

September 8, 2011

Georgia State Board of Pardons & Paroles
2 Martin Luther King, Jr. Drive, SE
Suite 458, Balcony Level, East Tower
Atlanta, GA 30334

Dear Chairman Donald and Members of the Board:

As Deputy U.S. Attorney General in the administration of President George W. Bush and as a former U.S. Attorney in the Northern District of Georgia, I greatly respect the seriousness with which the Georgia State Board of Pardons and Paroles makes its most profound decisions—those concerning clemency in death penalty cases. Such decisions, involving life and death, are the most challenging a public servant will ever face.

When you issued a temporary stay of execution for Troy Anthony Davis in 2007, you stated that the Board “will not allow an execution to proceed in this State unless and until its members are convinced that there is no doubt as to the guilt of the accused.” This was an important expression of the moral authority of the Board to defend the integrity of Georgia criminal justice by preventing any chance of a wrongful execution.

I do not know if Troy Davis is innocent, but it is clear now that the doubts plaguing his case can never be adequately addressed. On this basis, I urge you to uphold the values expressed in your 2007 statement and grant clemency.

Last summer, the federal district court in Savannah, Georgia conducted an extraordinary evidentiary hearing to consider Troy Davis’ innocence claim. At the hearing, several witnesses testified that they had been coerced into making false statements against Troy Davis. One eyewitness testified for the first time that he saw another man, a relative of his, commit the crime. The judge presiding over the hearing ruled that Troy Davis had not established his innocence to the high standard required by the law. However, he conceded that the case against Davis “may not be ironclad.” He also admitted that this new evidence “casts some additional, minimal doubt on [Troy Davis’] conviction,” but determined the new evidence was either not credible or lacked probative value. Notably, the prosecution had relied on the testimony of the same witnesses at the hearing whom the judge deemed “not credible” to obtain Troy Davis’ original conviction.

The hearing, like the case itself, consisted almost entirely of witness testimony. Such testimony is no longer favored by the courts due to its unreliability. You may know that 75% of all wrongful convictions uncovered by DNA testing were at least in part due to faulty eyewitness testimony. The lack of relevant physical evidence that could be objectively tested has made it impossible to determine Troy Davis’ guilt or innocence to an acceptable level of moral certainty.

Over the years, the inability of our courts to resolve these uncertainties has shaken public confidence in our judicial system. The execution of a person whose guilt the judge has admitted is not “ironclad” would shatter that confidence. Maintaining public faith in the integrity and morality of justice in Georgia is one of the reasons executive clemency exists. When cases such as this one cannot be adequately resolved in our courts, it is up to you to ensure that the right thing is done.

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I understand why society needs to enforce the death penalty when the guilt of the accused is established to a legal and moral certainty. However, that is certainly not the case here. To demonstrate that Georgia will not consider executing a potentially innocent man, I urge you to grant clemency for Troy Davis.

Respectfully,

A handwritten signature in black ink, appearing to read 'Larry D. Thompson', with a long horizontal flourish extending to the right.

Larry D. Thompson

sdq