before a petition for pardon is considered by the Board, the petitioner shall have completed his sentence ..." The Pardon Application thus appears to require Mr. Workman to be executed before he can present a claim that he is innocent of any capital offense and should not be executed. If such is the case, the pardon process provides Mr. Workman no effective means of presenting innocence as a reason for clemency.

The Application For Commutation provided me states that "The availability of commutation of sentence is not intended to serve and will not serve as a review of ... the guilt or innocence of the petitioner." If such is the case, the commutation process, like the pardon process, provides Mr. Workman no effective means of presenting innocence as a reason for clemency.

I note that T.C.A. § 40-27-109(a) provides that "After consideration of the facts, circumstances and any newly discovered evidence in a particular case, the governor may grant exoneration to any person whom the governor finds did not commit the crime for which such person was convicted." In addition, Board of Pardons Regulation 1100-1-I-.03 provides that the Governor's

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clemency power includes granting a petitioner a Reprieve or Respite, which is defined as withholding a sentence of death for a specific period of time.

Please inform me if Mr. Workman's claim of innocence is available for presentation in the pardon process and/or the commutation process. In addition, please provide me any applications, guidelines, rules, regulations, etc. relevant to requesting Exoneration and/or a Reprieve/Respite.

Thank you for your time.

Sincerely,



Christopher M. Minton