

REVOLUTIONARY CULTURE FOR MUMIA ABU-JAMAL
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Mumia will be in court for oral arguments that will set the stage for his life + freedom as the 3rd Circuit Court of Appeals hears Mumia's case.

VASABOND

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article below appears today's in Philly inquirer....

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[A pivotal hearing on case of Abu-Jamal | Inquirer | 05/13/2007](#)

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A pivotal hearing on case of Abu-Jamal

By Emilie Lounsberry

Inquirer Staff Writer

Mumia Abu-Jamal, on death row for a police killing, realizes what's at stake Thursday, his lawyer said.

Mumia Abu-Jamal, on death row for a police killing, realizes what's at stake Thursday, his lawyer said.

On July 3, 1982, a Philadelphia jury took just four hours to sentence Mumia Abu-Jamal to death for murdering Police Officer Daniel Faulkner.

Nearly a quarter-century later, Abu-Jamal has remained alive through a series of appeals. His bid to escape the death penalty is now at a critical stage.

The case will be argued this week in the region's federal appeals court, and if Abu-Jamal loses, Philadelphia's most controversial death-row inmate will be in imminent peril of lethal injection.

"He realizes that death is just a few doors away," said his attorney, Robert R. Bryan, a San Francisco lawyer who specializes in death-penalty appeals.

On Thursday, a three-judge panel of the U.S. Court of Appeals for the Third Circuit in Philadelphia will hear legal argument on whether the death sentence should be upheld, or whether Abu-Jamal should get a new trial or a new sentencing hearing.

Bryan said that Abu-Jamal, now 53 and known as "Pops" to younger inmates, realizes that his life is on the line. "He and I are very realistic about what's at stake," said Bryan.

The Philadelphia District Attorney's Office declined to comment on Thursday's proceeding. In voluminous court papers, prosecutors contend that Abu-Jamal had a fair trial, and that he should be executed.

Abu-Jamal is one of 225 inmates awaiting execution in Pennsylvania, which has the fourth-largest death row in the nation behind California, Florida and Texas. More than half of the

death-row inmates are from Philadelphia.

Since Pennsylvania reinstated the death penalty in 1978, three prisoners have been executed; they gave up their appeals and asked to die.

The Third Circuit, which handles appeals over federal cases in Pennsylvania, Delaware, New Jersey and the Virgin Islands, moves cautiously on death-penalty cases.

A number of other death-row appeals are pending in the court.

Though a decision in the Abu-Jamal case is not expected for months, the two-hour proceeding this week promises to refocus national and international attention on one of the city's most notorious cases.

Bryan said that lawyers and lawmakers from France and Germany are planning to attend the proceeding at the U.S. Courthouse at Sixth and Market Streets.

Abu-Jamal, a former radio reporter then driving a cab, was convicted in 1982 of the shooting death of Faulkner, who had just pulled over Abu-Jamal's brother near 13th and Locust Streets in the early-morning hours of Dec. 9, 1981.

Abu-Jamal ran from a parking lot across the street. Faulkner was shot and killed, and Abu-Jamal was wounded in an exchange of gunfire.

Prosecutors contended that Abu-Jamal fired the shots that killed Faulkner; Abu-Jamal contended that another man killed Faulkner and then fled the scene.

The Pennsylvania Supreme Court upheld his conviction and sentence in 1989 and also rejected subsequent appeals.

In 2001, after the case proceeded into federal court, U.S. District Judge William H. Yohn Jr. upheld the conviction and rejected all but one of the 29 legal points raised by the defense.

Yohn overturned the death sentence, ruling that the jury may have mistakenly believed it had to agree unanimously on any "mitigating" circumstance - a factor that might have caused the jury to opt for life.

As a result, Yohn said that Abu-Jamal should be sentenced to life in prison or get a new hearing only on the question of whether he should get death or life.

The District Attorney's Office appealed Yohn's decision to vacate the death sentence; Abu-Jamal and his lawyers have appealed, contending that Yohn also should have granted a new trial on the question of guilt.

The Third Circuit panel will now review Yohn's decision.

The court also will consider whether there was racial bias during jury selection and whether

Abu-Jamal's constitutional rights were violated by the prosecutor's closing argument and by the alleged bias of the trial judge, Albert Sabo, during post-conviction review.

Bryan said the case boils down to the fundamental right to a fair trial, and that he believes there is plenty of reason for the Third Circuit to order a new trial.

He said that if the Third Circuit reverses Yohn and upholds the death penalty, that would result in a "fast-track to the death chamber" for Abu-Jamal.

He said the Third Circuit also could:

Uphold Yohn and order a new sentencing hearing.

Grant a new trial.

Send the case back to Yohn for a hearing.

Abu-Jamal also has a petition pending in the state Supreme Court. If the death sentence is upheld, he still could try to persuade the state Supreme Court to review the case again, or ask the U.S. Supreme Court to hear an appeal. But the nation's highest court considers only a select number of cases each year, and once a death-row defendant is in a federal appeals court, that is generally considered one of the final stops in the long appellate route of capital cases.

Abu-Jamal has long been a lightning rod in the debate about capital punishment in America. While law-enforcement officials have despised him for killing one of their own, entertainment figures, academics and anti-death-penalty activists have rallied on his behalf.

From prison, Abu-Jamal has become a prolific writer who speaks out about his view of injustices on a range of issues.

But at his trial, Abu-Jamal came across as angry and arrogant. He insulted the jury and referred to Sabo as "a hangman." And when jurors announced the sentence in a hushed courtroom, Abu-Jamal glared at them.

Center City lawyer Joseph J. McGill, who prosecuted the case, said last week that the Abu-Jamal of 1982 was an angry defendant who tried to mount a 1970s style defense of police persecution. Abu-Jamal was repeatedly removed from the courtroom because of his behavior, McGill said, and the atmosphere was tense.

"It was like a circus, and he wanted to be the ringmaster," McGill said of Abu-Jamal.

McGill said that it will be interesting to see what the Third Circuit decides - and that he plans to be there on Thursday.

"I wouldn't miss it for the world," he said.

Message

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