

# Case briefing gregg v georgia

Business



Reasoning In extreme criminal cases, such as when a defendant has been convicted of deliberately killing another, the careful and judicious use of the death penalty may be appropriate if carefully employed. Georgia's death penalty statute assures the judicious and careful use of the death penalty by requiring a bifurcated proceeding where the trial and sentencing are conducted separately, specific jury findings as to the severity of the crime and the nature of the defendant, and a comparison of each capital sentence's circumstances with other similar cases.

Moreover, the Court was not prepared to overrule the Georgia legislature's finding that capital punishment serves as a useful deterrent to future capital crimes and an appropriate means of social retribution against its most serious offenders. Dissent By Blackmun " Whether the word ' unusual' has any qualitative meaning different from ' cruel' is not clear.

On the few occasions this Court has had to consider the meaning of the phrase, precise distinctions between cruelty and unusualness do not seem to have been drawn. See *Weems v. United States*, *supra*; *O'Neil v. Vermont*, *supra*; *Wilkerson v.*

*Utah*, *supra*. These cases indicate that the Court simply examines the particular punishment involved in light of the basic prohibition against inhuman treatment, without regard to any subtleties of meaning that might be latent in the word ' unusual. " I do not suggest that the presence of the word " unusual" in the Eighth Amendment is merely vestigial, having no relevance to the constitutionality of any punishment that might be devised. But where, as here, we consider a punishment well known to history, and

clearly authorized by legislative enactment, it disregards the history of the Eighth Amendment and all the judicial comment that has followed to rely on the term “unusual” as affecting the outcome of these cases.

Instead, I view these cases as turning on the single question whether capital punishment is “cruel” in the constitutional sense. The term “unusual” cannot be read as limiting the ban on “cruel” punishments, or as somehow expanding the meaning of the term “cruel.”

” For this reason, I am unpersuaded by the facile argument that, since capital punishment has always been cruel in the everyday sense of the word, and has become unusual due to decreased use, it is, therefore, now “cruel and unusual.”