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IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

MAR 28 2000

ATTORNEY GENERAL'S
OFFICE

In re: PHILIP R. WORKMAN,
Movant.

) Death Penalty Habeas Corpus Case
)
) No. 00-5367
)
) EXECUTION SCHEDULED FOR
) 4/6/2000, 1 a.m.

REPLY

IF IT WAS SO OBVIOUS THAT THE X-RAY EXISTED, WHY DIDN'T COUNSEL FOR THE STATE SAY SOMETHING WHEN JUDGE NELSON ASKED ABOUT IT AT ORAL ARGUMENT? The State asserts that it was clear that the Oliver X-Ray existed. It faults Workman for failing to demand its production after it was not produced in response to a subpoena for it. If it was so clear that the x-ray existed, why did counsel for the State remain mute at oral argument when Judge Nelson asked if Oliver's body was x-rayed?

THE STATE DOES NOT CONTEST THE OBVIOUS - HAROLD DAVIS COMMITTED PERJURY. While the State points out inconsistencies in Davis's statements, it refrains from representing that Davis was present at the Oliver shooting. The State knows he was not. Its position: we should tolerate perjury by the only person who claimed to see a capital murder. The State, however, cannot make the truth irrelevant.

WORKMAN DID NOT "CONFESS" THAT HE SHOT OLIVER. Workman testified that he fired his gun twice - once up in the air, once at a person who first fired a shot at him. Oliver fired his first shot AFTER the fatal bullet hit him. Workman's testimony is not a "confession" - it is further proof that an officer other than Oliver fired a weapon during the incident.

Respectfully submitted,

Christopher M. Minton

Christopher M. Minton
OFFICE OF THE POST-CONVICTION
DEFENDER
460 James Robertson Parkway
Nashville, Tennessee 37243
(615) 233-1986

CERTIFICATE OF SERVICE

I certify that on 3.28.2000, I hand-delivered a copy of the foregoing to:

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

Christopher M. Minton