

PUBLIC

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UA 283/08 **Death penalty/Legal concern**

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

Troy Davis is scheduled to be executed in Georgia at 7pm local time on 27 October. He has been on death row for 17 years for a crime 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 on 19 August 1989. Troy 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 identifying Troy Davis as the gunman and the weapon used in the crime was never found. The case against him consisted 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.

In March 2008, the Georgia Supreme Court 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".

Troy Davis was less than two hours from execution on 23 September 2008 when the US Supreme Court issued a stay of execution to give it time to decide whether to hear his appeal against the Georgia Supreme Court's ruling. The stay of execution was dissolved on 14 October when the Court announced that it had decided not to take the case. The State of Georgia immediately moved to set a new execution date.

The Georgia Board of Pardons and Paroles has already rejected clemency for Troy Davis, and has indicated that it will not reconsider its decision. It has sole authority to grant executive clemency in Georgia capital cases.

Tens of thousands of people in the USA and around the world have appealed for executive clemency for Troy Davis. Among them are former US 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, 1,125 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.

In late 2007, the United Nations General Assembly adopted a landmark resolution calling for a global moratorium on executions. There have been 26 executions in the USA this year.

For a full report on Troy Davis's 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>.

FURTHER RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- explaining that you are not seeking to condone the murder of Officer Mark Allen MacPhail, or to downplay the seriousness of the crime or the suffering caused;
- expressing deep concern that the State of Georgia has again set an execution date for Troy Davis despite continuing doubts about his guilt;
- calling on the Board to reconsider its decision not to grant clemency to Troy Davis, and to commute his death sentence.

APPEALS TO:

State Board of Pardons and Paroles, 2 Martin Luther King, Jr. Drive, SE, Suite 458,
Balcony Level, East Tower, Atlanta, Georgia 30334 4909, USA

Fax: +1 404 651 8502

Tel : +1 404 657-9350

Email: Webmaster@pap.state.ga.us
Clemency_Information@pap.state.ga.us.

Salutation: Dear Board members

COPIES TO:

Governor Sonny Perdue, Office of the Governor
Georgia State Capitol, Atlanta, GA 30334, USA

Fax: +1 404 657 7332

Email: From outside the USA:

http://gov.georgia.gov/00/gov/contact_us/international/0,2657,78006749_94820188,00.html

From inside the USA: http://gov.georgia.gov/00/gov/contact_us/0,2657,78006749_94820188,00.html.

And to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.