

# U.S. Supreme Court stays Georgia execution

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CNN

**JACKSON, Georgia (CNN)** -- The U.S. Supreme Court granted a last-minute reprieve to a Georgia man fewer than two hours before he was to be executed for the 1989 slaying of an off-duty police officer.

Troy Anthony Davis, 39, has his execution stayed by the U.S. Supreme Court on Tuesday.

Troy Anthony Davis learned that his execution had been stayed when he saw it on television, he told CNN via telephone in his first interview after the stay was announced.

He said he was "thankful to God" for the news that came during an emergency session the U.S. Supreme Court convened.

Davis said "everyone should pray" for the slain officer's family.

The 39-year-old also said that he is "very grateful for everything that everyone is doing" for him and that he would "accept" whatever decision the Supreme Court rendered in the coming days about his case.

At the Diagnostic and Classification Prison in Jackson, a crowd of Davis' supporters, led by the Rev. Al Sharpton, erupted in cheers when the stay was announced. Some shouted "Hallelujah!"

Davis has long said he didn't kill Mark MacPhail, a Savannah, Georgia, police officer, and the U.S. Supreme Court was the last option for Davis to have his execution postponed. It was scheduled to move forward at 7 p.m. ET.

Seven of the nine witnesses who initially testified that Davis was the killer have recanted. There was no physical evidence presented at his trial, and no weapon was found. But Davis' petitions for a new trial have been denied.

The MacPhail family said they were angry about the stay.

"I am angry as can be. I'm disgusted. It should have been over by now," MacPhail's mother, Anneliese MacPhail, told CNN. "Nobody thinks about what the victims' family has gone through again and again."

"I was hoping it would be over today," she said.

Earlier, she said, "There is no possibility he's innocent, not according to what's been said in court."

Davis was convicted in 1991 of killing the officer as he responded to an altercation in a Burger King parking lot.

Earlier Tuesday, Davis refused his last meal, according to the Georgia Department of Corrections, which will still provide him with macaroni and cheese, pinto beans, green beans, lettuce and tomato salad, corn bread, fruit cobbler and tea.

Prison officials said that he was offered ativan, a mild sedative. But Davis refused to take the drug, he said.

Many had asked Georgia to grant Davis a new trial: celebrities like Susan Sarandon, Harry Belafonte and the Indigo Girls; world leaders such as former President Carter, Archbishop Desmond Tutu and Pope Benedict XVI; and former and current U.S. lawmakers like Bob Barr, Carolyn Moseley Braun and John Lewis.

Amnesty International has issued a 39-page report questioning his conviction, and protesters have been gathering at the Georgia Capitol in Atlanta this week. .

Davis' sister, Martina Correia, said she was sleepless Monday night and was spending Tuesday at his side. She said she planned to stay until prison officials told her to leave at 3 p.m.

Before the stay was announced, she said, "We still hope the U.S. Supreme Court will look into my brother's case and give some relief. We will have a lot of family time with him and recall old times and pray together."

The Georgia Supreme Court turned down the plea for a stay in Davis' execution Monday, saying the U.S. Supreme Court "properly has jurisdiction over Davis' pending petition."

Davis was convicted of MacPhail's 1989 murder largely on the testimony of nine witnesses.

"When you only have eyewitness testimony and you have no physical evidence, people have fallacies and people make mistakes," Correia said.

Davis' lawyers and supporters say this is a case of mistaken identity. Seven of the nine trial witnesses have changed their statements, saying they were mistaken, they feared retribution from the man they say actually killed MacPhail or that police pressured them into fingering Davis.

During the trial, witnesses said Davis and two other men were harassing a homeless man and followed him across the street from a parking lot at the Greyhound bus station in Savannah.

MacPhail was off-duty. He saw the skirmish and ran over to break up the fight. MacPhail was shot, and witnesses told police Davis fired the two shots that killed him.

A manhunt ensued. Davis surrendered nine days later.

Monty Holmes is one of the witnesses who said Davis was the culprit. He has changed his story and alleges that police coerced him.

"They were trying to get to me to say that he did it, but I know he didn't do it," Holmes said last year at a rally for Davis.

Savannah police Maj. Everett Ragan headed the MacPhail investigation. He denies allegations of coercion and said he doesn't believe the witnesses who have changed their stories.

Shortly before Davis was scheduled to be executed last year, Ragan told CNN, "There is no doubt in my mind we arrested the right man."

The Georgia Supreme Court also was unimpressed with the witnesses' new stories. In affirming the trial court's judgment in a 4-3 decision, the majority said that the witnesses' new testimony failed to meet the necessary benchmark: that their original testimony "in every material part is purest fabrication."

The court also was unconvinced by allegations that one of the men Davis was with that night, Sylvester "Red" Coles, killed MacPhail.

In a telephone interview in 2007, Davis acknowledged that he never told police that Coles killed MacPhail.

"I didn't because I didn't want to be a snitch," Davis said. "Yes, I know that's stupid."

Coles has never been charged with the murder and, according to court documents, has testified at least twice that he was not the killer.

Davis' lawyers claim that there are other people who saw what happened that night. Those witnesses have never testified in court but have submitted affidavits, the attorneys say.

On Monday, the Georgia Board of Pardons and Paroles said it typically does not comment on clemency appeals but defended itself because Davis' case has received such widespread attention. The statement noted that the board postponed Davis' execution last year and has studied the case for a year.

"After an exhaustive review of all available information regarding the Troy Davis case and after considering all possible reasons for granting clemency, the board has determined that clemency is not warranted," the statement said.

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