

**PUBLIC**

**AI Index: AMR 51/133/2007**

**13 August 2007**

**Further information on UA 170/07 (AMR 51/116/2007, 03 July 2007) and follow-up (AMR 51/121/2007, 17 July 2007) – Death penalty / Legal concern**

**USA (Georgia) Troy Anthony Davis (m), black, aged 38**

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On 3 August, the Georgia Supreme Court agreed to hear the appeal of Troy Davis, whose 17 July execution was stayed by the state Board of Pardons and Paroles less than 24 hours before it was due to be carried out.

Troy Davis has been on death row for more than 15 years for the murder of a police officer, Mark Allen MacPhail, which Davis maintains he did not commit. There was no physical evidence against Troy Davis and the weapon used in the crime was never found. The case against him consisted entirely of witness testimony. In affidavits signed over the years since the trial, all but three of the state's non-police witnesses have recanted their testimony. One of the three witnesses who have not recanted is a man who has not been located for interview by Davis's appeal lawyers. Another, while not recanting, has contradicted her trial testimony. The third non-police witness who has not recanted his testimony is Sylvester Coles, who was the principal alternative suspect, according to the defence at the trial, and against whom there is new witness testimony implicating him as the gunman. Nevertheless, the courts upheld Troy Davis' conviction and death sentence, and his ordinary appeals were exhausted.

By four votes to three, the Georgia Supreme Court granted an extraordinary appeal and agreed to hear arguments in his case to consider whether the new witness testimony and other evidence discovered since his 1991 trial are such that Troy Davis should be granted a new trial. It will hear the case some time in its November 2007 session.

On 6 August, the Georgia Board of Pardons and Paroles issued an order suspending consideration of Troy Davis' clemency petition "while the Supreme Court of Georgia considers his appeal". It also rescinded the stay of execution it had issued on 16 July.

Among the thousands of people who appealed for clemency were Archbishop Desmond Tutu, the Pope, former FBI Director William Sessions, and the Secretary General of the Council of Europe. The case also generated substantial coverage in the media, including from conservative voices.

In an opinion piece in the Georgia newspaper the Atlanta Journal-Constitution on 8 August, Bob Barr, formerly a congressman in the US House of Representatives (and a member of the House Judiciary Committee), a federal prosecutor, and a CIA officer, wrote: "I am a firm believer in the propriety and historic soundness of the death penalty. But, as a proponent of our Constitution and its attendant Bill of Rights, I believe just as strongly in the fundamental fairness that lies at the heart or should lie at the heart of our criminal justice system. Because of its obvious finality, the death penalty must be employed with as close to absolute fairness and certainty as humanly possible. Several recent cases, including that of Troy Davis here in Georgia, have raised legitimate questions about just that proposition. True conservatives, as much as the most bleeding heart liberals, should be unafraid to look carefully at such cases." He concluded that "Troy Davis' life is at stake; but so is the credibility of our criminal justice system. If a 'day in court' means anything, it is that this man is entitled to a thorough and fair review of evidence that he is innocent. Georgia's highest court has determined that a 'day in court' crucial for those accused of capital offenses must be measured not only temporally but qualitatively as well. In this, we should all applaud them."

**No further action by the UA Network is requested at present. Many thanks to all who sent appeals.**