

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

PHILIP RAY WORKMAN V. STATE OF TENNESSEE

No. M1999-01334-SC-DPE-PD - Filed May 4, 2004

ORDER

On June 2, 2003, this Court entered an order granting the State's motion to dissolve a previously entered stay of execution of Philip Ray Workman's death sentence and reset the execution for September 24, 2003. On September 15, 2003, the Governor of the State of Tennessee granted Workman a reprieve from that execution until January 15, 2004. On January 15, 2004, the Governor extended the reprieve for an additional three months until April 15, 2004. On April 15, 2004, the Governor declined to further extend the reprieve and allowed it to expire. On April 16, 2004, the State filed a motion requesting that a new date be set for the execution of Workman's sentence.

On April 26, 2004, Philip Workman filed a response in opposition to the State's motion. In the response, Workman contends that the State's motion should not be granted because the State has allegedly agreed to hold certain federal proceedings now pending in abeyance; because a fourth death watch will trigger serious deterioration of his mental health; because he should have an opportunity to assess the significance to his case of a pending federal investigation of the former Shelby County Medical Examiner, who testified against him at his clemency hearing; and because the report of the State Medical Examiner on which the Governor relied when allowing the reprieve to expire is unreliable and was not subject to challenge. On May 3, 2004, Workman filed a supplement in opposition to the State's motion, asserting that an execution date should not be set because the United States Attorney has refused to reveal a sealed document concerning the prosecution of the former Shelby County Medical Examiner.

Upon due consideration, a majority of this Court concludes that Workman has presented no legal basis for denying the State's motion to reset an execution date. Accordingly, the State's motion is GRANTED. It is hereby ORDERED, ADJUDGED and DECREED by this Court that the Warden of the Riverbend Maximum Security Institution, or his designee, shall execute the sentence of death as provided by law on the 22nd day of September, 2004, unless otherwise ordered by this Court or other appropriate authority.

Counsel for Philip Workman shall provide a copy of any order staying execution of this order to the Office of the Clerk of the Appellate Court in Nashville. The Clerk shall expeditiously furnish a copy of any order of stay to the Warden of the Riverbend Maximum Security Institution.

PER CURIAM

Justice Adolpho A. Birch, Jr. - Dissenting by Separate Order