

# US Supreme Court rejects appeal by Mumia Abu-Jamal for new trial

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The United States Supreme Court on Monday refused to hear an appeal for a new trial by Mumia Abu-Jamal, whose struggle over more than a quarter century against his murder conviction in a politically and racially motivated frame-up has become a focus of international opposition to capital punishment and political repression.

The Court rejected, without comment, a writ of certiorari filed by Abu-Jamal's lawyers charging that his 1982 trial in the killing the previous year of a Philadelphia police officer should be discounted because the prosecution illegally excluded African-Americans from the jury. It requires only four of the nine justices to agree to hear such an appeal, meaning that at least one of the four nominally liberal members of the court refused to support the writ. The fact that the decision was issued without comment or dissent suggests that the decision was unanimous.

The high court's action let stand a March 2008 federal appeals court ruling denying Abu-Jamal's appeal for a new trial. In that same decision, a three-judge panel of the Third Circuit Court of Appeals threw out the death penalty phase of Abu-Jamal's trial, ruling that the jury had been improperly instructed by the trial judge on how to weigh mitigating factors offered by the defense that might have kept Abu-Jamal off death row. The judge had falsely told the jury, consisting of ten whites and two African-Americans, that they had to agree unanimously on mitigating factors.

The appeals court lifted the death penalty and ordered a new capital sentencing hearing, at which a jury could decide either to restore the death sentence or impose a sentence of life without the possibility of parole. Abu-Jamal appealed the ruling to the Supreme Court, seeking a new trial on the charges.

Philadelphia prosecutors have appealed the appeals court ruling to the US Supreme Court, seeking to restore the original sentence of death. The Supreme Court has yet to act

on their appeal.

As a result, Abu-Jamal, 54, who has spent half of his life on death row, remains in limbo, with the possibility that his death sentence could be restored. Philadelphia prosecutors and much of the American political establishment remain determined to put the political activist, author and opponent of capital punishment to death. Following the March 2008 appeals court ruling upholding Abu-Jamal's conviction, Philadelphia District Attorney Lynne Abraham denounced his supporters and declared, "He is nothing short of an assassin."

Abu-Jamal's attorney, Robert R. Bryan, called his client's trial a "mockery of justice" and said Monday he would seek a rehearing by the Supreme Court.

Abu-Jamal was arrested in 1981 and charged with the murder of Daniel Faulkner, a police officer who had detained Abu-Jamal's brother in an early morning traffic stop. Abu-Jamal, who had been a founding member of the Black Panther Party in Philadelphia and was a well known radio commentator and campaigner against racism and police brutality, was working as a taxi driver at the time. He happened upon the scene, saw that his brother had been beaten, and rushed to his defense. Shots were fired and both Abu-Jamal and Faulkner were hit, the officer dying from his wounds.

Abu-Jamal was hospitalized, charged with murder and subjected to a trial compromised by false testimony, prosecutorial misconduct and racism. 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 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. This includes a sworn deposition by 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 individuals who recanted their statements at trial, claiming they had been pressured by the prosecutors and police to give false testimony. This includes 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.

An affidavit recorded in January 2002 by Yvette Williams refutes critical testimony given at trial by a key prosecution witness, Cynthia White, who had claimed she saw Abu-Jamal shoot Faulkner. Williams stated that White told her in December 1981 that “the police were making her lie and say she saw Mr. Jamal shoot Officer Faulkner when she really did not see who did it.” Williams went on to say, “I asked her why she was lying on the man. She told me it was because the police and vice threatened her life.”

In addition, the prosecution withheld critical exculpatory evidence, including Faulkner’s autopsy, which found that the bullet removed from his brain was a .44 caliber. Mumia’s gun was a .38 and could not have fired the larger caliber bullet.

The Philadelphia Police Department had monitored Abu-Jamal’s political activity since 1969 as part of the FBI’s Counterintelligence Program (COINTELPRO). Well before his 1982 frame-up he was targeted by the FBI, former mayor and police chief Frank Rizzo and the police department because of his outspoken opposition to police brutality and racism. Since his imprisonment, Abu-Jamal has been a courageous and articulate opponent of capital punishment and the inhuman treatment of prisoners, writing and publishing books that have drawn an international audience.

Among those who have come to his defense are human rights organizations such as Amnesty International and Human Rights Watch. Other organizations supporting his fight for a new trial include the National Association for the Advancement of Colored People (NAACP) and the European Parliament. Well known actors, artists, authors and intellectuals in the US and around the world have signed statements in his defense.

In February of 2000, Amnesty International (AI) held a

press conference in New York to call for a new trial. AI issued an exhaustive 53-page report examining the original trial and appeals in state courts and concluded that the proceedings failed to reach “minimum international standards for fair trials.”

Introducing the report, Dr. William F. Schulz, executive director of Amnesty International USA, said, “Our report shows how Jamal’s trial was tragically marked by inconsistencies in the testimony of witnesses, contradictory ballistics evidence, a questionable confession, inadequate legal representation, judicial bias, and a politicization of the judicial process.”

A statement by the Socialist Equality Party of the US entitled “The fight to free Mumia Abu-Jamal and the defense of democratic rights,” published by the *World Socialist Web Site* on April 23, 1999, retains its full force. The statement declared, in part:

“The defense of Mumia Abu-Jamal has become a focal point of the struggle in the United States and internationally against political repression, racism and capital punishment. The issues in his case go to the defense of democratic rights as a whole and the fight for social justice. It is critical that the campaign against the execution of this political prisoner, to secure a new trial and win his freedom, be broadened to involve ever wider layers of working people, youth and students...

“There should be no illusions about the intent of the authorities. They are determined to carry out the final act of their political vendetta against Mumia and to silence him once and for all. His execution would have far-ranging consequences. Such a high-profile state killing, the first execution of a political prisoner in decades, would signal an intensification of political repression and further restrictions on democratic and civil rights. The authorities aim to make an example of Mumia and create an atmosphere of intimidation and fear to curtail all forms of dissent.”



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