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IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PHILIP R. WORKMAN,)	
Petitioner-Appellant.)	
v.)	No. 96-0652
RICKY BELL, Warden,)	
Respondent-Appellee.)	
)	
In re: PHILIP R. WORKMAN,)	No. 00-3367
Movant.)	

**MOTION TO EN BANC COURT FOR
STAY OF EXECUTION**

**DEATH PENALTY HABEAS CORPUS CASE
EXECUTION DATE: 4/6/2000 AT 1 A.M.**

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(615) 253 1986

Counsel for Philip Ray Workman

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

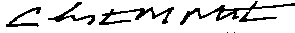
1. On March 6, 2000, Workman filed with the panel a Motion To Reopen the proceedings in Workman v. Bell, No. 96-6652. Workman based his Motion To Reopen on the facts that (1) the State failed to produce an x-ray that Workman subpoenaed on June 2, 1995; (2) Workman first learned of the x-ray's existence on February 28, 2000; and (3) the x-ray leaves the panel no doubt that Workman did not shoot the victim, Memphis Police Lieutenant Ronald Oliver.
2. On March 7, 2000, the panel 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. On March 24, 2000, Workman filed with the panel (1) a motion requesting that the panel declare the AEDPA's "gatekeeper" provision 28 U.S.C. § 2244 inapplicable to specified claims Workman desires to present in a second habeas petition; (2) a motion first should Section 2244 apply, the panel authorize Workman to present specified claims in a second petition; and (3) a request that the panel stay Workman's execution until, at the very least, this Court finally resolves the motions Workman filed.
5. On March 31, 2000, the panel denied the motions Workman filed.
6. On April 3, 2000, Workman filed rehearing petitions and suggestions for rehearing en banc on the denial of (1) his Motion To Reopen; and (2) his motion requesting that this Court declare the AEDPA gatekeeper provision inapplicable.
7. A death sentence cannot be carried out while substantial issues remain outstanding

in federal habeas proceedings. See Barefoot v. Estelle, 463 U.S. 880, 888, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983). For the reasons expressed in the rehearing 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 and cannot be executed.

WHEREFORE, Workman respectfully requests that the en banc Court:

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

Respectfully submitted,


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