URGENT ACTION

**ALABAMA’S SIXTH EXECUTION OF THE YEAR IS SET**

**Alabama has scheduled Carey Grayson to be executed on 21 November 2024. In 1996, he became the last of four young males to be convicted of a 1994 murder. At the four separate trials, the prosecutor used mutually incompatible theories, claiming each defendant was the most culpable. In 2004, Alabama told the US Supreme Court that Carey Grayson was not the most culpable. His is the sole death sentence to survive on appeal. He was 19 at the time of the crime, emerging from a childhood marked by abuse, neglect and bipolar disorder. We urge the Governor to commute his sentence.**

**TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER**

*The Office of Governor Kay Ivey*

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Montgomery, AL 36130, USA*

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*Dear Governor*

*I am writing to urge you to grant clemency to Carey Grayson, who is scheduled to be executed in Alabama on 21 November 2024. I do not seek in any way to downplay violent crime or its devastating consequences.*

*Carey Grayson, now 50, was one of four young defendants convicted of a February 1994 murder. He was 19 at the time of the crime and the last of the four to be prosecuted. The prosecutor argued that he was the “leader of the pack”, despite having made the same assertion in each of the three previous trials of his younger co-defendants. This use of inconsistent claims against the four co-defendants flouted the UN Guidelines on the Role of Prosecutors, and Carey Grayson’s right to mount an effective defence had been undermined by his lawyers having been left unaware of this tactic being employed in the first three trials. The State of Alabama asserted in the US Supreme Court in 2004 that two of the younger defendants who were also sentenced to death but had their sentences overturned due to their age were “plainly every bit as culpable” as Carey Grayson, “if not more so”.*

*In 1982, the US Supreme Court said that “youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage.” Banning the execution of under 18-year-olds in 2005, it noted that “the qualities that distinguish juveniles from adults do not disappear when an individual turns 18”. Since then, neuroscientific research has provided further compelling evidence that brain development continues into an individual’s 20s, including the parts of the brain that enable impulse control and reasoned judgment.*

*Carey Grayson struggled with bipolar disorder as a child and teenager, as did others in his family, and learned to self-medicate with drugs and alcohol to control his symptoms. After his mother was killed when he was 11, he lived with his abusive father, who evicted him from the house when he was 15. His later teenaged years were marked by neglect, homelessness, and hunger, as well as the symptoms and consequences of his mental disability. One of his schoolteachers from that time recalled in 2008 that he was “like a stray animal” who “seemed to need basic care and nurturing”. The psychologist who conducted a court-ordered pre-trial assessment in 1995 believed that at the time of the crime, “due to a combined effect of a hypomanic episode and polysubstance ingestion”, Carey Grayson “would have had difficulty conforming his behavior to the requirements of the law”.*

*I appeal to you to grant clemency to Carey Grayson and to commute his death sentence.*

*Yours sincerely,*

**Additional information**

A 37-year-old woman was murdered on 21 February 1994 as she was travelling from Tennessee to her mother’s home in Louisiana. Four teenagers saw her hitchhiking in Jefferson County, near Birmingham, Alabama, and offered to take her to Louisiana. The four had been drinking alcohol and using drugs. On the pretence of picking up another vehicle, they took the woman to a wooded area where she was killed.

The four were tried separately. One (LM), 16 years old at the time of the crime, was sentenced to life imprisonment. The two 17-year-olds (KL and TD) were sentenced to death, as was Carey Grayson, who was 19 at the time of the crime. KL and TD had their death sentences reduced to life imprisonment after the US Supreme Court banned the death penalty against those who were under 18 at the time of the crime (*Roper v. Simmons*, 2005). *Roper* recognized young people’s immaturity, impulsiveness, poor judgment, and susceptibility to “negative influences and outside pressures, including peer pressure”. It noted that “the qualities that distinguish juveniles from adults do not disappear when an individual turns 18”. Today, as detailed in a 2021 expert overview, “the science shows unambiguously that 18-, 19-, and 20-year-olds are more similar than different from 17-year-olds in many important aspects of behavioral and brain maturity, a conclusion that has already been drawn by the US legal system in other domains”.

