

No. 10-

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2010

TROY ANTHONY DAVIS,

Petitioner,

-v-

CARL HUMPHREY, in his capacity as Warden
Georgia Diagnostic Prison,

Respondent.

CAPITAL CASE: EXECUTION SCHEDULED
FOR SEPTEMBER 21, 2011 @ 7:00 PM

MOTION FOR STAY OF EXECUTION PENDING CERTIORARI REVIEW
PURSUANT TO THIS COURT'S ALL WRITS JURISDICTION UNDER 28 USC §1651

Comes now, Petitioner, TROY ANTHONY DAVIS, by and through undersigned counsel, and prays that an Order be entered staying the execution of his sentence of death until further Order of this Court, and in support of his application, respectfully states as follows:

1. That the Superior Court of Chatham County, State of Georgia, set from noon on Thursday, September 21, 2011 through noon on Thursday, September 28, 2011 as the period during which Petitioner's execution would be carried out. See Exhibit A (execution warrant), attached. The execution is currently scheduled for Wednesday, September 21, 2011, at 7:00 PM.

2. A stay of execution in order to protect this Court's jurisdiction over certiorari proceedings is justified on the grounds that Petitioner's counsel will shortly file in this Court a Petition for Writ of Certiorari presenting substantial constitutional errors which have occurred in connection with the lower courts denial of his claims that newly available evidence reveals that false, misleading and materially inaccurate information was presented at his capital trial in 1989, rendering the convictions and death sentence fundamentally unreliable. Petitioner's counsel have been struggling to litigate meritorious constitutional claims in the lower courts after having a grueling clemency process, which was denied yesterday.

3. Petitioner is detained at the Georgia Diagnostic Prison, at Jackson, Georgia, under a sentence of death. A Stay of Execution will not prejudice the State of Georgia or interfere with Petitioner's custodial status.

4. A Stay of Execution is necessary to insure that Petitioner is not executed before this Court is able to hear and determine the matters contained in the Petition for Writ of Certiorari. The execution of Petitioner would obviously inflict irreparable harm. This Court may protect its jurisdiction under 28 USC §1651.

WHEREFORE, Petitioner respectfully requests an Order staying Petitioner's execution, pending resolution of the proceedings and further Order of this Court.

Dated this 21st day of September, 2011.

Respectfully submitted,

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

Brian Kammer (Ga. 406322)
Georgia Resource Center
303 Elizabeth Street, NE
Atlanta, GA 30307
404-222-9202

COUNSEL FOR PETITIONER

Exhibit A

IN THE SUPERIOR COURT OF CHATHAM COUNTY
STATE OF GEORGIA

FILED IN OFFICE

THE STATE OF GEORGIA,

*

v.

* CRIMINAL NO.
* 089-2467-H

2011 SEP -6 PM 3:53

TROY ANTHONY DAVIS,

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Defendant.


DEP. CLK SUPERIOR CT.
CHATHAM COUNTY, GA

ORDER

The Court having sentenced Defendant, Troy Anthony Davis, on the 3rd day of September, 1991, to be executed by the Department of Corrections at such penal institution as may be designated by said Department, in accordance with the laws of the State of Georgia, and;

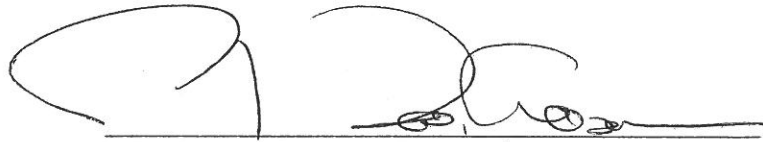
The date for the execution of said Troy Anthony Davis, having passed by reason of supersedeas incident to appellate review;

IT IS CONSIDERED, ORDERED, AND ADJUDGED by this Court, pursuant to O.C.G.A. § 17-10-40, that within a time period commencing at noon on the 21st day of September, 2011 and ending seven days later at noon on the 28th day of September, 2011, the Defendant, Troy Anthony Davis, shall be executed by the Department of Corrections at such penal institution and on such a date and time within the aforementioned time period as may be designated by said Department in accordance with the laws of the State of Georgia.

It is FURTHER ORDERED that the Clerk of the Superior Court of Chatham County, Georgia shall record this order on the

minutes of the court and shall cause a certified copy of this Order for execution of the original sentence to be served immediately to the Attorney General of Georgia, the Eastern Judicial Circuit District Attorney, the Commissioner of the Georgia Department of Corrections, the Warden of the Georgia Diagnostic and Classification Prison, and Defendant's last known attorney of record.

This 6th day of September, 2011.

A handwritten signature in black ink, appearing to read 'Penny Haas Freesemann', written over a horizontal line.

PENNY HAAS FREESEMANN
JUDGE, SUPERIOR COURT
EASTERN JUDICIAL CIRCUIT

Prepared by:

David E. Perry
Chief Assistant District Attorney
Eastern Judicial Circuit
State Bar Number 572509
P. O. Box 2309
Savannah, Georgia 31402
(912) 652-7308

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CERTIFICATE OF SERVICE

This is to certify that I have served this 21st day of September, 2011, a copy of the foregoing document this day by hand delivery/electronic mail, on counsel for Respondent at the following address:

Beth Burton, Esq, Esq.
Office of the Attorney General
40 Capitol Square, S.W.
Atlanta, Georgia 30334-1300



Attorney