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ATTORNEY GENERAL'S OFFICE

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PHILIP R. WORKMAN,)	
Prisoner-Appellant,)	
v.)	No. 96-6656
RICKY BELL, Warden,)	
Respondent-Appellee)	
)	
In re. PHILIP R. WORKMAN,)	No.
Movant.)	

MOTION FOR STAY OF EXECUTION

EXECUTION DATE: 4/6/2000 AT 1.A.M.

Christopher M. Minton
Office of the Post-Conviction Defender
400 James Robertson Parkway
Nashville, Tennessee 37243
(615) 253-1986

Counsel for Philip Ray Workman

Philip Ray Workman respectfully requests that this Court stay his execution currently set for April 6, 2000, at 1 a.m. In support thereof, Workman shows:

1. On March 5, 2000, Workman filed in this Court a Motion To Reopen the proceedings in Workman v. Bell, No. 96-6652. Workman based his Motion To Reopen on the facts that (1) the State failed to produce an x-ray that Workman subpoenaed on June 2, 1995; (2) Workman first learned of the x-ray's existence on February 28, 2000; and (3) the x-ray leaves this Court no doubt that Workman did not shoot the victim, Memphis Police Lieutenant Ronald Oliver.
2. On March 7, 2000, this Court ordered the State to respond to Workman's Motion To Reopen by March 8, 2000.
3. On March 8, 2000, the State responded and Workman filed a reply.
4. As of the date of drafting this motion, this Court has not resolved Workman's Motion To Reopen.
5. Workman files contemporaneously with this stay request (1) a motion that this Court declare the AEDPA's "gatekeeper" provision, 28 U.S.C. § 2244, inapplicable to specified claims Workman desires to present in a second habeas petition; and (2) a motion that should section 2244 apply, this Court authorize Workman to present specified claims in a second petition.
6. A death sentence cannot be carried out while substantial issues remain outstanding in federal habeas proceedings. See Barfoot v. Estelle, 463 U.S. 880, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983). For the reasons expressed in the motions pending before this Court, Workman presents this Court substantial issues respecting the constitutional validity of his

first-degree murder conviction and resulting death sentence - including whether Workman is innocent of capital murder.

WHEREFORE, Workman respectfully requests that this Court:

1. Stay his April 6, 2000, 1 a.m., execution if this Court will not resolve the pending motions prior to that date;
2. Stay his April 6, 2000, 1 a.m., execution if this Court grants one or more of the pending motions; and
3. Order such other relief as this Court deems just.

Respectfully submitted,

Christopher M. Minton

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CERTIFICATE OF SERVICE

I certify that on 3-23-2000, 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