

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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PHILIP R. WORKMAN,)
)
Petitioner-Appellant,)
)
v.) No. 96-6656
)
BUCKY BELL, Warden)
)
Respondent-Appellee.)
)
)
)
In re: PHILIP R. WORKMAN,)
)
Movant.) No. 00-5367
)
)
)

MOTION FOR STAY OF EXECUTION

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

Christopher M. Minton
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Nashville, Tennessee 37243
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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:

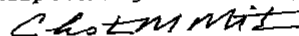
1. On March 6, 2000, Workman filed in this Court a Motion To Reopen the proceedings in Workman v. Bell, No. 96-6652. Workman based his Motion To Reopen on the facts that (1) the State failed to produce an x-ray that Workman subpoenaed on June 2, 1995; (2) Workman first learned of the x-ray's existence on February 28, 1999; 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. On March 24, 2000, Workman filed (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.
5. On March 31, 2000, this Court entered an Order denying Workman relief but stating that this denial was without prejudice to Workman seeking any other relief to which he may be entitled.
6. On March 31, 2000, Workman filed a Second Motion To Reopen and a Second Motion To File A Second Habeas Corpus Petition. In these motions Workman sought to remedy any defects that may have been in the motions Workman previously filed.
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 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 time;
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,



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