

FILED 4-11-01
WILLIAM R. KEY, CLERK
BY [Signature]

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE,

v.

No. B81208

PHILIP R. WORKMAN

Defendant.

ORDER GRANTING PERMISSION TO APPEAL PURSUANT TO RULE 9 OF THE
TENNESSEE RULES OF APPELLATE PROCEDURE

This cause came to be heard on Monday April 9, 2001. It appearing to the Court, that on March 30, 2001, the Tennessee Supreme Court entered a judgment reversing the decision of this court, and remanding the matter to the trial court, to conduct a hearing on Mr. Workman's Petition for Writ of Error Coram Nobis.

IT FURTHER APPEARING TO THE COURT that the court required the attorneys to be present on April 9, 2001 to discuss setting a hearing date in this matter.

IT FURTHER APPEARING TO THE COURT that on April 9, 2001, the State of Tennessee filed a "Motion of the State of Tennessee for an Order Directing the Defendant to Produce all Unedited Video Tapes, Audio Tapes, Written Statements of Harold Davis; and Request for an Order of Protection." A copy of which was handed to counsel for Defendant in open Court at the commencement of the Scheduling Conference.

IT FURTHER APPEARING TO THE COURT that counsel for Mr. Workman, argued to the court that the court had no jurisdiction to enter orders until the mandate from the Supreme Court is filed with the trial court pursuant to Rule 43(a) of the Tennessee Rules of Appellate Procedure, and pursuant to Rule 43(c) of the Tennessee Rules of Appellate Procedure, the court may not conduct any proceedings until at least 10 days have lapsed since the filing of the mandate.

IT FURTHER APPEARING TO THE COURT that counsel argued with respect to the production of witness statements 24 hours prior to their testimony, that such an order is inconsistent with Rule 26.2 of the Tennessee Rules of Criminal Procedure.

IT FURTHER APPEARING TO THE COURT that counsel further objected to the April 23, 2001 hearing date due to his previous commitments in other cases, and the

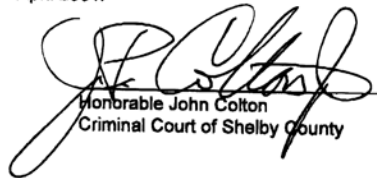
inability to locate, communicate with and arrange for the appearance of witnesses, coordinate their appearance with their previously committed schedules, travel arrangements for out of state forensic and ballistic experts and to secure their attendance by agreement or subpoena by the date of April 23, 2001.

IT FURTHER APPEARING TO THE COURT that the trial court denied counsel's motion for a continuance, and granted the early production of witness statements, however, the court further agreed it would be appropriate to grant an interlocutory appeal with respect to the following issues:

1. Whether the trial court has jurisdiction to enter orders in this case, prior to the filing of the mandate from the Supreme Court with the trial court clerk.
2. Whether the trial court has authority to order production of witness statements 24 hours prior to such witnesses testimony, notwithstanding Rule 26.2 of the Tennessee Rules of Criminal Procedure.
3. Whether the trial court erred by entering an order on April 9, 2001 setting a hearing date for Monday April 23, 2001.

The court believes that the above issues are appropriate for interlocutory appeal pursuant to Rule 9 of the Tennessee Rules of Appellate Procedure.

It is so ordered this 11 day of April 2001.



Honorable John Colton
Criminal Court of Shelby County