

PUBLIC

AI Index: AMR 51/33/00

24 February 2000

Further information on UA 12/00 (AMR 51/09/00, 19 January 2000) - Death penalty / Legal concern

USA (Tennessee) Philip Ray Workman, white, aged 45

Philip Workman remains scheduled for execution on 6 April 2000.

A clemency hearing before six members of the Tennessee Board of Probation and Parole is scheduled to take place on 9 March. The Board, whose members are appointed by the Governor, will then make a recommendation to him. However, their recommendation is non-binding, and the Governor retains absolute power over clemency.

Philip Workman's lawyers have been allocated two hours to present evidence of his innocence of capital murder. Amnesty International is concerned that this may not be enough time to present the substantial evidence uncovered since his 1982 trial, which casts serious doubt on his guilt.

International standards, including the International Covenant on Civil and Political Rights, guarantee the right of condemned prisoners to seek clemency. This is for a number of reasons: clemency can be used to correct possible errors, to mitigate the harshness of punishment and to compensate for the rigidity of criminal law by taking into account factors relevant to an individual case for which the law makes no allowance. For this right to seek clemency to have true meaning, the clemency process should be full and fair.

Appeal court judges who have reviewed Workman's case, while refusing to hold an evidentiary hearing, have indicated that executive clemency should be seriously considered in his case (see original Urgent Action).

Workman was convicted of the first-degree murder of a police officer, Lieutenant Ronald Oliver, during an after-hours robbery of a Wendy's fast food restaurant in Memphis, Tennessee, on 5 August 1981. While Workman has never denied responsibility for creating the situation in which Lt Oliver was killed, evidence has emerged since trial that discredits the police version of the crime, and raises the possibility that the fatal shot may have been fired by a fellow police officer rather than by Workman.

This evidence (see original UA) has never been heard in open court. It includes testimony from ballistics experts, and the retraction of the key prosecution witness's testimony, who now says he was coerced into lying at the trial. Another witness, who did not testify at the trial, has since stated that he saw another police officer fire his gun at Workman, contradicting the evidence presented at trial that the only shots fired at the scene came from Workman's and Oliver's revolvers.

Of the eight trial jurors that the appeal lawyers have been able to locate, seven have viewed the new ballistics evidence and agreed that it raises serious doubts about the conviction and sentence. Three jurors subsequently gave videotaped statements that they would not have voted for death at the trial had they been presented with the evidence about the key witness and the ballistics.

Lt Oliver's daughter has given a statement opposing the execution; his ex-wife also opposes the death sentence being carried out.

Since 1973, 85 people have been released from US death rows after evidence of their innocence emerged. Recurring factors contributing to wrongful convictions include inadequate defence representation, misconduct by police and prosecutors, and the use of unreliable testimony and physical evidence.

On 31 January 2000, the pro-death penalty Republican Governor of Illinois imposed a moratorium on executions in his state because of its "shameful" record on wrongful convictions. On 10 February, the City Council of Philadelphia (the fifth largest US city) adopted a resolution calling on the Pennsylvania legislature to impose a moratorium on executions in the state, until the death penalty can be shown to be fair and reliable.

RECOMMENDED ACTION: Please telephone or send e-mail/faxes/express/airmail letters in your own words, in English or your own language:

- expressing sympathy for the family and friends of Lieutenant Ronald Oliver, and stating that you do not condone violent crime;
- expressing deep concern that Philip Ray Workman is scheduled for execution, despite new ballistics evidence and evidence of perjured eyewitness testimony, that cast serious doubts about whether he fired the fatal bullet;
- noting that several jurors have expressed their concern about the new evidence, and that three have said that they would not have voted for death if they had been presented with this evidence at trial;
- noting that appeal court judges have not conducted a hearing into the post-conviction evidence, but have indicated that serious consideration be given to executive clemency;
- urging the Board and the Governor to do all in their power to ensure that the evidence for clemency receives a full and fair hearing;
- noting that the Republican Governor of Illinois has imposed a moratorium in his state because of the risk of wrongful conviction and that the Philadelphia City Council has called for a similar moratorium;
- urging the Board to recommend clemency, and the Governor to grant clemency to Philip Workman and to commute his death sentence.

APPEALS TO:

Tennessee Board of Probation and Parole
404 James Roberson Parkway
Nashville TN 37243-0850, USA

Fax: +1 615 741 5337

Tel: +1 615 741 1150

Salutation: Dear Board Members

The Honourable Don Sundquist
Office of the Governor
State Capitol, Nashville, TN 37243-0001, USA

Fax: +1 615 532 9711

Tel: +1 615 741 2001

E-mail: dsundquist@mail.state.tn.us

Telegrams: Governor Sundquist, Nashville, TN, USA

Salutation: Dear Governor

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:

Letters to the Editor, *The Tennessean*, 1100 Broadway, Nashville, TN 37203, USA.
Fax: +1 615 259 8093. E-mail: jgibson@tennessean.com

Letters to the Editor, *The Commercial Appeal*, Box 334, Memphis, TN 38101, USA.
Fax: +1 901 529 6445. E-mail: letters@gomemphis.com

Letters to the Editor, *Knoxville News-Sentinel*, PO Box 59038, Knoxville, TN 37950-9038, USA. **Fax: +1 865 342 6404. E-mail: letters@knews.com**

Letters to the Editor, *Chattanooga Free Press*, PO Box 1447, Chattanooga, TN 37401, USA. **Fax: +1 423 757 6383. E-mail: kspence@timesfreepress.com**

PLEASE SEND APPEALS IMMEDIATELY.