The *Roper* ruling belatedly brought the USA into line with the international law ban on the death penalty against under 18-year-olds, a principle that long predated this case. Illustrating its disregard for international human rights law, Alabama had been among those states urging the Supreme Court not to outlaw this practice. It joined a legal brief in the Court in 2004 in which it raised the cases of the three teenagers sentenced to death for the 1994 Jefferson County murder. Alabama argued that “an arbitrary 18-year-old cut-off would result, nonsensically, in a constitutional rule permitting capital punishment for Grayson, who was 19 at the time, but not for [KL] and [TD], both of whom were 17 but plainly are every bit as culpable – if not more so – in [the victim’s] death”.

Carey Grayson was the last of the four defendants to be tried. Before any of the trials, his lawyers had asked that they be provided with transcripts from the other trials. The judge denied the request and suggested they could attend the other trials in person, an alternative they could not afford, either in time or money. This denial implicated the fair trial right under international law to mount an effective defense and allowed the prosecutor to pursue a tactic of promoting inconsistent theories without being challenged. The prosecutor told the jurors that Carey Grayson was the ringleader of the four, “the leader of the pack”, that he was “the one who’s responsible for getting them into this”, and that there was “no question who was out in front leading the way”. However, the same prosecutor had told the juries at the other three trials essentially the same thing – that the defendant before them was the ringleader. At KL’s trial, for example, he called KL the “leader of the pack”, “up front driving this thing”. At LM’s trial, the prosecutor said that the “only” evidence of Carey Grayson’s role was that he “drove the car”, and at TD’s trial the prosecutor said that it was an “illusion” to describe Carey Grayson as the leader and that TD was “the only person” against whom “we have any evidence” of inflicting “the blow that caused [the victim’s] death”.

The UN Guidelines on the Role of Prosecutors require prosecutors to “perform their duties fairly and consistently” and “respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.” Prosecutorial discretion must be employed “to enhance fairness and consistency of approach in taking decisions in the prosecution process”. The prosecution’s use of inconsistent theories against the four co-defendants flouted these standards. On appeal, the US District Court ruled in 2009 that this issue had been procedurally defaulted for not having been raised earlier. It said that even if it was not defaulted, it was a claim without merit, as the use of inconsistent theories was not a violation of due process under US constitutional law, and “the ringleader theories in Grayson’s case were not impossibly contradictory” because there was uncertainty as to which of the four acted as ringleader and “it was proper” to leave it to the jury.

The prosecutor’s conduct suggests that his aim was to get as many of the four young men to death row as possible regardless of where the truth lay on individualized culpability. Today, the notion that the only defendant here who will face execution is the most culpable, under the US constitutional rule limiting the death penalty to those “whose extreme culpability makes them the most deserving of execution”, has been punctured by Alabama’s conduct. Even in the state’s own terms, argued to the Supreme Court in 2004– that the sole execution of Carey Grayson would be constitutionally “nonsensical” – should give it pause for thought. Carey Grayson may not benefit from the *Roper* ban, but the power of executive clemency exists precisely for wider issues to be considered, here including the “unambiguous” scientific evidence that brain development continues into an individual’s 20s.

As of 31 October 2024, Alabama accounted for 77 of the USA’s 1,602 executions since 1976. This would be Alabama’s sixth execution in 2024, the highest total in the state since 2011, and only the third year since 1976 in which Alabama has reached this number (the other year being 2009). This would be its third execution by nitrogen gas hypoxia, all conducted in 2024. Amnesty International opposes the death penalty in all cases unconditionally.

**PREFERRED LANGUAGE TO ADDRESS TARGET:** English**.** You may also write in your own language.

**PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL:** 21 November 2024.

**NAME AND PRONOUNS:** Carey Grayson [He/Him]

**LINK TO PREVIOUS UA**: n/a