

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PHILIP WORKMAN)	
)	
Plaintiff-Appellant)	No. _____
)	
v.)	EXECUTION DATE:
)	MARCH 30, 2001
PAUL SUMMERS, et al.)	1:00 a.m.
)	
Defendants-Appellees)	

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
No. 3:01-0290

PHILIP WORKMAN'S MOTION FOR STAY OF EXECUTION
AND STAY OF EXECUTION PENDING APPEAL

Pursuant to Fed.R.App. 8, 28 U.S.C. §1651 and all other applicable law, Philip Workman respectfully moves this Court for a stay and stay of execution pending the final resolution of his appeal. As set forth in the accompanying memorandum in support of his appeal, this case presents complex issues of law, the core of which center around the pending execution of a man who has clear evidence of his innocence, but no court or tribunal has been willing to hear it. Not only has Workman shown his entitlement to relief on the merits (including because of the state's use of perjury during clemency, and the attorney general's triple role in the clemency process), the imminent execution date will interfere with the proper

consideration of his appeal.

Workman filed his action in the District Court just two hours after the governor denied clemency. The district court denied relief at approximately 7:00 p.m. CDT yesterday evening. Workman filed this appeal at the open of business today. Workman has expeditiously pursued this matter. He should not be denied fair consideration of his claims.

Accordingly, this Court should grant a stay of the March 30, 2001 execution date, pending further order of this Court. See e.g., Lonchar v. Thomas, 517 U.S. 314, 116 S.Ct. 1293 (1996)(where court cannot resolve capital case before scheduled execution, stay should be entered); Barefoot v. Estelle, 463 U.S. 880, 893-894, 103 S.Ct. 3383, 3394 (1983)(where appellate court cannot resolve capital appeal before scheduled execution, court may properly enter stay of execution); Young v. Hayes, 218 F.3d 850 (8th Cir. 2000)(given imminent execution date, granting stay of execution following denial of TRO challenging clemency proceedings); Otey v. Hopkins, 972 F.2d 210 (8th Cir. 1992)(upholding grant of stay of execution necessary to consider unusual issues presented by challenge to Nebraska's clemency process, including challenge to conflict of interest of state attorney general).

The motion should be granted.

Respectfully Submitted,

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