

# ***GREGG v. GEORGIA***

## 428 U.S. 153 (1978)

### **Facts**

The Supreme Court struck down Georgia's death penalty statute in 1972. *Furman v. Georgia*, 408 U.S. 238 (1972). The State of Georgia responded by passing a new capital punishment statute aimed at answering the Supreme Court's objections. This new law permitted the death penalty to be imposed for five criminal offenses in addition to that of murder. This law further provided that whomever the defendant selected to determine guilt, either the judge or jury, also determined punishment. When the jury recommended the death penalty, the trial judge was bound by that jury's recommendation. The judge or jury was to consider any mitigating or aggravating circumstances. The Georgia Supreme Court would automatically review the punishment as well as other legal trial errors. To affirm a death penalty conviction, the Georgia Supreme Court must compare it with convictions and punishments for similar crimes for the purpose of uniformity.

Gregg was sentenced to death as punishment for his conviction on two counts of murder. The Georgia Supreme Court vacated the death penalty for the robbery counts (finding it to be excessive and arbitrarily imposed) and affirmed the death sentence for the murders. On appeal, Gregg argued that the new statute was overbroad and vague, and only continued the very thing that the *Furman v. Georgia* verdict struck down— "that defendants should not be condemned to death capriciously and arbitrarily.

### **Decision of the Court**

In *Gregg v. Georgia*, there were really three opinions, but two of them combined for a 7-2 vote which, in effect, upheld the new Georgia statute. The group of seven Justices concluded that the death penalty was acceptable to society as reflected by contemporary public attitudes, that it did serve society's need for retribution and deterrence, and that it was not grossly disproportionate to the crime of deliberate murder. Therefore, they ruled that death is not in itself an unconstitutional penalty for those who personally commit intentional murders.

### **Questions**

1. Do you think that a teacher and/or principal should have the right to inflict physical punishment on a student?
2. If so, what should be the limitation?
3. What do you consider to be cruel and unusual punishment?
4. Do you think that capital punishment is cruel and unusual punishment?
5. Should the death penalty be mandatory for conviction of certain crimes? If so, which ones?
6. If not mandatory, should capital punishment be uniformly applied or left to the discretion of the courts?
7. Do you feel that the death penalty is a deterrent to crime or essential to effective enforcement of the law? What are the arguments for and against?
8. What moral values are involved in the imposition of capital punishment?
9. How would you decide these cases?