

# Texas executes Terry Edwards despite claims of innocence, prosecutorial misconduct

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Terry Edwards was executed Thursday night in Texas after a nearly four-hour delay while waiting on a last-minute appeal from the US Supreme Court. Edwards, 43, was put to death despite claims of prosecutorial misconduct and that he was not guilty of murder.

Edwards was convicted of the murder of two employees at a Subway restaurant in suburban Dallas in 2002. His attorneys claimed there was no clear gunshot residue from the murder weapon on his hands and no blood from either victim on his body or clothes. They also argued his conviction was tainted with racial bias.

The Fifth Circuit Court of Appeals denied Edwards' appeal on Wednesday, and the US Supreme Court denied his final appeal at around 9:45 p.m. Thursday night, clearing the way for his execution.

Asked for a final statement, Edwards said, "I made my peace with God. I hope y'all find your peace in this." According to the *Texas Tribune*, shortly thereafter, at 9:54 p.m., a lethal dose of pentobarbital was placed into the IV inserted into the crook of his right elbow.

The *Tribune* describes the scene in the execution chamber in Huntsville, Texas: "Within a minute, he began to snore loudly, but almost as soon as it began it stopped suddenly. Within two minutes of being injected with the drug, all movement had ceased. A doctor came in about 20 minutes later, and Edwards was pronounced dead at 10:17 p.m."

Edwards was convicted and sentenced to death for the shooting deaths of Tommy Walker, 34, and Mickell Goodwin, 26, at a Subway restaurant in Balch Springs, Texas, where Edwards used to work and had been fired for suspected theft of money.

Edwards returned to the Subway on July 8, 2002 with his older cousin, Kirk Edwards. The shop was robbed, and the two victims were shot and died from close-

range bullet wounds. A witness reported seeing the younger cousin dumping a gun into a bin across the street from the shop.

Terry Edwards was arrested and convicted of the murders in 2003 and sentenced to death. Kirk Edwards pleaded guilty to robbery in exchange for a 25-year sentence with the possibility of parole.

Although the prosecution asserted that Terry Edwards pulled the trigger, in their appeal his lawyers claimed that he was not the killer and that it is more likely his cousin committed the murders. Under Texas's "law of parties," defendants can be sentenced to death even if they do not personally commit murder.

Edwards' appeals focused on a range of issues, from prosecutorial misconduct at his trial to newly released evidence that could lend more credence to the theory that Kirk Edwards committed the murders, according to court papers.

According to the *Tribune*, both Dallas County and the state of Texas claimed the filings were ineligible for review because there had already been appeals where these issues could have been raised.

One of the main pieces of evidence presented at trial against Terry Edwards was gunshot residue testing, used by prosecutors in an effort to prove he fired the fatal shots. In court papers, Edwards' attorneys argued the gunshot residue evidence was improperly interpreted and in fact showed that he was not the shooter.

Edwards' appellate attorneys have also questioned the fairness of the jury selection process at his trial. They said in a statement that prosecutors "removed all eligible African Americans from the jury pool of 3,000 citizens [143 of whom were questioned] and seated an all-white jury to decide the fate of an African American man charged with murdering two white people."

This claim was based on a prosecutor list found by the attorneys with the names of 32 jurors with the letter “B” written next to them. It is unclear whether the “B” meant “black,” as court files have gone missing that would identify the jurors. The lawyers argued that they needed more time to determine this. If jurors were excluded because they were black it would be a violation of Edwards’ rights under the Equal Protection Clause of the Fourteenth Amendment to the US Constitution.

The Supreme Court ruled in May 2016 in *Foster v. Chatman* that the conviction and death sentence of Timothy Foster, a black man convicted of killing a white woman, Queen Madge White, was unconstitutional because potential black jurors were excluded.

In Foster’s case, similar to jury selection at Terry Edwards’ trial, prosecutors had marked the names of possible black jurors with a “B.” For unexplained reasons, however, the high court chose not to issue a stay of execution for Edwards, allowing his lethal injection to proceed.

Edwards’ execution was the second in Texas so far this year; the state has seven more scheduled for 2017. Since the US Supreme Court reinstated the death penalty in 1976, Texas has executed 540 people, far more than any other state. These have included the mentally impaired, foreign nationals denied their consular rights, and those convicted and sentenced for crimes committed as juveniles.



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