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Criminal Justice Issues and Prisoners' Rights

<https://solitarywatch.org/2012/09/16/mumia-abu-jamal-challenges-death-row-solitary-confinement-and-life-without-parole/>

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by [Solitary Watch Guest Author](#) | September 16, 2012



In a story that has received scant attention so far, former death row occupant, political prisoner, and world-renowned journalist Mumia Abu-Jamal filed a legal challenge to the imposition of a sentence of life without parole. Mumia is basing his case, in part, on the idea that his thirty years in solitary confinement on Pennsylvania's death row pursuant to an unconstitutional death sentence is in gross excess of the quantum of state-inflicted pain and suffering permitted under the Eighth Amendment to the U.S. Constitution. He is asserting that thirty years of torture entitles him to immediate release from prison.

The case of the *Commonwealth v. Abu-Jamal* has been up and down the state and federal appellate courts for three decades now. Last December, after the United States Supreme Court had declined to reverse a lower court's ruling that the death sentence was unconstitutionally imposed upon Mumia, Philadelphia District Attorney Seth Williams announced he would not seek the death penalty in a new penalty phase hearing. This meant that Mumia would be re-sentenced to life without the possibility of parole for a crime he has always maintained he did not commit.

After the imposition of a sentence by a court, a criminal defendant has ten days to file a post-sentence motion challenging the lawfulness of the sentence. As [reported by Linn Washington](#), Mumia was almost deprived of this right when Philadelphia Court of Common Pleas judge Pamela Dembe sentenced him on August 13 to life without parole without notifying him or his lawyers or even holding a sentencing hearing.

The last-minute motion filed on August 23 echoes a [statement made by the Archbishop Desmond Tutu](#) last December calling for Mumia's release from prison in part because for three decades, Mumia has been held in a windowless, bathroom-sized cell and denied any physical contact with his family or with members of his community. This is in violation of the U.S.'s own Constitution.

While thirty years in the austere and soul-crushing atmosphere of death row may be longer than most, it is not uncommon for prisoners awaiting execution to first be tortured by years and decades of solitary confinement. According to a 2011 report by the Center for Constitutional Rights, *The United States Tortures Before It Kills*, there are approximately 3,250 people on death row in the U.S. Twenty-five of the thirty-four states that impose the death penalty hold death row prisoners in solitary for 23 hours or more each day. Prior to the state enacting the ultimate vengeance, the 52 people executed in the U.S. in 2009 spent an average of more than 14 years (169 months) on death row.

Former public defender Marc Bookman, currently the head of the Atlantic Center for Capital Representation in Philadelphia, [stated in a recent article](#): There's been a decent number of studies looking at isolation and how it is really torture. And that's what death row really is. It makes people mentally ill and it's the equivalent of torture, Bookman said. I don't think we as a society should be in the torture business.

Although forbidden by Pennsylvania Department of Corrections fiat to enter the general prison population, death-sentenced prisoners in Pennsylvania are more likely to have their sentences reduced than be executed. There have been only three executions in Pennsylvania since 1976. Since 1983, there have been [130 death row prisoners](#) who have had their sentences reduced to life in prison, a sentence

increasingly recognized as [the other death penalty](#).

The idea that life without parole in critical aspects is indeed the other death sentence was a core holding of the U.S. Supreme Court's June 2012 decision in [Miller v. Alabama](#) that struck down mandatory life without parole sentences for children. In that case, the court wrote that life without parole sentences share some characteristics with death sentences that are shared by no other sentences. Imprisoning an offender until he dies alters the remainder of his life by a forfeiture that is irrevocable.

Mumias asserts that life without the possibility of parole, after having spent thirty years in solitary confinement on death row, is unlawful. His assertion represents a direct challenge against the power of the state to impose permanent, devastating, and lethal forms of violence against those people and communities it deems disposable or threatening.

The death sentence, prolonged and indefinite solitary confinement, and life without the possibility of parole represent a ghastly arsenal of state repression that is predicated upon the untenable propositions that some people are devoid of humanity, disposable, and are to be neutralized and destroyed psychologically, intellectually, spiritually, and bodily.

