



## Supreme Court of Georgia

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### **SUPREME COURT DENIES DAVIS'S MOTION FOR STAY OF EXECUTION**

**Atlanta, September 22, 2008** – In a 6-to-1 decision, the Georgia Supreme Court today denied Troy Anthony Davis' motion for a stay of execution. All the Justices concurred, except Justice Robert Benham, who dissented. Attorneys for Davis had asked this Court to delay his execution while they attempted to appeal his case to the U.S. Supreme Court. But in today's order, the Georgia Supreme Court found that proper jurisdiction for that request lies with the U.S. Supreme Court, where two matters are pending.

Davis's attorneys filed a petition for certiorari with the U.S. Supreme Court on July 14, asking it to consider his appeal of this Court's 4-to-3 decision last March denying his bid for a new trial. On Sept. 16, Davis's attorneys also filed in the U.S. Supreme Court a motion for stay of execution.

"Because the Supreme Court of the United States rather than this Court properly has jurisdiction over Davis's pending petition for a writ of certiorari and because it appears that Davis has already filed in that Court a motion for a stay of execution, his motion for a stay of execution filed in this Court is denied," the order says.

In a concurrence, Chief Justice Leah Ward Sears writes that she agrees with today's decision to deny the motion. She wrote the dissent in the decision last March, joined by Presiding Justice Carol Hunstein and Justice Robert Benham, and arguing in favor of a new hearing on the evidence. "I still believe that Davis is entitled to that hearing," Chief Justice Sears writes in today's concurrence. "Nevertheless, this case is currently pending before the United States Supreme Court on Davis's petition for certiorari, and jurisdiction is properly in the Supreme Court, not this Court."

Davis is scheduled to be executed by lethal injection tomorrow – Tuesday, Sept. 23 – at 7:00 P.M. at the Georgia Diagnostic and Classification Prison in Jackson, GA. He was convicted of the 1989 murder of Savannah Police Officer Mark Allen MacPhail.

Although the U.S. Supreme Court had scheduled a conference for Sept. 29 to discuss whether it would consider Davis' appeal, that Court is expected to rule on the pending proceedings before tomorrow night.