



BOB BARR

Member of Congress, 1995 - 2003

April 28, 2011

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

In Re: Troy Anthony Davis

Dear Chairman Donald and Members of the Board:

I support capital punishment. I believe that death sentences should rarely be set aside and should never be set aside without good reason. Therefore, I appreciate how seriously you approach your decisions concerning clemency in capital cases, and I respect the decisions you make in allowing many executions to proceed.

However, my support of the death penalty hinges on assurances of fundamental fairness and accuracy in the justice system leading up to executions. In the case of Troy Anthony Davis, the system has not provided the requisite assurances. Thus, I urge you to grant clemency to Davis and to commute his death sentence.

I was one of the individuals who called for a hearing for Davis to present evidence of his innocence, and I was pleased when the U.S. Supreme Court granted such a hearing. However, the standard applied by the judge at the subsequent hearing made it virtually impossible for Davis to prevail. The judge required that Davis show "by clear and convincing evidence that no reasonable juror would have convicted him in the light of the new evidence he has presented since trial." It was a standard the judge himself referred to as "extraordinarily high;" and if anything, the judge underestimated the difficulty of Davis' burden.

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Proving one's innocence of a crime is a potentially insurmountable task - one of the reasons our nation unwaveringly adheres to a presumption of innocence at trial. In this case, Davis was forced to prove his innocence in the court's judgment; and, not surprisingly, he was unable to do so. The hearing for which I had joined others in calling, did not resolve questions about Davis' guilt.

Ultimately, I take no position on the guilt or innocence of Davis, because I can never know whether he is guilty or innocent. What I do know is there is a lack of trustworthy, scientifically verifiable forms of physical evidence in his case; the case relies heavily on witness testimony. In retrospect, this lack of reliable, non-witness evidence has made it impossible for the state to remove doubts about guilt and impossible for Davis to prove his innocence. The conviction today rests almost totally on the testimony of witnesses the state itself now argues are *not* credible. Even for death penalty supporters such as myself, the level of doubt inherent in this case is troubling.

Carrying out the irreversible punishment of death demands the utmost care and the highest degree of certainty. Your power of executive clemency can and should be used to prevent prisoners from being executed when we cannot be assured of their guilt -- even if they cannot legally prove their innocence. I therefore urge you to grant clemency for Troy Anthony Davis.

Respectfully,

Bob Barr
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