

IN THE CRIMINAL COURT FOR SHELBY COUNTY, TENNESSEE

PHILIP R. WORKMAN,	)	
	)	
Petitioner,	)	
	)	
v	)	No. _____
	)	
STATE OF TENNESSEE,	)	
	)	
Respondent.	)	

AFFIDAVIT OF PHILIP R. WORKMAN

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Comes now your Affiant and declares under oath as follows:

1. My name is Philip R. Workman.
2. I am currently incarcerated at Riverbend Maximum Security Institution, 7475 Cockrill

Bend Industrial Road, Nashville, Tennessee 37209. My Tennessee Department of Corrections number is 95920.

3. I was originally convicted of felony murder in the criminal court of Shelby County, Tennessee on March 31, 1982 in a case styled State of Tennessee v. Philip R. Workman, Shelby County Docket No. BH1209.

4. Upon a plea of not guilty, I was tried by a jury, convicted of first degree felony murder and sentenced to death.

5. I filed two petitions for state post conviction relief. The first and second post conviction proceedings were filed in Division 3 of the Criminal Court of Shelby County, Memphis, Tennessee, Docket No. P 3908.

6. In the first post conviction proceeding, I raised the following grounds:

- a. ineffective assistance of counsel;
- b. the aggravating circumstances found at the sentencing hearing were void for vagueness and overbreadth;
- c. potential jury members were improperly excluded from Petitioner's jury;
- d. the Tennessee Death Penalty Statute fails to provide an adequate basis from which a comparative review of Petitioner's death sentence can be made;
- 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 prejudice Petitioner from receiving a fair trial;
- h. the identification procedures utilized in Petitioner's case were unduly suggestive;
- i. the state denied Petitioner's counsel prior to a lineup;
- j. police violated the Petitioner's 5th Amendment Rights when they took a

statement from him;

- k. Petitioner's death sentence was imposed absent of finding the 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 arguments;
- n. the Tennessee death penalty statute discriminates against persons guilty of killing a white victim; and
- o. jury instructions given in Petitioner's case were unconstitutional.

7. In the second post conviction proceeding, I 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. Dr. Cyril H. Wecht, the elected coroner and the medical examiner for Allegheny

County, Pennsylvania and the surrounding five counties of the Pittsburgh area, had been asked to review the autopsy findings involving the death of Lt. Ronald Oliver. Dr. Wecht opined as follows:

After completion of my evaluation and analysis of all the materials, it is my professional opinion, based upon a reasonable degree of medical certainty, that the gunshot wound of police officer Ronald D. Oliver is not consistent with the type of ammunition used by Mr. Philip R. Workman, namely, a low velocity .45 caliber, aluminum jacketed, hollow-point bullet. I do believe that officer Oliver died from a through-and-through gunshot wound, with the exit wound smaller than the entrance wound, and only a single pathway present in the body. Therefore, based on the path that the bullet took, the fact that the bullet exited the body, and the fact Mr. Workman was using a .45 caliber pistol loaded with aluminum jacketed, hollow-point bullets, I do not believe that it was Mr. Workman's gun that fired the shot that fatally wounded officer Oliver.

Yet, without a post mortem x-ray of Ronald Oliver, there was no way to demonstrate conclusively that the bullet did not fragment in Oliver's body, which could conceivably explain why a .45 would leave a smaller exit wound than entrance wound. Because the Shelby County Medical Examiner had failed to produce any x-rays pursuant to a subpoena issued in 1995, and based upon their failure to inform us of the existence of any x-rays, we were unable to disprove the state's assertion of the possibility that the bullet fragmented.

9. On March 2, 2000, we were for the first time provided with a copy of an x-ray demonstrating that the bullet that killed Mr. Oliver did not fragment, it emerged from his body intact. Dr. Kris Sperry, the Georgia Medical Examiner, has now opined that because the x-ray establishes this fact, he believes to a reasonable degree of medical certainty that I did not shoot

Lt. Oliver. None of this evidence was known by me or my attorneys at the time of the litigation of my state petitions for post conviction relief. In fact, the existence of the post mortem x-ray was only discovered within this last year.

10. I only learned the x-ray existed on February 28, 2000, when the State inadvertently mentioned its existence in a report filed with the Tennessee Board of Probation and Parole

11. Only after the State subsequently produced the x-ray could Dr. Sperry review it and offer his medical opinion about what it establishes.

12. This new evidence establishes I am innocent of first degree murder because to be guilty of that crime, the bullet that killed Lt. Oliver would have had to have come from my gun.

13. Additionally, in September, 1994, Mr. Harold Davis, the only eye witness who testified at my trial that I shot Lt. Oliver, recanted his testimony, and admitted he was not there. This recantation was supported by Ma. Vivian Porter, a citizen who has provided sworn testimony that Harold Davis was with her on the night of the Wendy's robbery.

At the time of my state post conviction proceedings, I had no knowledge of the existence of the x-ray, or the fact that Harold Davis committed perjury at my original trial.

Further Affiant swills no:

  
Philip R. Workman

Sworn to and subscribed before me this the 29 day of January, 2001.

My Commission Expires:  
My Commission Expires MAY 30, 2004

  
Notary Public