IN THE SUPREME COURT OF FLORIDA

IN RE: MARTIN GROSSMAN,
Appellant,

Case No.: SC10-118

L.T. Case No.: 84-11698 CFANO

v.

STATE OF FLORIDA,
Appellee.
_____/
EDWARD WERNER, Petitioner

PETITIONER'S AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT'S BRIEF

COMES NOW the Petitioner, Edward Werner, and hereby files this Amicus Curiae Brief in support of Appellant Martin Grossman's Brief before this Honorable Court, and hereby moves this Honorable Court to stay the Appellant's pending execution. In support thereof, Petitioner states the following:

I. PETITIONER'S STANDING

Petitioner is a citizen of the State of Florida. The execution is purported to be done in the name of the People of Florida. Petitioner therefore claims standing as one of the People of Florida to argue against said execution.

II. FACTS OF THE CASE

The facts of this case are well-known to this Court through the trial record and record on appeal. In December 1984, at the age of 19, and with no prior criminal record save for a burglary, the Appellant was with another teenage friend shooting a stolen gun in the woods of Pinellas County. Officer Margaret Parks of the Florida Freshwater Fish and Game Commission came upon the Appellant and confronted him for shooting the gun on public property. The Appellant, being on probation for the aforementioned burglary, and being in violation of said probation by being within Pinellas County, and being outside

neighboring Pasco County, pleaded with Officer Parks not to report the Appellant for being there and for shooting the gun. Officer Parks, however, proceeded to repeatedly taunt the Appellant, then a 19 year old, with an IQ of 77, that he was going to prison. Appellant then, in an awful spur of the moment action, physically attacked Officer Parks by hitting her over the head with her flashlight. Officer Parks then raised her .357 Magnum gun at the Appellant, as though about to shoot, at which point Appellant, recognizing that he was about to be shot to death, wrestled the gun away from Officer Parks. Officer Parks in the struggle over the gun shot at the Appellant and missed. The Appellant then shot Officer Parks with her own gun. Appellant was convicted and sentenced to death, in significant part as a result of subsequently recanted testimony as to Appellant's motives, and then spent the past 26 years of his life on Death Row. The State now seeks to execute a man, with an IQ of 77, who spent the past 26 years on Death Row, who committed a murder in an unplanned spur of the moment confrontation with no malice aforethought, at the age of 19, with no meaningful prior criminal record, who has suffered immeasurably for the past 26 years for what he did, and who is full of demonstrably sincere remorse for his actions that day 26 years ago.

III. ARGUMENT

1. The jury was inflamed by false testimony which led to the death sentence. Charles Brewer, the other teenager who was with the Appellant that night, testified that Officer Parks begged the Appellant and that the Appellant ignored this plea and brazenly shot Officer Parks. Mr. Brewer, however, in a pang of conscience after he got a little older, admitted that this was false testimony, and recanted the testimony. In view of this, to execute the Appellant would be in direct contravention of the most basic standards of

fairness and justice.

2. Appellant's age and overall criminal profile at the time of the crime argue against the application of the death penalty. The death penalty is the ultimate penalty. It should be reserved for only the most cold, calculating killers, not a 19 year old whose only previously committed crime was a burglary. He was a typical 19 year old delinquent, not some serial killer or particularly heinous killer. What was he doing when Officer Park came upon him? Shooting a stolen gun in the woods with a friend. He had no intention, no plan, no desire to kill someone that day before it happened. What was his violation of probation? He was a few miles over the County Line from Pasco County into extreme northern Pinellas County. The death penalty, as the ultimate penalty, should not be given to a teenage delinquent who made a horrible, tragic decision in an altercation that went horribly wrong. If the death penalty is appropriate at all, it is appropriate only in the case of a hardened, remorseless, calculating and *premeditated* killer, not someone like Martin Grossman. He was a delinquent, a kid who made bad decisions. He was a kid like yours or mine, a kid gone wrong in a tragic horrific moment gone wrong that changed two people's lives forever. It was not a calculating, deliberate killer who set out to kill in cold blood. It was something that should not have happened, did not need to happen, that tragically did happen. Executing the Appellant now only compounds the tragedy.

3. As noted above, Appellant was 19 years old at the time he committed the crime. As we know, 18 years old is an adult in Florida. The U.S. Supreme Court has struck down as unconstitutional executing juveniles under 18 years of age. But if 17 is too young to constitutionally execute, then does that mean that 18 or even 19 is constitutionally unproblematic? Is there a magic window whereby 17 years and 364 days is

