

IN THE SUPREME COURT OF TENNESSEE

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APPELLATE CLERK
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PHILIP RAY WORKMAN,

Petitioner,

v.

STATE OF TENNESSEE,

Respondent.

No. _____
Trial Court Nos. BE1209, P3908
Criminal Court, 30th Judicial District

**AMENDMENT TO APPELLATE PLEADINGS – AND
EMERGENCY MOTION
FOR ORAL ARGUMENT AND/OR STAY OF EXECUTION**

Pursuant to the inherent supervisory authority of this Court, and under T.C.A. § 16-1-102(3) to further justice and to control the conduct of its officers, Petitioner seeks the immediate intervention of this Court to take notice of this pleading, and to permit counsel to precisely present an issue of extraordinary importance raised by the record in these two cases.

In addition to the issues and the reasons stated in the original Application, and in all other papers, Petitioner's undersigned associated counsel wish to emphasize the following two points:

1. A central issue is whether, under Tenn. Const. Art. I, §§ 8, 9, and 16, it is unconstitutional for an innocent person to be executed by the State of Tennessee and by the order of this Court, and if so, whether a person with later-acquired evidence of his innocence, who has been unable to have any fair opportunity to establish his innocence in the courts of this State, must be given some forum, including the executive clemency process or the courts, in which to make such a showing of innocence. In the federal courts, the Supreme Court of the United States has established such a rule

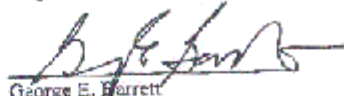
under the 14th Amendment. See *Herrera v. Collins*, 506 U.S. 390 (1993). The Tennessee Constitution must guarantee at least as much.

2. Given the extraordinary importance of the Constitutional issues raised regarding innocence, and for all the other reasons raised in all trial and appellate papers, this Court should upon this motion and on its own motion so rule and provide such relief. This Petitioner never has had a forum in which to fairly establish innocence with the x-ray which was withheld until after all judicial proceedings were concluded. See *Brady v. Maryland*, 373 U.S. 83 (1963), and progeny.

Further, to prevent an extraordinary miscarriage of justice, and fraud on the courts and other agencies of this State, that will bring the system of justice in the State of Tennessee into disrepute if this misconduct and injustice culminates in the execution of Petitioner without ever having a hearing in which to establish his innocence, undersigned counsel urgently request that this Court schedule an Emergency Oral Argument on this Motion and the underlying matters in the appeals tonight before the execution takes place, or in the alternative, stay the execution so that oral argument may take place subsequent to tonight. Fundamental justice will otherwise be denied, to the discredit of all courts, and of all the citizens of this State.

March 29, 2001

Respectfully submitted,



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