Despite court ruling of unfair trial, Texas executes Troy Farris

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Troy Farris, a 36-year-old Texas man, was put to death Wednesday after the Texas Court of Criminal Appeals refused to grant a stay of execution. The same court had ruled in 1994 that it had "wrongly decided" to reject his appeal of trial irregularities.

As in previous death penalty cases the Texas Board of Pardons acted as a rubber stamp for the prosecution, rejecting Farris's clemency appeal by a vote of 12-5 with 1 abstention. The rejection of his bid was only unusual in that it wasn't unanimous. The pardon board has only reprieved one death row inmate on humanitarian grounds since 1982.

Farris's execution was the second this year and brings the Texas total to 166 since the US Supreme Court restored the death penalty in 1976. He was charged with the killing of a county sheriff's deputy near Forth Worth in 1984 after the deputy interrupted a drug deal. The condemned man admitted to being on the scene but denied shooting the officer.

Lawyers appealed Farris's conviction on a number of grounds, including the claim that the court unfairly excluded a juror who expressed opposition to the death penalty. The US Supreme Court has held that opposition to the death penalty does not automatically exclude one from participating on the jury of a capital case.

The Court of Criminal Appeals rejected Farris's bid for a new trial in 1990. However, in 1994 it held in a similar case that the unfair exclusion of an anti-death penalty juror constituted grounds for reversal. In its new ruling the court admitted it had erred in throwing out Farris's appeal declaring, "We believe Farris was wrongly decided ... and hereby expressly overrule it."

Through the bizarre logic of the court system the ruling had no effect on Farris's case, because his lawyers were then appealing at the federal, not the state level. In 1995 the Texas legislature enacted legislation placing severe restrictions on the right of those on death row to launch new state level appeals. In refusing to block his execution the Texas Court of Criminal Appeals ruled that Farris's appeal did not meet the narrow criteria established by the state legislature. The court did not even review the merits of his claim of an unfair trial.

Maurie Levin, one of Farris's attorneys, said she had never heard of a case where the court had admitted error yet refused to grant the appellant a new hearing. "It's terrifying and infuriating," she said.

The prosecution obtained its original conviction of Farris based on the testimony of a friend, Vance Nation, who turned state's evidence in exchange for a plea bargain, and Farris's brother-in-law, Jimmy Daniels, who claimed the defendant confessed the killing privately to him. In 1990 the Court of Criminal Appeals noted that the state "failed in nearly all material respects to confirm the testimony of Nation and Daniels."

The same day Texas executed Farris the state of Arizona put to death Jess Gillies for a 1981 killing. He was the thirteenth to be executed in Arizona since the state reinstituted the death penalty in 1992.

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