UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

PHILIP RAY WORKMAN	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 3:01-0290
	)	Judge Robert L. Echols
PAUL SUMMERS, et al.	)	
	)	
Defendants.	)	

O R D E R

Pending before the Court is Plaintiff's Motion to Reassign Case (Docket Entry No. 5) based on grounds that the assignment to the undersigned appears to be a conflict with Administrative Order No. 158. Plaintiff misconstrues the meaning and intent of the Court's Administrative Order. Administrative Order No. 158 was adopted to establish procedures for the assignment of death penalty cases, as defined in the order, and to prevent judge shopping by attorneys.

Plaintiff is under a sentence of death, and he has previously filed habeas corpus petitions, one in this Court on November 18, 1987, and one in the Western District of Tennessee on July 18, 1994. At the time of Plaintiff's first petition for writ of habeas corpus in this Court, Judge Nixon was handling all of the death penalty cases. Subsequently, that assignment procedure was changed

This document was entered on the docket in compliance with Rule 58 and/or Rule 79(a), FRCP, on 3/28/01 By A. Beauty

8

and death penalty cases were assigned to all the active judges on a rotation basis.

On April 4, 2000, Plaintiff filed an emergency complaint in this Court seeking a stay of his scheduled execution on April 6, 2000, based upon the alleged violation of his constitutional rights in violation of 42 U.S.C. § 1983 and certain designated state laws. That section 1983 case was assigned to the undersigned and was considered as a death penalty case assignment even though the relief was requested under section 1983 rather than a habeas corpus petition because Plaintiff sought to set aside his scheduled execution. The present case is also brought under 42 U.S.C. § 1983 based upon alleged violations of the constitutional rights of the Plaintiff in connection with his clemency proceedings. Both section 1983 actions seek to avoid the scheduled execution of the Plaintiff.

Administrative Order 158(c) provides that after a death penalty case has been filed and assigned to a particular judge all subsequent cases, petitions, appeals, and filings of any kind relating to the Plaintiff in the death penalty case shall be assigned to that same judge so long as he or she remains on active status, retains the original case, or remains in the rotation for assignment of death penalty cases. In the present case, the Court finds the Clerk's Office acted properly and in accordance with the

provisions and the spirit and intent of Administrative Order No. 158.

The Court further finds that the attorneys for a death penalty plaintiff play no legitimate role in the assignment of cases to judges. Such assignments are made solely and exclusively within the Court. Plaintiff's demands to be heard on case assignments or efforts to persuade the Clerk to assign the case to a particular judge are improper. To suggest that this case should be assigned to Judge Nixon is disingenuous and smacks of judge shopping. For example, the original habeas corpus petition filed in this Court by the Plaintiff on November 18, 1987 (Phillip Ray Workman v. Michael Dutton; Case No. 3:87-0872), and assigned to Judge Nixon was transferred to the Western District of Tennessee on May 17, 1989. This is one of the principal reasons that the Court adopted Administrative Order No. 158. For the reasons state herein, Plaintiff's Motion to Transfer is DENIED.

IT IS SO ORDERED.

ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE