

PUBLIC

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Death Penalty

USA (Missouri)

Marlin Gray (m), black

Marlin Gray is scheduled to be executed in Missouri on 26 October. He was sentenced to death in December 1992 for his role in the rape and murders of Julie Kerry and her sister, Robin, in 1991.

Julie and Robin Kerry were raped and then thrown into the Mississippi river from a bridge near St Louis on 4 April 1991. Their cousin, Thomas Cummins, was robbed and also pushed off the bridge. He survived but the two sisters drowned.

Gray and three other men were tried and convicted. Two of Gray's co-accused were also sentenced to death but one had his sentence commuted in 2003 because the jury had not voted unanimously for the death penalty in his case. The third, who testified at trial that Gray had raped one of the victims and then left the bridge, was given a prison sentence in exchange for this testimony.

Gray was convicted of first-degree murder and sentenced to death. The state conceded at trial that he had not been present at the time the murders took place, but maintained that Gray had been the ringleader in the crimes.

In a statement to police during interrogation, Gray confessed to raping the women but said he did not participate in the killings. He maintains that his confession was extracted as a result of ill-treatment in police custody during his arrest and interrogation. Despite repeated requests during his interrogation, Gray was given access to a lawyer only after he had confessed.

According to Gray's clemency petition, the prosecutor at his trial made numerous errors which violated his right to due process and "were so egregious, that they rendered his trial fundamentally unfair." These included failing to disclose information to the defense that Thomas Cummins had reported to him a year and a half before the trial that during his interrogation he had also been threatened, verbally abused and physically assaulted by the same interrogating officers who had interrogated Gray, in an attempt to coerce him into implicating himself in the crimes. Thomas Cummins was subsequently paid \$150,000 in damages by the St Louis Police Department.

Gray's clemency petition cites a study of prosecutorial misconduct released in 2003, which found that Gray's trial prosecutor's record "of eight reversals due to misconduct and 17 other findings that he committed prosecutorial error is extreme."

Amnesty International opposes all executions, regardless of issues of guilt or innocence. This is a punishment that is an affront to human dignity and a part of the culture of violence rather than a solution to it. It has not been shown to have a unique deterrent effect, denies the possibility of rehabilitation and reconciliation, carries the risk of irreversible error as well as inconsistent and discriminatory application, and consumes resources that could be used to fight violent crime and assist those affected by it.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing concern that Marlin Gray is scheduled to be executed on 26 October;
- expressing sympathy for the family and friends of Julie and Robin Kerry, and explaining that you are not seeking to excuse the manner of their deaths or to minimize the suffering caused;

- pointing out that the state conceded at Gray's trial that he had not been present at the time the murders were committed;
- expressing concern at Gray's allegations that he was ill-treated by police during interrogation, and not allowed to see a lawyer until after he had confessed;
- expressing concern at allegations of improper behaviour by the prosecutor at Gray's trial;
- calling on Governor Blunt to grant clemency to Marlin Gray.

APPEALS TO:

Matt Blunt

Governor

Missouri Capitol Building, Room 216

PO Box 720

Jefferson City, MO 65102-0720, USA

Fax: +1 573 751 1588

Email: via: www.gov.mo.gov

Salutation: Dear Governor Blunt

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. All appeals must arrive before 26 October.