

EXTRA 04/01

Death pen**USA (Tennessee) Philip Ray WORKMAN, white, aged 45**

Philip Workman is scheduled to be executed in Tennessee on 31 January 2001, despite the emergence of new evidence since his trial that severely undermines confidence in the original verdict.

Philip Workman was convicted of the murder of a police officer, Lieutenant Ronald Oliver, during a robbery of a Memphis restaurant in 1981. Lt Oliver and two other officers were first to arrive at the scene. As Workman - who has never denied the robbery - fled, shots were fired and Lt Oliver was killed by a single bullet. At the trial, the two police officers testified that they had not fired, but admitted that they had not seen Workman shoot Oliver. An alleged eyewitness, Harold Davis, said that he had seen Workman shoot the officer. The defence lawyer conducted no forensic or ballistics analysis and did not investigate Harold Davis.

Since the trial, however, Harold Davis has retracted his testimony, saying he lied under police coercion. An eyewitness has come forward to say that at least one of the other officers fired his gun. Ballistics experts have stated that the fatal bullet could not have come from Workman's weapon, raising the possibility that Lt Oliver was killed by a shot fired by one of the other officers.

Five jurors from the original trial have signed affidavits that they would not have voted for a first-degree murder conviction, let alone the death sentence, if they had been presented with this evidence. Two state Supreme Court judges have suggested that clemency is merited in Workman's case.

In September 2000, the federal US Court of Appeals for the Sixth Circuit split 7-7 on whether to grant a hearing into the new evidence. Workman had needed one more vote. Workman's lawyers are appealing to the US Supreme Court to stop the execution and consider the case.

In 2000, Lt Oliver's daughter and the daughter of Philip Workman united at a press conference to appeal for the execution not to go ahead.

The former District Attorney of Shelby County, the office which prosecuted Philip Workman, has come forward to oppose the execution because of the post-conviction evidence. Now a lawyer in private practice, John Pierotti is working for free as lead counsel on the clemency bid.

BACKGROUND INFORMATION

A previous execution date for Philip Ray Workman was stayed on 4 April 2000, less than 48 hours before he was due to be executed. (UA 12/00; AMR 51/09/00; 19 January 2000 and updates.)

The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty state: "*Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.*" This is clearly a case where execution would violate this standard.

More than 90 people have been released from US death rows since 1973 after they were found to be innocent of the crime which put them there. In January

2000, the Governor of Illinois imposed a moratorium on executions in his state because of its "shameful" record of wrongful convictions.

In June last year, Governor Glendening of Maryland commuted the death sentence of Eugene Colvin-El shortly before he was due to be executed, because of residual doubts about his guilt. The Governor said: "It is not appropriate to proceed with an execution when there is any level of uncertainty, as the death penalty is final and irreversible".

In Tennessee, the governor has absolute power of clemency. The parole board makes a recommendation, but the governor does not have to follow it.

RECOMMENDED ACTION: Please send e-mail/faxes/express/airmail letters IN YOUR OWN WORDS, in English or your own language:

- expressing sympathy for the family, friends and colleagues of Lieutenant Ronald Oliver, and stating that you do not condone violent crime;
- expressing deep concern that Philip Ray Workman is facing execution on the basis of perjured testimony from the only alleged eyewitness to the shooting;
- noting that ballistics experts have stated that the fatal bullet could not have come from Philip Workman's gun;
- noting that five jurors have said that they would not have voted to convict Philip Workman of first-degree murder, let alone vote for a death sentence, if they had known then what they know now;
- noting the widespread national concern about the potential for errors in capital cases, and noting Governor Glendening's statement in the Colvin-El case last year;
- calling for clemency for Philip Workman.

APPEALS TO:

(Note: appeals to the Board should reach there before 25 January, when Philip Workman's clemency hearing will be held).

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COPIES TO: diplomatic representatives of the USA accredited to your country.

You may write letters (no more than 250 words) to one of the following:

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PLEASE SEND APPEALS IMMEDIATELY.