

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

PHILIP R. WORKMAN v. STATE OF TENNESSEE

**Criminal Court for Shelby County
No. B81209**

No. W2001-01920-CCA-R10-PD

ORDER

On September 24, 2001, Capital Petitioner, Philip R. Workman, sought interlocutory review of oral rulings by the Shelby County Criminal Court, challenging the lower court's refusal (1) to apply Rules 3, 8 and 12 of the Tennessee Rules of Civil Procedure to the *coram nobis* proceeding, and (2) to order the State to submit a written answer to the Petitioner's discovery request pursuant to Rule 16, Tennessee Rules of Criminal Procedure. See Tenn. R. App. P. 10. Petitioner failed to attach to his application those parts of the record containing the trial court's rulings which are now challenged. Finding these "parts of the record necessary for determination of the application," this Court ordered Petitioner to submit the requisite transcript to this Court by Thursday, September 27, 2001. See Philip R. Workman v. State, No. W2001-01920-CCA-R10-PD (Tenn. Crim. App. at Jackson, September 25, 2001). Petitioner has complied and the record is supplemented with the transcript containing the trial court's verbal rulings.

After review of Petitioner's Rule 10 applications and the necessary transcript, this Court finds that Petitioner is essentially asking this Court to enforce its order entered August 10, 2001, and compel the trial court to do the same. Petitioner specifically relies on the following language contained in this Court's previous order:

The writ of *coram nobis*, as with all civil actions, is commenced by the filing of a complaint with the clerk of the court. See Tenn. R. C. P. 3. As provided by Rule 8, Tennessee Rules of Civil Procedure, the State is required to file an answer within thirty days. See Tenn. R. C. P. 12.

Philip R. Workman v. State, No. W2001-01920-CCA-R10-PD (Tenn. Crim. App. at Jackson, Aug. 10, 2001) at note 5. And,

Rather, the scope of discovery in matters arising from a petition for writ of *error coram nobis* is properly limited to the scope of discovery available under Rule 16, Tennessee Rules of Criminal Procedure.

Id. at 4 (citation omitted).

Notwithstanding Petitioner's efforts to seek reliance on this Court's August 10th order, the Petitioner simultaneously filed a Rule 11 application to the Tennessee Supreme Court, challenging this Court's August 10th order. As the issues contained in Petitioner's present Rule 10 applications to this Court are necessarily encompassed within his Rule 11 application to the Supreme Court, this Court finds that it is necessary to stay resolution of Petitioner's applications in this Court pending the Supreme Court's determination of Petitioner's Rule 11 application.

IT IS THEREFORE ORDERED that resolution of Petitioner's Rule 10 applications in the above-styled matter is hereby stayed in this Court only pending resolution of Petitioner's Rule 11 application in the case numbered W2001-01920-SC-S10-PD currently before the Tennessee Supreme Court.

FOR THE COURT:

David G. Hayes, Judge

(Hayes, Riley, Williams, JJ)
Per Curiam