

Georgia parole board hears evidence of Troy Davis's innocence

Bill Van Auken
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Lawyers for Troy Davis presented evidence of his innocence Monday to the Georgia parole board, which is to decide whether the 42-year-old death row inmate is to be put to death by lethal injection September 21.

The case has aroused international outrage over the prospect that the state of Georgia is preparing to put to death an innocent man. Close to one million people have signed petitions calling for a halt to the execution, while the demand for clemency has won the support of the European Union and figures ranging from former President Jimmy Carter to the Pope, former FBI director William Sessions and the right-wing Republican former Georgia congressman, Bob Barr.

Georgia's five-member Board of Pardons and Parole met late into the afternoon Monday, hearing Davis's lawyers and witnesses in the morning, and in the afternoon hearing prosecutors and members of the family of Mark MacPhail, the Savannah, Georgia police officer that he was convicted of killing.

The panel has not indicated when it will announce its decision, which could be delayed until shortly before the scheduled execution Wednesday night.

Davis was sentenced to death following his 1991 trial on murder charges for the shooting down two years earlier of MacPhail, who was moonlighting at the time as a security guard. The shooting took place after MacPhail intervened to stop the beating of a homeless man in a Burger King parking lot next to Savannah's bus station.

There was no physical evidence linking Davis to the shooting. The prosecution's case rested on the

testimony of the police and nine witnesses. Seven of those witnesses have since recanted their testimony. In most cases, they have admitted that they testified falsely at Davis's trial as a result of police intimidation, with cops threatening to try them as accomplices in the murder or send them to jail for other crimes if they did not finger Davis.

One of the remaining two witnesses, Sylvester "Redd" Coles, was the first to come forward to the police identifying Davis as the killer. Multiple witnesses have since sworn affidavits implicating Coles himself as the triggerman.

One of these witnesses, Quianna Glover of Savannah, testified before the parole panel Monday morning, recounting that she had heard Coles, who had been drinking heavily at a party, confess that he had been the one who killed MacPhail in 1989.

Also testifying at the hearing was one of three jurors who voted to sentence Davis to death, but have since come forward to say they would not have done so knowing what they do now.

The juror, Brenda Forest, said she no longer believes that Davis's guilt has been proven. "I feel emphatically," she said, "that Mr. Davis cannot be executed under these circumstances."

"We believe we have established substantial doubt in this case," one of Davis's attorneys, Stephen Marsh, told the *Atlanta Journal Constitution* after the three-hour presentation to the board.

On Monday morning, the White House press

secretary Jay Carney was asked at a daily media briefing about Obama's position on the death penalty and the Davis case.

Carney delivered a mealy-mouthed response, making it clear that Obama continues to back the death penalty and is washing his hands of Davis's fate.

"The president has written that he believes the death penalty does little to deter crime but that some crimes merit the ultimate punishment." In regard to "this specific case," Carney added, the media should refer their questions to the Justice Department.

Davis, who has spent 20 years on death row and is now facing his fourth execution order, is to be put to death by lethal injection at the state prison in Jackson on Wednesday unless the parole panel grants clemency, which would take the form of commuting his sentence to either life in prison with parole or life without parole.

In September 2008, the Georgia parole board rejected Davis's previous bid for parole. Three new members have been appointed to the panel since then.

Davis's attempts to prove his innocence have been met with a series of judicial obstacles that taken together exemplify a barbaric system of state murder that is indifferent as to whether it takes the lives of wholly innocent men and women.

Between 1991 and 1996, during the period in which Davis faced state habeas proceedings, under which someone sentenced to death can appeal, he had no lawyer assigned to his case. Georgia is one of the only states in the country that does not provide indigent defendants legal counsel for such proceedings.

In 1996, the passage of the Anti-Terrorism and Effective Death Penalty (ATEDP) imposed severe restrictions on the ability of those sentenced to death to seek relief in the federal courts. The federal courts found that because Davis had failed to obtain a hearing on his claims of innocence in the state court, when he had no legal counsel, he could not do so at the federal level.

In 2009, Davis managed to have his case heard by the US Supreme Court, which ordered federal judge William Moore in Savannah, an appointee of the Clinton administration, to consider new evidence in the case. In August 2010, Moore issued a ruling finding that executing an innocent man would violate the Eighth Amendment to the US Constitution, but that Davis had failed to prove his innocence. He wrote that "while Mr. Davis's new evidence casts some additional, minimal doubt on his conviction, it is largely smoke and mirrors."

The courts hold that Davis must prove his innocence to escape execution, and that raising substantial doubt as to the evidence used to convict him is not sufficient.

Hundreds of demonstrators gathered outside the parole board's headquarters in Atlanta on Monday, many wearing T-shirts bearing the logo "I am Troy Davis." Some three hundred protests and vigils were held across the country and around the world over the weekend.

Fueling these protests is not only the conviction that Georgia is about to put to death an innocent man, but also the international revulsion felt towards capital punishment in the United States.

The US is among the top five in terms of countries putting their own citizens to death, trailing only China, Iran, North Korea and Yemen. Since capital punishment was reinstated in 1976, 1,267 people have been put to death in the US, 51 of them in the state of Georgia.



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