

US: Death sentence postponed for Mumia Abu-Jamal

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A US federal court issued a ruling Thursday in the case of political prisoner Mumia Abu-Jamal, convicted of murder in the 1981 shooting death of a Philadelphia police officer.

Upholding in all respects a 2001 decision, a three-judge panel of the Third Circuit appeals court in Pennsylvania ruled against a reinstatement of Abu-Jamal's death sentence, while upholding his murder conviction. The latest ruling was in response to appeals from both Abu-Jamal and the State of Pennsylvania after the 2001 ruling.

The court also rejected Abu-Jamal's request for a new trial. Instead the court called for either a sentencing of life in prison, or a new penalty hearing within six months—at which a new jury could decide only whether Abu-Jamal should be re-sentenced either to death or life without parole.

The appeals court ruled in Abu-Jamal's favor only in the sense that his execution has again been temporarily delayed. At the same time, the injustice of the case is perpetuated. Indeed, the bulk of the 118-page Third Circuit ruling was devoted to reaffirming the original charges against the longtime anti-death penalty activist, journalist, and former Black Panther Party member, and dismissing overwhelmingly contradictory evidence.

Abu-Jamal, now 53 years old, has been on death row for nearly half of his life. He has maintained his innocence throughout his decades of incarceration, and has become well known around the world as a journalist and opponent of capital punishment.

He was arrested in 1981 after the murder of Daniel Faulkner, a young police officer who had detained Abu-Jamal's brother in an early morning traffic stop. Abu-Jamal, a taxi driver at the time, happened upon the scene and saw his brother had been beaten. As Abu-Jamal intervened, both he and Faulkner were shot.

Faulkner was killed, and Abu-Jamal was hospitalized, charged with murder, and subjected to a trial compromised by false testimony and racism.

Abu-Jamal has appealed his conviction numerous times over the years. In 1989, he challenged that the prosecution had systematically excluded jurors during the selection process based solely on their race. That appeal for rehearing was rejected by the Pennsylvania Supreme Court at the time, but was considered in arguments by the Third Circuit.

The 1982 prosecution relied on witness testimony asserting that Abu-Jamal was the only person on the scene who could have committed the killing, that a gun in his possession was the murder weapon, and that he allegedly confessed to the killing at the hospital.

All of these elements of the prosecution's case have been contradicted by evidence that emerged in the mid-1990s during a series of review hearings. Among the most damning revelations was the sworn deposition of a man named Arnold Beverly, who said he had shot Faulkner under the pay of corrupt police officers with ties to local mafia, whose activity Faulkner was disrupting.

The testimony of witnesses from the hospital where Abu-Jamal allegedly confessed was also refuted by these same witnesses, including one police officer who admitted that he had originally filed a report stating that Abu-Jamal had made no comments, but changed the report after meeting with prosecutors. Other witnesses admitted they had been coerced by police and the prosecutor's office into giving false testimony.

In addition, basic facts were omitted from the original trial, including Faulkner's autopsy, which found that the bullet removed from the police officer's brain was a .44 caliber. Mumia's gun was a .38 and could not have fired this larger caliber bullet.

In the March 27 decision, however, all the original distortions remained. Abu-Jamal, the court stated, “shot Officer Faulkner in the back” as he approached the scene, then, “standing over Officer Faulkner, fired four shots at close range.” The court repeated claims that he menaced other officers who arrived, resisted arrest, and bragged in the presence of police about the killing while in critical condition at the emergency room.

The court did rule that the jury decision was influenced by a “flaw” in jury instructions, whereby jury members were told they had to unanimously agree on mitigating circumstances in the case, which would have lessened Abu-Jamal’s sentence.

“The jury instructions and the verdict form created a reasonable likelihood that the jury believed it was precluded from finding a mitigating circumstance that had not been unanimously agreed upon,” chief judge Anthony Scirica wrote for the court. The mitigating circumstance in the case was Abu-Jamal’s lack of a criminal record and long history of activism against violence.

The three judges for the Third Circuit court were somewhat divided in their decision regarding one of Abu-Jamal’s contentions, regarding the racial composition of the jury in the original trial. The court ruled that Abu-Jamal “waived his objection” to the prosecution’s use of challenges during jury impanelment “by failing to make a contemporaneous objection during jury selection.”

However, one judge, Thomas Ambro, wrote that he would have granted Abu-Jamal a hearing on jury selection. “To move past the prima facie case is not to throw open the jailhouse doors and overturn Abu-Jamal’s conviction,” he wrote. “It is merely to take the next step in deciding whether race was impermissibly considered during jury selection.”

Reacting to the ruling Thursday, Abu-Jamal’s lead attorney, Robert Bryan, told the press, “I’ve never seen a case as permeated and riddled with racism as this one. I want a new trial and I want him free. His conviction was a travesty of justice.”



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