As the tremors within the U.S. prison archipelago continue to rumble deep underground, from the work strike of Georgia in December 2010 to the hunger strikes in California in 2011 and similar actions in Virginia, South Carolina, Ohio and elsewhere, those who are in the innermost core of the states apparatus of violence continue to point the way forward against this logic of dehumanization. Mumia has raised a challenge that resonates with this emerging trend of prisoner resistance, creating a broad, unifying platform for prisoners and the criminalized communities of color that most of them come from to fight back against state torture, death rows and death sentences, life without parole, and the venal and despicable ideologies that sustain them.

In challenging the authority of the state of Pennsylvania to sentence him to die in prison, Mumia Abu-Jamal has established a point of convergence for those men and women who are fighting for their lives and dignity within the vast and suffering colony that is the U.S. prison system.

Bret Grote is an investigator with the Human Rights Coalition, a Pennsylvania-based prison abolitionist and prisoner rights organization.

For details about the rally and legislative hearings on solitary confinement in Pennsylvania's prisons, to be held this Monday and Tuesday, September 17 and 18, in Philadelphia, see Solitary Watch's [Action page](#) or the websites of the [Human Rights Coalition](#) and the [Pennsylvania House Democratic Policy Committee](#).

Accurate information and authentic storytelling can serve as powerful antidotes to ignorance and injustice. We have helped generate public awareness, mainstream media attention, and informed policymaking on what was once an invisible domestic human rights crisis.

Only with your support can we continue this groundbreaking work, shining light into the darkest corners of the U.S. criminal punishment system.

by [Juan Moreno Haines](#)

October 25, 2022

by [Solitary Watch Guest Author](#)

October 13, 2022

by [Vaidya Gullapalli](#)

September 29, 2022

Solitary Watch encourages comments and welcomes a range of ideas, opinions, debates, and respectful disagreement. We do not allow name-calling, bullying, cursing, or personal attacks of any kind. Any embedded links should be to information relevant to the conversation. Comments that violate these guidelines will be removed, and repeat offenders will be blocked. Thank you for your cooperation.

Thirty Years is a long time and it makes me sick to hear of this. We will be praying for his release from this terrible situation that this man has had to suffer from Pastor Anne

@Sal you forget that it has been proclaimed on

Page 99 of Blood In My Eye by George Jackson

All black people, wherever they are, whatever their crimes, even crimes against other Blacks, are political prisoners because the system has dealt with them differently than with whites.

Thus it doesn't really matter if he did it or not to many of the activists.

Rule one when your arrested never admit anything. Only then can you be cleared if you can find a legal technicality to overturn your case.

Here is a case of actual innocence and the affects of isolation on someone held for decades on death row.

SUNDAY, SEP 16, 2012 06:00 PM EDT

Life After Death: Surviving death row

Damien Echols of the falsely convicted West Memphis Three tells his story in a riveting new memoir

BY LAURA MILLER

http://www.salon.com/2012/09/16/life_after_death_surviving_death_row/

There are a lot of people that have been in isolation for decades.

So if we release this guy because he was in isolation others will ask why not me.

Thus this appeal is doomed.

From what I have seen and read, the United States is totally capable of setting up political activists, truth tellers, environmental activists, anti-war activists for whatever, once they get into our prison system God help them. Anyone who thinks that we should not care for our brothers and sisters in prisons and jails should spend time as a prisoner to understand the unfathomable cruelty that rules in these institutions of shame.

Sal, you should actually research the case before you out yourself as somebody prone to speak without knowledge. The prosecutions theory has long ago been demonstrated to be impossible and based upon perjured testimony. It is too long a tale to get into here. The state and federal court systems refusal to abide by well-established precedent in Mumias case on issue after issue is the only reason the underlying homicide conviction was not reversed a long time ago. Just one example of the targeting of Mumia is found in the statement of trial judge Albert Sabo, who according to a court reporter told a fellow judge at the time of Mumias trial that he was going to help them fry the n****. The appeals court said that this statement, if true, was irrelevant.

Id just like to comment that I am among those who disapprove of the idea that Mumia is a political prisoner, as it suggests he is in prison for his political views rather than his murder of police officer Daniel Faulkner. That said I am interested in seeing how the courts respond to his argument that a life-without-parole sentence following years of segregation play out, though I suspect it will go nowhere.

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