

PUBLIC

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Further information on UA 250/08 (AMR 51/099/2008, 09 September 2008) and follow-up (AMR 51/103/2008, 15 September 2008) – Death penalty / Legal concern

USA (Georgia) Troy Anthony Davis (m), black, aged 40

On 23 September, the US Supreme Court issued a stay of execution for Troy Davis, less than two hours before he was to be put to death in Georgia. He has been on death row for 17 years for a murder he maintains he did not commit.

Troy Davis was convicted in 1991 of the murder of 27-year-old Officer Mark Allen MacPhail who was shot and killed in the car park of a Burger King restaurant in Savannah, Georgia, in the early hours of 19 August 1989. Davis was also convicted of assaulting Larry Young, a homeless man, who was accosted immediately before Officer MacPhail was shot. At the trial, Troy Davis admitted that he had been at the scene of the shooting, but claimed that he had neither assaulted Larry Young nor shot Officer MacPhail. 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, a majority of the state's witnesses have recanted or contradicted their testimony. In addition, there is post-trial testimony implicating another man as the gunman.

The US Supreme Court Justices are scheduled to meet on 29 September to consider whether to hear Troy Davis's appeal against a ruling made in March by the Georgia Supreme Court. That ruling denied Troy Davis a new trial or a court hearing in which post-conviction evidence could be presented. The Chief Justice of the state Supreme Court, joined by two other Justices, dissented from this decision, arguing that "In this case, nearly every witness who identified Davis as the shooter at trial has now disclaimed his or her ability to do so reliably. Three persons have stated that Sylvester Coles confessed to being the shooter. Two witnesses have stated that Sylvester Coles, contrary to his trial testimony, possessed a handgun immediately after the murder. Another witness has provided a description of the crimes that might indicate that Sylvester Coles was the shooter." The Chief Justice stated that "the collective effect of all of Davis's new testimony, if it were to be found credible by the trial court in a hearing, would show the probability that a new jury would find reasonable doubt of Davis's guilt or a least sufficient residual doubt to decline to impose the death penalty".

The stay of execution issued by the US Supreme Court will remain in force while it considers whether to hear the case. If it decides not to, the stay "shall terminate automatically", and the State of Georgia could set a new execution date for Troy Davis. If the Supreme Court agrees to hear the appeal, the stay will remain in force until the Court issues its final ruling on Troy Davis's petition.

Prior to this last-minute judicial stay, the Georgia Board of Pardons and Paroles had declined to reconsider its decision of 12 September to deny executive clemency to Troy Davis. In a statement on 22 September, the Board said that "the Troy Davis case has received such extensive publicity that the Board has decided to make an exception" to its general rule of providing no comment on its clemency decisions. The Board explained that "After an exhaustive review of all available information regarding the Troy Davis case and after considering all possible reasons for granting clemency, the Board has determined that clemency is not warranted."

Tens of thousands of people in the USA and around the world had appealed for executive clemency for Troy Davis. Among them were former President Jimmy Carter, Archbishop Desmond Tutu and Pope Benedict XVI; the European Union, the European Parliament, and the Secretary General of the Council of Europe; former

FBI Director William Sessions, and former and current members of US Congress Bob Barr, Carol Moseley Braun and John Lewis.

International standards prohibit the execution of anyone whose guilt is in doubt. Amnesty International opposes Troy Davis's execution unconditionally, regardless of questions of guilt or innocence, as it does all use of the death penalty.

Since the USA resumed executions in 1977, 1,122 prisoners have been put to death, 43 of them in Georgia. In the same period, more than 100 people have been released from death rows around the country on grounds of innocence, many of them in cases in which witness testimony has been shown to have been unreliable. Several prisoners have gone to their deaths despite doubts about their guilt.

For a full report on this case, see *USA: 'Where is the justice for me?' The case of Troy Davis, facing execution in Georgia*, February 2007, <http://www.amnesty.org/en/library/info/AMR51/023/2007>.

No further appeals by the UA Network are requested at this time. Many thanks to all who sent appeals.