US federal appeals court stays Troy Davis execution

Kate Randall
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A federal appeals court in Atlanta, Georgia issued a stay of execution on Friday for death row prisoner Troy Anthony Davis. The ruling by the 11th Circuit Court of Appeals halts, at least temporarily, Davis's execution that had been scheduled for 7 p.m., Monday, October 27.

The ruling by the court's three-judge panel is the latest chapter in the struggle by Troy Davis, his attorneys, and supporters to clear his name and spare his life in connection with the August 1989 murder of Mark MacPhail, an off-duty police officer in Savannah, Georgia.

In Friday's ruling the judges stated, "Upon thorough review of the record, we conclude that Davis has met the burden for a stay of execution." The stay came 10 days after the US Supreme Court denied without comment an appeal by Davis, clearing the way for the execution that has now been stayed.

The preponderance of evidence points to Troy Davis's innocence. There is no physical evidence connecting him to the crime, and seven of the nine witnesses who originally testified against him have since recanted their testimony. Davis, now 40, has been incarcerated for close to two decades, and has faced imminent execution on three occasions.

Statements of the witnesses who have now recanted make clear that their testimony was in many cases obtained under police coercion. The state's key witness against Davis, Sylvester "Redd" Coles, could face prosecution if Davis is cleared of the crime and has a vested interest in pointing the finger at him.

The potential state-sponsored murder of an individual who is very likely innocent has provoked outrage both in the US and internationally, and the campaign for his exoneration has won widespread support.

Rally in Atlanta, Georgia
CREDIT: Amnesty International

Rallies on Thursday organized by Amnesty International to protest Davis's impending execution were held in Atlanta and in 14 other cities in the US and Europe. The 27-member European Parliament issued a statement on Wednesday condemning the execution and the US practice of capital punishment in general.

Earlier this week, Davis's attorneys had asked the appeals court for permission to pursue another round of litigation in federal court on claims he is innocent. The Davis defense has never been able to present the new evidence in his case on appeal. The stay issued by the 11th Circuit Court of Appeals, however, is conditional and does not guarantee that Davis will be granted a new trial.

The Antiterrorism and Effective Death Penalty Act of 1996, enacted under the Clinton administration, requires that death row prisoners obtain authorization from an appeals court before another habeas corpus lawsuit can be filed. The 11th Circuit stressed that Davis must meet the "stringent requirements" to pursue another round of appeals.

Defense attorney Jason Ewart commented on the court's ruling, "This is the first step toward a court hearing to consider the new evidence—something we have been asking for almost a decade now." Davis's lawyers must file a legal brief on their arguments to the 11th Circuit within 15 days, and the state attorney general's office then has 10 days to respond.

Since Troy Davis's 1991 conviction, the Georgia

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Department of Corrections has scheduled a total of three dates for his execution by lethal injection at the Georgia Diagnostic and Classification Prison in Jackson, including next Monday's that has now been stayed.

On July 16, 2007, the Georgia State Board of Pardons and Paroles issued a 90-day stay of execution less than 24 hours before Davis's scheduled execution, set for 7 p.m., July 17. The board said 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."

On September 23, 2008, the US Supreme Court issued a stay of execution less than two hours before he was to be put to death. The court did not take any action at that time on his appeal.

Three weeks later, on October 14, the high court justices denied Davis's appeal, without comment and without a written dissent, paving the way for his October 27 execution. Their refusal to hear the case exposed the reactionary character of this body and its support for capital punishment. The court could not muster the votes of four of the nine justices, including among its so-called liberal wing—the minimum required to force a hearing of an appeal.

Earlier this year, in mid-April, the Supreme Court upheld the use of lethal injection as a death penalty procedure. That ruling paved the way for a renewed round of executions, which had been on hold pending the court's decision. Since then, 28 condemned prisoners have been sent to their deaths throughout the US, and 22 more executions are scheduled between now and mid-March 2009.

According to the Death Penalty Information Center, as of January 1, 2008, there were 3,309 inmates on death rows across the US. Like Troy Davis, they have languished in prison for years. Since 1973, 130 death row inmates have been released, having been either acquitted, pardoned or had the charges against them dropped. The average number of years between these individuals being sentenced to death and their exoneration was nine-and-a-half years.

Troy Davis's sister, Martina Correia, and his mother, Virginia Davis, were packing for the trip to death row in Jackson for Troy's execution when they received the news that he had been granted a stay.

Correia told the *Atlanta Journal Constitution*, "He deserves to be free. He at least doesn't deserve to die for something he didn't do." She spoke to Troy on the phone following the court's announcement. "To all the people around the world working hard and fighting for him, he wants to say thank you and this fight has to continue," she said.

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