

**PUBLIC**

**AI Index: AMR 51/115/2003**

**EXTRA 37/03**

**Death penalty / Legal concern**

**07 August 2003**

**USA (Tennessee)**

**Philip Ray Workman (m), white, aged 48**

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Philip Workman is scheduled to be executed in Tennessee on 24 September, 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 their weapons, but admitted that they had not seen Workman shoot Oliver. An alleged eyewitness, Harold Davis, said that he was standing 10 feet (three metres) away and saw Workman shoot the officer. The defence lawyers 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. No one, including police officers and civilians, saw Davis at the scene and his car was not where he claimed to have parked it. An eyewitness has come forward to say that at least one of the other officers fired his gun. This is corroborated by the first police reports, which stated that officers were firing. Medical experts have stated that the fatal wound, to a degree of medical certainty, was not caused by Workman's bullet, 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.

Three previous execution dates have been stayed by the courts. The last stay, in March 2001, was ordered 42 minutes before Workman was scheduled to be executed. However, Philip Workman's appeals for a new trial on the basis of the new evidence have been unsuccessful.

In 2000, Lt Oliver's daughter and the daughter of Philip Workman united at a press conference to appeal to the Governor to grant clemency. The former District Attorney of Shelby County, the office which prosecuted Philip Workman, came forward in 2000 to oppose the execution because of the post-conviction evidence. He donated his services as lead counsel on the clemency bid.

### **BACKGROUND INFORMATION**

Amnesty International opposes the death penalty unconditionally. This is an inherently cruel punishment, which extends the suffering of one family – that of the murder victim – to the loved ones of the condemned prisoner. 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 contravene this standard.

National concern in the USA about the reliability of the country's capital justice system has been fuelled by the number of prisoners released from death rows after evidence of their innocence emerged. There have been more than 110 such cases in the USA since 1973. The 111<sup>th</sup> occurred on 28 July 2003, when a Missouri prosecutor announced that he would not seek new charges to retry Joseph Amrine, who had spent 17 years on death row on the basis of witness testimony which was later retracted; see: *Joseph Amrine: Facing execution on tainted testimony*, AMR 51/085/2002, June 2002.

In 2000, the Governor of Illinois reacted to such cases in his state by imposing a moratorium on executions. The Commission he appointed to make recommendations for reform of the state's capital justice system reported after two years of study that its 14 members were "unanimous in the belief that no system, given human nature and frailties, could ever be devised or constructed that would work perfectly and guarantee absolutely that no innocent person is ever again sentenced to death". In January 2003, the outgoing governor commuted the death sentences of all on death row in Illinois.

On 26 June 2003, Governor Taft of Ohio commuted the Jerome Campbell's death sentence shortly before he was due to be executed. This followed a clemency recommendation from the state's parole board based on doubts about the reliability of forensic evidence and witness testimony presented at trial. The board wrote that it was "impossible, nearly 14 years after trial, to surmise how jurors might have reacted" if they had been fully informed. In Philip Workman's case, five jurors have said that they would have voted differently if they had known at the time of the trial what they know now.

In 2003, the Maryland Attorney General urged his state to abolish the death penalty: "The system is...administered by human beings subject to human fallibility. Unrecognized mistakes are inevitable... As experience, science, and tragedy have taught us, the death penalty can come only at the intolerable cost of killing, every so often, the wrong person. This...cannot pass for justice in a civilized society."

Today, 112 countries have abolished the death penalty in law or practice. The USA has put 870 men and women to death since resuming judicial killing in 1977, including 50 this year. In Tennessee, which has put one man to death since resuming executions in 2000, 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 appeals to arrive as quickly as possible, in English or your own language, in your own words:**

- 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 experts evidence that the fatal wound was not caused by Philip Workman's bullet;
- 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, using the information from the background above as you wish;
- calling for clemency for Philip Workman.

**APPEALS TO:**

Governor Phil Bredesen, Office of the Governor, State Capitol, Nashville, TN 37243-0001, USA.

**Telegrams:** **Governor Bredesen, Nashville, Tennessee, USA**

**Fax:** **+1 615 532 9711**

**Email:** [Phil.Bredesen@state.tn.us](mailto:Phil.Bredesen@state.tn.us)

**Salutation:** **Dear Governor**

**COPIES TO:** Diplomatic representatives of USA accredited to your country.

You may also copy your appeals or send brief letters of concern (not more than 300 words) to:

Letters to the Editor, *The Tennessean*, 1100 Broadway, Nashville, TN 37203, USA.

**Email:** [letters@tennessean.com](mailto:letters@tennessean.com) . **Fax:** **+1 615 259 8093**

**PLEASE SEND APPEALS IMMEDIATELY.**