

IN THE SUPREME COURT OF TENNESSEE

**FILED**  
March 21, 2000  
Cecil Crowson, Jr.  
Appellate Court Clerk

FOR PUBLICATION

ROBERT GLEN COE )  
 )  
 Movant, )  
 )  
 v. )  
 )  
 STATE OF TENNESSEE )  
 )  
 Respondent. )

NO. M1999-01313-SC-DPE-PD

**ORDER**

The movant, Robert Glen Coe, has filed a motion asking this Court to issue a certificate of commutation pursuant to Tenn. Code Ann. § 40-27-106. In support of the motion, Coe relies upon his filings made with the Tennessee Board of Pardons and Paroles requesting executive commutation. These filings include information recounting the circumstances of his childhood, his mental health records dating from 1975, copies of transcripts of testimony presented at prior proceedings in his case, federal court pleadings and affidavits of three jurors who state that they now would prefer that the movant receive a sentence of life without parole rather than death. He submits that these filings demonstrate his severe mental illness and other extenuating circumstances warranting the issuance of a certificate of commutation.

We recently reviewed the constitutional, statutory, and historical principles governing commutation of death sentences in Workman v. State, \_\_\_ S.W.3d \_\_\_ (Tenn. 2000) (Anderson, C.J., joined by Holder, J. delivered the decision of the

Court; Drowota, J. and Barker, J. filed separate concurring orders; Birch, J. filed a separate order concurring in part and dissenting in part).<sup>1</sup> In that case, we noted that this Court's only role in clemency decisions is that provided by Tenn. Code Ann. § 40-27-106. Under that statute, the governor may commute the punishment from death to life imprisonment upon the certificate of this Court, "that in its opinion, there are extenuating circumstances attending the case, and that the punishment ought to be commuted." *Id.* In Workman, we emphasized that this Court will issue certificates of commutation only when the extenuating circumstances attending the case are based upon the facts in the record or a combination of record facts and new evidence that is uncontroverted.

After careful review of the motion and the supporting documentation, the majority concludes that under the principles announced in Workman the movant has presented no extenuating circumstances warranting issuance of a certificate of commutation. Justice Barker adheres to the views expressed in his separate concurring order in Workman. Accordingly, the motion is DENIED.

FOR THE COURT:

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FRANK F. DROWOTA, III,  
JUSTICE

**Concurring:**  
Anderson, C.J.  
Holder and Barker, JJ.

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<sup>1</sup>In Workman the motion for certificate of commutation was filed as part of a response to the State's motion to set an execution date. The motion in this case was filed less than a week before the movant's scheduled execution. Unless extenuating circumstances warranting the issuance of a certificate arise after an execution date is set, a more appropriate time for filing a motion for certificate of commutation is when this Court is entertaining the State's motion to set a date for the prisoner's execution upon the completion of the standard three-tiered review in the state and federal courts as defined in Coe v. State, \_\_\_ S.W.3d \_\_\_, \_\_\_ n.3 (Tenn. 2000).

**Dissenting:**

Birch, J. - See Separate Order