

IN THE TENNESSEE SUPREME COURT  
AT NASHVILLE

STATE OF TENNESSEE, )  
)  
Petitioner, )  
)  
v )  
)  
PHILIP R. WORKMAN, )  
)  
Respondent. )

No. M1999-01334-SC-DPE-PD

**FILED**  
  
**January 22, 2001**  
  
**Cecil Crowson, Jr.**  
**Appellate Court Clerk**

**MOTION FOR STAY OF EXECUTION**

Philip R. Workman respectfully requests that this Court stay his execution, currently set for January 31, 2001, at 1:00 a.m, so the United States Supreme Court can consider in the normal course of business Mr. Workman’s request that it review his case. In support thereof, Mr. Workman shows:

1. On April 4, 2000, the en banc United States Court of Appeals for the Sixth Circuit granted Mr. Workman’s request that it consider recently discovered evidence that (1) Mr. Workman did not shoot Lieutenant Oliver; and (2) Harold Davis, the only witness who claimed at trial to have seen Workman shoot Oliver, committed perjury at Mr. Workman’s trial.

2. On September 5, 2000, the en banc Sixth Circuit announced that it was equally divided, 7-7, on whether a federal district court should hold an evidentiary hearing. As a result of this tie vote, a prior panel’s decision denying Mr. Workman relief was reinstated.

3. Seven (7) Sixth Circuit judges consider Mr. Workman’s new evidence as “certainly sufficient to make a prima facie showing that ‘no reasonable factfinder would have found [Workman] guilty of the underlying offense.’” Workman v. Bell, 227 F.3d 331, 338 (6th Cir. 2000)(en banc opinion of Merritt, J.).

4. Mr. Workman has pending in the United States Supreme Court a petition for writ of certiorari to the Sixth Circuit. Because the State filed its Brief In Opposition on January 19, 2001, and because the next conference date on the United States Supreme Court’s calender is February 16, 2001,<sup>1</sup> Mr. Workman’s certiorari petition will not be resolved in the normal course of business prior to January 31, 2001, the date scheduled for his execution.

5. Mr. Workman’s appeal to the United States Supreme Court involves serious claims of

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<sup>1</sup> See <http://www.supremecourtus.gov/calendar/sccalendar.pdf>

innocence which seven (7) Sixth Circuit judges consider sufficient to warrant further proceedings. The United States Supreme Court should not be forced to resolve hurriedly Mr. Workman's certiorari petition. Rather, the Court should have the opportunity to review it in the normal course of business so that the Justices can give Mr. Workman's claims the thoughtful, unhurried, consideration that they deserve.

6. This Court stays execution dates when they fall on a date that precedes the date that the United States Supreme Court will resolve a certiorari petition in the normal course of business. See, e.g., State v. Suttles, No. E1998-00088-SC-DDT-CD (Tenn. 2000)(attached). Indeed, previously in this case this Court refused to set an execution date until Mr. Workman had an opportunity not to just to seek certiorari in a prior appeal, but to seek rehearing from the denial of certiorari in that appeal. Workman v. State, No. 02S01-9910-CR-00098 (Tenn. 1999)(attached).

7. Because the United States Supreme Court cannot resolve Mr. Workman's certiorari petition in the normal course of business prior to the scheduled execution date of January 31, 2001, this Court should stay Mr. Workman's execution.

Respectfully submitted,

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#### CERTIFICATE OF SERVICE

I certify that on January 22, 2001, I hand-delivered a copy of the foregoing to:

Gordon W. Smith  
Deputy State Attorney General  
ATTORNEY GENERAL'S OFFICE  
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Nashville, Tennessee 37243-0493

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Christopher M. Minton