Georgia death row prisoner faces execution following denial of clemency

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The state of Georgia is intent on executing Troy Anthony Davis. Barring a last-minute intervention by the US Supreme Court, Davis will die by lethal injection Tuesday at 7 p.m. local time in the death chamber at the Georgia Diagnostic and Classification State Prison in Jackson. The Georgia State Board of Pardons and Paroles denied his clemency bid on September 12.

Troy Davis was sentenced to death in 1991 for the 1989 murder of an off-duty Savannah, Georgia police officer, 27-year-old Mark Allen MacPhail, who was working as a security guard. MacPhail was killed after responding to an altercation between a homeless man and an assailant in a Burger King parking lot near a Greyhound bus terminal.

No murder weapon has ever been produced by authorities, and there is no DNA or physical evidence linking Davis to the crime. Davis's conviction was based wholly on the testimony of eyewitnesses, nine of whom testified at his trial. However, seven of these nine have now changed their testimony. Their recantations made clear that their statements were in many cases coerced, and that they were made out of fear of reprisals by police.

Typical was the statement of witness Monty Holmes, who wrote in an affidavit: "I told them I didn't know anything about who shot the officer, but they kept questioning me. I was real young at the time and here they were questioning me about the murder of a police officer like I was in trouble or something. I was scared ... [I]t seems like they wouldn't stop questioning me until I told them what they wanted to hear... I signed a statement saying that Troy told me that he shot the cop."

A prisoner who testified against Davis said he fabricated the story. And at least three witnesses who testified to Davis's guilt at trial now say that another man—Sylvester "Redd" Coles—admitted that he fired the fatal shots that killed the police officer.

On July 16, 2007, less than 24 hours before Davis was scheduled to be executed, the Georgia State Board of Pardons and Paroles temporarily halted his execution, granting him a 90-day stay. The temporary reprieve was based on the board's consideration of evidence presented by Davis's defense at a nine-hour closed-door hearing, which heard numerous witnesses recant their testimony. (See "Georgia parole board issues 90-day stay of execution for death row inmate")

The parole board stated at the time that it would "not allow an execution to proceed in this state unless and until its members are convinced that there is no doubt as to the guilt of the accused." Board members said they would undertake an exhaustive examination of the case.

Earlier this month, on Friday, September 12, the board issued its final judgment: they ruled that the execution would proceed. The board issued its ruling denying clemency after a hearing that took testimony from a number of witnesses, including those who had recanted and apparently at least one who testified to Davis's guilt.

The parole board's deliberations are held in secret and they are not required to comment on their decisions. However, due to the extensive publicity surrounding the case, a spokesperson for the board felt compelled to issue the following statement: "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."

There was no explanation as to why they have decided to send Davis to his death in the face of testimony casting overwhelming doubt on his guilt. Georgia NAACP state president Edward DuBose commented: "Troy Anthony Davis is an innocent man and Georgia is on watch by the world. This is a modern-day lynching if it's allowed to go forward."

Davis's only hope of evading execution now rests with the US Supreme Court. Currently, the high court is scheduled to hear an appeal by his attorneys on September

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29—six days after his planned execution. In similar cases, the court has not moved up the date.

At every turn in his case, Troy Anthony Davis has come up against a judicial system hell-bent on denying him justice. It began with the actions of the police and prosecutors, extracting incriminating statements from witnesses on the basis of threats and coercion.

Due largely to measures contained in the Anti-terrorism and Effective Death Penalty Act (AEDPA), signed into law under the Clinton administration in 1996, Davis's defense has never been able to present new exculpatory evidence on appeal. Georgia courts have ruled that new evidence could not be presented in his case because five of the witnesses did not recant their testimony until after his state appeals had been exhausted.

The Georgia Supreme Court voted to hear a discretionary appeal of Davis's conviction in August 2007, but denied the appeal on March 17, 2008. Georgia is one of three US states in which the governor has no power to grant clemency to condemned prisoners, so that route is not open to Davis.

The prospect of his state killing has provoked revulsion among significant sections of the US population, where opposition to the death penalty is on the rise. Hundreds marched in downtown Atlanta, Georgia last Thursday in a demonstration organized by Amnesty International and the NAACP. Protesters held signs proclaiming "Innocence Matters" and called for a new hearing in Davis's case. Protests have taken place in Paris and other cities internationally.

Davis's case provides a graphic exposé of the death penalty as practiced in the US. His entire case serves as a grim indictment of the barbarity of capital punishment and of those forces in the political establishment that work to promote and perpetuate it.

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