



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

GREGG V. GEORGIA (1976)

MONDAY, APRIL 23, 2007

OVERVIEW

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In 1972, the Supreme Court ruled that the death penalty systems then in place were unconstitutional violations of the Eighth Amendment's prohibition on "cruel and unusual" punishments. In response to the decision many states changed their death penalty systems. Four years later in *Gregg v. Georgia* (1976), the Court reaffirmed the death penalty as constitutional.

RESOURCES

- http://www.oyez.org/cases/1970-1979/1975/1975_74_6257/
- <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/gregg.html>
- <http://deathpenaltyinfo.msu.edu/>
- <http://citizenbee.org/user/StudentGuide.aspx?id=715>
- http://www.billofrightsinstute.org/instructional/resources/Lessons/Lessons_List.asp?action=showDetails&id=71&ref=showCatD&catId=6

ACTIVITY

In *Furman v. Georgia* (1972), the Supreme Court ruled that the death penalty systems currently in place were unconstitutional violations of the Eighth Amendment's prohibition on "cruel and unusual" punishments. The Court noted that there were no rational, objective standards for when the death penalty would be given. Justice Potter Stewart described the death penalty system at the time as "cruel and unusual in the same way that being struck by lightning is cruel and unusual." In other words, it was not the death penalty itself that was unconstitutional, but rather, the random way it was applied made it cruel and unusual. A moratorium, or temporary ban, of the death penalty went into effect in the United States. In response to the decision, 35 states changed their death penalty systems in order to comply with the Court's ruling.

Four years later the case of *Gregg v. Georgia* (1976) reached the Court. Troy Gregg had been found guilty of murder and armed robbery and sentenced to death. He asked the Court to go further than it had in the *Furman* case, and rule the death penalty itself unconstitutional. The Court refused to do so. The Court found that Georgia's system for applying the death penalty was "judicious" and "careful." Gregg had gone through two trials – one to determine guilt and one for sentencing. Further, specific jury findings of "aggravating circumstances" were necessary to impose the death penalty. There was therefore no Eighth Amendment violation, and the death penalty was constitutional.

The Court ruled, "The imposition of the death penalty for the crime of murder has a long history of acceptance both in the United States and in England.... At the time the Eighth Amendment was ratified, capital punishment was a common sanction in every State..." Finally, the Court said it could not overrule the judgment of Georgia's legislature as to the usefulness of the death penalty. "Considerations of federalism, as well as respect for the ability of a legislature to evaluate... the moral consensus concerning the death penalty and its social utility as a sanction, require us to conclude, in the absence of more convincing evidence, that the infliction of death as a punishment for murder is not without justification and thus is not unconstitutionally severe."

QUESTIONS

1. Why did the Court rule that the death penalty system was unconstitutional in 1972?
2. Why did the Court uphold Troy Gregg's sentence in 1976?
3. What was the Court's reasoning in holding that the death penalty itself is not unconstitutional?
4. In his dissent, Justice Thurgood Marshall wrote, "The mere fact that the community demands the murderer's life in return for the evil he has done cannot sustain the death penalty... The death penalty, unnecessary to promote the goal of deterrence or to further any legitimate notion of retribution, is an excessive penalty." Do you agree? Why or why not?



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ANSWERS

1. The Court ruled that the death penalty system (not the death penalty itself) was unconstitutional because it was randomly applied, with no rational or objective standards as to when it should be imposed.
2. Because Georgia's system had sufficient standards and processes to ensure the death penalty was not randomly applied – namely, two trials, and specific findings the jury had to look for.
3. The history of the United States and England showed an acceptance of the death penalty, and under our federal system, states had the constitutional power to determine if the death penalty was appropriate for their state.
4. Answers will vary. Some will disagree with Marshall, saying that much of our legal system is based on the moral beliefs of the community. They may argue that the death penalty serves as an effective deterrent and that retribution for a horrible crime is a legitimate reason for the punishment. Therefore, it is not an excessive punishment and does not violate the Eighth Amendment. Others will agree with Marshall, saying that though the majority rules in our democratic republic, the majority's will is not always reasonable or just. They may question the death penalty's effectiveness as a deterrent to future crime, and argue that its use by definition is cruel and unusual, therefore violating the Eighth Amendment.