

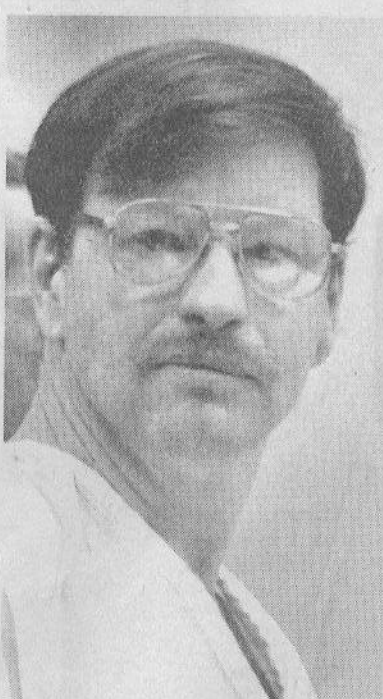
# National Report

The New York Times



## ct Pleads Not Guilty

red in a Seattle courtroom yesterday and denied murdering four women believed to have been among as many as 49 killer nearly two decades ago. Kathy Mills, second from left, the mother of one of the four, watched the proceedings.



Pool photos by Greg Gilbert

## Death Sentence Overturned In 1981 Killing of Officer

### Conviction Is Upheld in Philadelphia Case

By SARA RIMER

PHILADELPHIA, Dec. 18 — In a case that has been contested in the courts for nearly 20 years, a federal judge here today threw out the death sentence for Mumia Abu-Jamal, the former journalist and Black Panther who is perhaps the world's best known death-row inmate, but upheld his murder conviction.

Finding that the instructions to the jury were unconstitutional, Judge William H. Yohn Jr. of Federal District Court ordered that the State of Pennsylvania conduct a new sentencing hearing within 180 days or impose a sentence of life imprisonment.

Mr. Abu-Jamal, who is African-American, was convicted in 1982 of the fatal 1981 shooting of a white Philadelphia police officer, Daniel Faulkner, after the officer pulled over Mr. Abu-Jamal's brother, who was driving the wrong way down a one-way street.

Unlike most death-row inmates, Mr. Abu-Jamal, 47, has been a vocal and some say charismatic spokesman for his own cause. He has attracted supporters around the world, who see him as a symbol of the racial inequities and other injustices of the American death-penalty system.

Officer Faulkner was 25 when he was killed. His widow, Maureen, said in a statement today that the judge's ruling "comes as a tremendous emotional blow to my family." She called Mr. Abu-Jamal a "remorseless, hate-filled killer," who through the judge's action "will be permitted to enjoy the pleasures that come from simply being alive — pleasures he stole from Danny nearly two decades ago."

The district attorney of Philadelphia, Lynne Abraham, a staunch supporter of the death penalty, said she would appeal the ruling on the death sentence to the United States Court of Appeals for the Third Circuit.

Reversals in death-penalty cases more often involve errors at the sentencing than at the conviction phase, said Elisabeth Semel, the director of the death penalty clinic at the University of California School of Law at Berkeley. Because of the lengthy review required by law, reversals after more than a dozen years are not uncommon, she added.

If the judge's decision to throw out the death sentence ultimately stands, the state would have to select a new jury for the penalty phase of the trial, and present evidence of Mr. Abu-Jamal's guilt.

"It's obviously a complicated process for both sides because of the passage of time," Ms. Semel said. "Who knows what witnesses are lost, what evidence is lost, what is not available to both sides that should have been presented when this case was tried."

The judge's ruling was greeted as only a partial victory by Mr. Abu-Jamal's supporters, who have been fighting for the reversal of his conviction.

"All of the errors that occurred in Abu-Jamal's trial clearly warrant a new hearing on the question of guilt or innocence," said Steven Hawkins, the executive director of the National Coalition to Abolish the Death Penalty, who represented Mr. Abu-Jamal in the early 1990's.

Today's decision was a response to Mr. Abu-Jamal's habeas petition, which was his fifth major legislative challenge, Mr. Hawkins said. Mr. Abu-Jamal has twice appealed to the Pennsylvania Supreme Court and twice to the United States Supreme Court, Mr. Hawkins said.

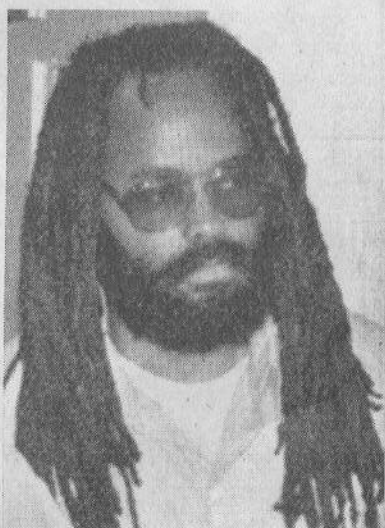
Former Gov. Tom Ridge set two

execution dates for Mr. Abu-Jamal, one in August 1995, the other in December 1999.

The case has been winding its way through the courts, according to procedures that are standard in death penalty cases, Ms. Semel and other experts say. Judge Yohn, in his ruling noted that many people "will find it difficult to understand why this and numerous other capital cases are still under review almost 20 years after trial and conviction." He wrote that recent judicial, executive and legislative action would reduce the time for review in future cases.

