

# US Supreme Court, ignoring exculpatory evidence, refuses to hear appeal from Louisiana death row inmate

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On Monday, the US Supreme Court refused to hear an appeal from a Louisiana death row inmate, David Brown, seeking a new sentencing hearing. The high court did so despite the fact that state prosecutors had withheld exculpatory evidence from Brown's defense attorneys until after he was sentenced to death in 2011.

The deeply reactionary, savage and clearly unconstitutional action is consistent with the pattern established by the court, particularly under its current six-to-three far-right majority, in relation to the barbaric practice of state murder. Since the death of Ruth Bader Ginsburg and the retirement of Anthony Kennedy, the high court justices have not granted a single stay of execution concerning the constitutionality of a death row prisoner's conviction or sentence.

Over a dissent authored by Justice Ketanji Brown Jackson and joined by Justices Sonia Sotomayor and Elena Kagan, the court ruled 6-3 to turn away Brown, one of the "Angola 5" prisoners who carried out a failed attempt to escape from the notorious maximum-security Angola State Prison in Louisiana in 1999. During the prison break, guard David Knapps was beaten to death.

Only after the sentencing did prosecutors give Brown's defense lawyers a confession from one of the "Angola 5," Barry Edge, which supported Brown's insistence that he was not involved in the killing of Knapps. As Justice Jackson wrote in her dissent:

As it turned out, one of Brown's codefendants, Barry Edge, had confessed to a fellow inmate. The prosecution obtained a statement from the inmate prior to Brown's trial, but did not disclose it to Brown's counsel until after his sentencing. In the confession, Edge explained that he and another codefendant, Jeffrey Clark, were "the only ones that were thinking rationally during th[e] highly charged

situation," and that he "and Jeff[rey Clark] made the decision" to kill the victim in order to help themselves.

The confession made no mention of Brown playing any role in the killing. As Justice Jackson explained in her dissent, the withholding of this information from Brown's defense was in clear violation of the landmark 1963 ruling by the Supreme Court in *Brady v. Maryland*. That decision held that, under the due process clause of the Fourteenth Amendment to the US Constitution, prosecutors must provide a defendant with favorable evidence.

A Louisiana state judge overturned the death sentence against Brown, but the Louisiana Supreme Court, in a 4-3 vote, reinstated it, absurdly arguing that Edge's confession could not be seen as relevant to the jury's vote to execute Brown. (It requires a unanimous jury vote to impose a death sentence in Louisiana, so even a single juror could have blocked the death penalty).

With the vote of the six right-wing justices, including Chief Justice John Roberts and two justices implicated in Trump's attempted overthrow of the 2020 election, Samuel Alito and Clarence Thomas, the Louisiana Supreme Court ruling was left standing without so much as a hearing to consider Brown's appeal.

So routine have such judicial atrocities become in the United States, and so indifferent to them are the two capitalist parties and the corporate media, that the high court affirmation of the death penalty against a man clearly innocent of murder was barely noted in the "mainstream" media.

In its year-end report for 2022, the Death Penalty Information Center (DPIC) said 18 people had been executed in the US during the year. It noted that in 2022, the Supreme Court continued to weaken or withdraw federal court regulation of death penalty cases, issuing decisions

“severely limiting prisoners’ access to federal habeas corpus review to develop evidence of innocence, ineligibility for the death penalty, or constitutional violations at trial or sentencing and in refusals to review death-penalty issues that presented significant claims of constitutional violations.”

The court continued its pattern of intervening to permit executions in cases in which lower federal courts had issued injunctions or stays of execution to adjudicate legal issues.

According to the DPIC, Louisiana has 62 inmates on death row. The state has carried out only one execution in almost 21 years, and that occurred in 2010. Since 1973, 11 prisoners have been freed from the state’s death row and exonerated.

Two weeks ago, Louisiana Governor John Bel Edwards, a Democrat, ended years of silence on the issue of capital punishment and came out against the death penalty during a seminar at Loyola University in New Orleans. He acknowledged that “we know that mistakes have been made in sentencing people to death.” He added it was “fortuitous” that a shortage of lethal injection drugs had paused all executions in the state for the past 13 years.

On January 21 of this year, Texas death row prisoner Terence Andrus, 34, hanged himself some six months after the Supreme Court denied review of his case for a second time. His lawyer, Gretchen Sween, told the *Los Angeles Times* that “he’d been careening toward the abyss” since the court decision, adding, “He was broken.”

According to the DPIC:

Just days after Andrus’ suicide, Texas death row prisoners filed a lawsuit on January 26, 2023 against the state for their unconstitutional conditions of confinement, including indefinite solitary confinement, minimal health care, and improper access to counsel. Most of the 181 prisoners have spent years enduring days of 22 hours to 24 hours of solitary confinement, about 75 of whom have endured these conditions for more than two decades. The lawsuit claims that such conditions are unconstitutional as it violates the 8th amendment’s right against cruel and unusual punishment.

The DPIC also reports that Alabama death row inmate Kenneth Smith filed a lawsuit in the US District Court for the Middle District of Alabama last November in which he described the hours of torture he suffered during a botched execution by lethal injection.

The complaint alleges that, “as the night

progressed, as Mr. Smith was subjected to ever-escalating levels of pain and torture, no one responded to his pleas to stop the pain, told him of the Eleventh Circuit’s stay, or answered his questions about what they were doing to him. They were—and he thought they were—executing him.”

Maya Foa, joint director of Reprieve, told *The Guardian* that “The recent spate of disastrous lethal injection executions have shown that whatever the drug, whatever the protocol, condemned prisoners often spend their final hours in agonising pain and distress. With each gruesome scene in the death chamber, we are witnessing the consequences of persisting with a broken method of execution, in real time.”

The United States, which targets countries around the world for invasion, occupation, subversion and mass death on the pretext of “human rights,” in December joined a handful of countries in voting “no” on a resolution passed overwhelmingly by the United Nations General Assembly calling for a global moratorium on the death penalty. Those with whom the US blocked included Iran, Iraq, Saudi Arabia, China, North Korea, and Vietnam.

President Joe Biden, who recently presided over a fraudulent “Democracy Summit” with countries allied with US imperialism in its escalating war against Russia in Ukraine, has personally played a significant role in maintaining and strengthening the death penalty against growing popular opposition. Throughout the 1980s and 1990s, as either the ranking Democrat on the Senate Judiciary Committee under the arch-reactionary segregationist Strom Thurmond, or as the chairperson himself, Biden oversaw the passage of law-and-order legislation that resulted in longer jail terms for millions of people, such as the Violent Crime Control and Law Enforcement Act of 1994.



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