

URGENT ACTION

FLORIDA EXECUTION LOOMS FOR CRIME AT AGE 19

Martin Grossman, a 45-year-old white man, is due to be executed in the US state of Florida at 6pm on 16 February for a crime committed when he was 19 years old. He was convicted of murder in 1985, and has been on death row for nearly a quarter of a century.

Margaret Park, a 26-year-old woman employed as a wildlife officer by the state Game and Fish Commission, was shot dead while on patrol in coastal mid-western Florida on 13 December 1984. About two weeks later, 19-year-old **Martin Grossman** and Thayne Taylor, aged 17, were arrested (see overleaf). The two were tried jointly. Grossman was convicted of first-degree murder. Taylor was convicted of third-degree murder, a non-capital offence.

At the sentencing for Martin Grossman, the defence presented four witnesses – the defendant's mother, a childhood friend, and two correctional staff – in an attempt to portray his positive attributes to counter the facts of the crime on which the state was relying to obtain a death sentence. However, the jury voted for death, the judge accepted its recommendation, rejected Grossman's young age as a mitigating factor, and determined that there were no mitigating factors. The aggravating factors were held to include that the murder was committed to avoid arrest and that it was especially "wicked, evil, atrocious or cruel".

The appeal courts have rejected the claim that Grossman received inadequate representation at the sentencing phase. In an affidavit, Grossman's lead trial lawyer said that he and his defence colleague had done a "very poor and ineffective job". Upholding the death sentence in 2005, however, a federal judge ruled that this view was "premised on the benefit of hindsight". The second defence lawyer, who had been hired only two weeks before the sentencing to prepare mitigation evidence, stated that they should have told the trial judge that they were not ready.

The defence presented no expert mental health testimony, after their court-appointed psychologist told them that his assessment of Grossman had uncovered no problems serious enough to aid their defence. However, a forensic psychologist hired by Martin Grossman's lawyers several years after his conviction drew a different conclusion after a more thorough assessment. He concluded that there was much mental health evidence that called into question the notion that Martin Grossman had acted in premeditated fashion at the time of the crime or that should serve as mitigating evidence. Martin Grossman had "compromised intellectual functioning, probable brain dysfunction", and a "developmental history characterized by profound and untreated complicated bereavement" – (including as a result of the death in 1981 of his father, during whose long and serious illness Martin had acted as primary care-giver) — "a high level of fear and depression, and parental neglect, abandonment and mistreatment."

PLEASE WRITE IMMEDIATELY in English or your own language, in your own words:

- √ Explaining that you are not seeking to excuse the killing of Margaret Park;
- √ Noting Martin Grossman's young age at the time of the crime, and that he has spent 24 years on death row;
- √ Expressing concern that the jury heard no expert mental health testimony, noting the post-conviction assessment;
- √ Calling for clemency for Martin Grossman and for commutation of his death sentence.

PLEASE SEND APPEALS BEFORE 16 FEBRUARY 2010 TO:

Governor Charlie Crist
Office of the Governor, The Capitol, 400 S. Monroe St.
Tallahassee, FL 32399-0001, USA
Fax: + 1 850 487 0801
Email: Charlie.Crist@MyFlorida.com
Salutation: Dear Governor Crist

Also send copies to diplomatic representatives of the USA accredited to your country. Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

According to the trial record, Martin Grossman and Thayne Taylor had driven to a wooded area on the night of 13 December 1984 to shoot a handgun that Grossman had recently obtained. The two teenagers were confronted by Margaret Park who found the gun and began to radio the police. Martin Grossman, who was on probation at the time following a burglary conviction, pleaded with her not to turn him in as it would mean going back to prison. When she refused, he grabbed her torch and repeatedly struck her with it, with Taylor coming to his assistance. Margaret Park managed to draw her gun, and fire off a shot before Martin Grossman grabbed the weapon and fired a single shot which struck the officer in the head.

About two weeks later, Grossman and Taylor were arrested after an acquaintance, Brian Allan, told the police that they had admitted to the crime. The two had also apparently told another friend, Brian Hancock, of the shooting, and Martin Grossman also allegedly related the details of the shooting to a jail mate, Charles Brewer. The two defendants were tried jointly, over the objection of Martin Grossman's lawyer. The prosecution introduced the testimony of Allan, Hancock and Brewer against Grossman. It introduced against Thayne Taylor the statement that Taylor had given to the police. The jury was instructed that it could only use it against Taylor, not Grossman. While the courts have ruled that it was a constitutional error against Grossman to admit Taylor's statement in this way, they have ruled that the error was "harmless" given the other testimony pointing to Grossman's dominant role in the crime.

In 1990, Charles Brewer signed an affidavit retracting his trial testimony against Grossman. He said that he assisted the authorities because he believed they would help him with his own case. He said that the authorities had told him to continue talking to Grossman and had fed him questions to ask. Among other things, Brewer had testified that Grossman had told him that he had shot Margaret Park because he did not want to be arrested by a woman. In his affidavit, he said that the prosecutors emphasised to him "the female officer thing" when they were preparing him to testify. During the trial, the prosecution had repeatedly emphasised the suggestion that gender had been part of the motive for the killing. In his affidavit, Charles Brewer said that "I cannot say Martin told me that" and "Martin never said he shot her". On 14 January 2010, the Florida Supreme Court overturned the death sentence of another inmate, Paul Johnson, after finding that the state had induced him "to make incriminating statements to a jailhouse informant", and because the prosecutor had known the statements were "impermissibly elicited" and yet had introduced them at the 1988 trial. On 21 January 2010, a Florida judge rejected the argument that Grossman should receive the same relief as Johnson, on the grounds that there was no evidence that the state knew Brewer's testimony was false at the time of Grossman's trial. This and other issues are currently on appeal to the Florida Supreme Court.

Amnesty International opposes the death penalty unconditionally. To end the death penalty is to abandon a destructive, diversionary and divisive public policy that is not consistent with widely held values. It not only runs the risk of irrevocable error, it is also costly, to the public purse as well as in social and psychological terms. It has not been proven to have a special deterrent effect. It tends to be applied in a discriminatory way, on grounds of race and economic and social status. It denies the possibility of reconciliation and rehabilitation. It promotes simplistic responses to complex human problems, rather than pursuing explanations that could inform positive strategies. It prolongs the suffering of murder victims' families, and extends that suffering to the loved ones of the condemned prisoner. It diverts resources that could be better used to work against violent crime and assist those affected by it.

The USA has carried out 1,193 executions since resuming judicial killing in 1977. Florida accounts for 68 of these executions. There have been five executions in the USA this year.

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