Legal experts described Judge Yohn's 272-page ruling as dispassionate and meticulous. Repeatedly affirming the state court's review of the issues, the judge dismissed all of Mr. Abu-Jamal's claims of constitutional defects in the guilt phase of the trial and refused to grant him a new trial.

The one area where the judge did grant relief was to find that the in-



Associated Press

Mumia Abu-Jamal in 1995 at Philadelphia City Hall.

structions the jury received regarding mitigating factors, together with the verdict forms the jury was given, produced a "reasonable likelihood that the jury has applied the ... instruction [and form] in a way that prevents the consideration of constitutionally relevant evidence."

Mr. Abu-Jamal's lawyers could not be reached for comment today. But Mr. Hawkins, who represented Mr. Abu-Jamal in the early 1990's, said it was likely the defense will argue that the Third Circuit Court should take the case and find that the judge should have reversed Mr. Abu-Jamal's conviction.

Mr. Abu-Jamal's trial lawyer was inexperienced and overwhelmed by the case, said George Kendall, staff lawyer for the NAACP Legal Defense Fund. In addition, Mr. Kendall said, the trial judge had a reputation for being pro-police and pro-prosecution. "There were a lot of things that weren't done correctly," Mr. Kendall said, adding that it is for these reasons that the case has resonated across the country and in Europe.

Mr. Abu-Jamal's celebrity and continuing court battle invoke bitter feelings among police officers and residents here. On Dec. 9, 1981, Mr. Abu-Jamal shot Officer Faulkner in the back, the jury found. Officer Faulkner shot Mr. Abu-Jamal in the chest. As officer Faulkner lay bleeding, Mr. Abu-Jamal shot him four more times.

Mr. Abu-Jamal acknowledges that he was at the scene but has steadfastly maintained his innocence. He says someone else, whom he does not identify, was the killer.

## More Mental Health Coverage Fails in Congress

bers rejected the Senate proposal by a party-line vote of 10 to 7. The House Republicans all voted no. The House Democrats all voted yes.

Mr. Domenici and Mr. Wellstone said they wanted to require health plans and insurance companies to provide equivalent coverage, or parity, for mental and physical illnesses.

House Republicans, employers and insurance companies objected to the proposal, saying it would increase costs for employers in a recession, when many businesses are already cutting health benefits because of a resurgence in medical inflation.

The Senate had required "mental health parity" in an amendment to the annual spending bill for the Departments of Health and Human Services, Education and Labor. Mr. Domenici, Mr. Wellstone and their supporters, including the American Medical Association and the National Alliance for the Mentally Ill, vowed to continue their efforts next year.

### House G.O.P. stands fast against health care 'parity.'

"We let insurance companies operate on the ridiculous presumption that people with schizophrenia are not sick," Mr. Domenici told members of the House-Senate conference committee. "I am begging you to use your influence to get a vote on this issue in the House."

Democrats described the question as a moral issue. "This amendment is directed against injustice," said David R. Obey of Wisconsin, the senior Democrat on the House Appropriations Committee. Representative Patrick J. Kennedy, Democrat of Rhode Island, said, "If we pass this amendment, we save lives." Representative Nancy Pelosi, Democrat of California, said, "This issue is a chal-

lenge to the conscience of this committee and Congress."

But Representative Anne M. Northup, Republican of Kentucky, said the Senate proposal would force insurers to increase premiums, co-payments and other charges. "Insurance companies won't take in \$1 million worth of premiums and pay out \$2 million worth of benefits," Ms. Northup said.

Powerful House Republicans, including Speaker J. Dennis Hastert of Illinois and three committee chairmen, said the appropriations bill was not a proper vehicle for setting national policy on health benefits.

President Bush steered clear of the fight. In a letter to Senator Domenici, Mr. Bush said he wanted to "reduce the stigma of mental illness," and he noted that, as governor of Texas, he had signed a bill to reduce disparities in coverage of mental and physical illnesses.

But Mr. Bush said he had concerns about the effects of the Domenici-Wellstone bill on "employers' ability to provide benefits and coverage, particularly during a time of economic recession and rapidly rising health care costs." In particular, Mr. Bush said, "I am concerned that employers may scale back health benefits or that individuals will lose coverage because they cannot afford the premium increases that are expected for next year."

Mr. Bush said he would work with Congress next year to devise "a solution" that reduced disparities in insurance coverage without significantly increasing health costs.

At present, people who are treated for mental illnesses like schizophrenia or depression often face higher co-payments and deductibles than they would pay for the treatment of physical ailments, like diabetes or cancer. Likewise, many insurance plans cover fewer visits to a doctor, and fewer days in a hospital, when the patient has a mental illness.

The appropriations bill, which is expected to win quick approval from both houses of Congress and Mr. Bush later this week, provides a total of \$123.8 billion, up 11 percent.

The bill would increase the budget of the National Institutes of Health by nearly 15 percent, to \$23.3 billion in the current fiscal year, which began on Sept. 1, up from \$20.3 billion.

Congress is in the fourth year of a bipartisan effort to double the budget of the N.I.H., which had a budget of \$13.6 billion in 1998. But the agency has been without a presidentially appointed director since Dr. Harold E. Varmus left in December 1999.

Fly later.

idays from United.