unconstitutionally cruel and unusual but 18 and one day is constitutionally neither cruel nor unusual? Is it a clear-cut case that any and all aspects of adulthood attach at 18, or does Florida Law recognize a gradual status, whereby *some* aspects of adulthood attach at 18 and some at a later age? Indeed, Florida Law does recognize such a 'gradual', rather than 'instantaneous' reaching of adulthood. The drinking age in Florida is 21, not 18. Thus, by allowing this execution, the Court would *de facto* be setting forth a policy whereby in the State of Florida one can not drink at the age of 19, but one can be executed. Nor is this merely a semantic difference. Indeed, the reason that the drinking age is 21, even though at 18 a youth can sign a contract and engage in other aspects of adulthood, is that the law recognizes that a young man's judgment is not fully developed at 18, and that, indeed, the young man or woman is undergoing a *gradual* process of adulthood, whereby he or she is developing his judgment and sense of responsibility gradually over those years, rather than all at once when he or she reaches the age of 18. We do not let them drink until 21 because inherent in the law in Florida is the public policy view that at 21 the young person will make more responsible decisions regarding the responsible use of alcohol than he or she would at they age of 18. In other words, the law is saying that a young person is not mature enough, that his or her judgment is not developed enough, to make the responsible societal decisions about drinking at the age of 18 as will be the case at 21. Thus, according to Florida Law:

i. At 15, a young person gets his or her 'restricted' driver's license, whereby he or she can drive during daylight hours with an adult present.

ii. At 16, a young person gets his or her driver's license and can drive at all times, without adult supervision.

iii. At 17, a young person can join the military or get married with parental

permission.

iv. At 18, the young person can sign contracts, vote, and get married and join the military without parental permission.

v. At 21, the young person can legally drink and purchase alcohol in the State of Florida.

vi. At 25, he or she can rent a car (according to all major car rental companies).

We see from the above that Florida law (and society in general) recognizes that young people gradually mature, and that a 19 year old does not have the same judgment as a 21 year old. Given this, the proper guidance that this Court should take from Florida Law is not that it is cruel and unusual to execute a 17 year old, but 'perfectly okay' to execute a 19 year old, but rather that if it is cruel and unusual to execute a 17 year old, then there should be a presumption against executing 19 year olds. Or, to put it another way, Florida Law, in its application of different rights and responsibilities for different age groups, implies that there should be a 'balancing test' in determining whether execution is appropriate, and that without a doubt one of the major factors to consider in determining whether that balancing test of appropriateness is met, is the perpetrator's age. The State, by contrast, seeks to ignore the Appellant's age at the time of crime, or at the very least ascribes no meaningful value to it. It should be noted that, prior to the US Supreme Court ruling finding execution of 17 year olds cruel, the State was perfectly happy to ignore the age of the 17 year olds it sought to execute, as well. In that case, as in the case of Jim Crow laws so many years before it, it was the Federal Judiciary and the Federal Government that had to step in and tell the State of Florida to do the right thing. This Court now has the opportunity to do the right thing without having to be told to do so by the Federal government. This Court now has the opportunity to develop its own

constitutional ‘balancing test’ to determine if an execution is constitutional, and, using the US Supreme Court’s ruling in striking down execution of 17 year olds, this Court would understand that age is one of the primary determinants of that constitutional balancing test. As an additional measure of the wisdom of applying relative weight to offenses committed at varying ages, it is instructive to look at this Court’s very own standards regarding aspiring lawyers seeking admission to the Florida Bar and deemed to be possessing the Bar’s character and fitness standards. As one of the factors this Court uses in determining the weight to give to applicants’ past offenses, in determining their eligibility for Bar membership, the age at which the offense took place is given significant weight. We can ask then, if writing bad checks at 19 is less of an offense for purposes of admittance to the Bar than writing bad checks at 35, then by what standard of reason is committing murder at the age of 19 not viewed differently by this Court than committing murder at the age of 35? And if this Court indeed does view committing murder at age 19 to be different in significant and relevant measure than committing murder at 35, then by what standard of reason can we allow the society’s ultimate and worst punishment for a murder committed at 19? Would this Court take the same global view of the totality of the circumstances in assessing a petitioner’s right to live as it would in assessing a petitioner’s right to admittance to the Bar? Would this Court apply the same cookie-cutter age-be-damned one-size-fits-all approach the State seeks to apply in executing Mr. Grossman, to the process of admitting or rejecting applicants to the Bar? Or can we admit that relative age IS a factor, and should be, in determining whether a citizen of Florida purchases a beer, drives a car, is admitted to the Bar, or lives or dies.

4. In the situation in which the Appellant found himself mired that evening, the Appellant

acted in a very stupid way. As mentioned earlier, his violation of probation was that he has gone from Pasco County to Pinellas County. Given what his punishment for violating the probation was likely to be, as compared with his likely punishment for murder, his actions that day, in addition to their tragic consequences, were also inconsistent with his own interests. There is a reason for this, and that is his low IQ. He has an IQ of 77. He acted out of stupidity, not out of evil. In a reasonable, compassionate system of justice, the man would belong, perhaps, in a mental institution, not an executioner's vise. Petitioner understands that we don't 'do' that here in Florida. We put him in a prison and make no distinction for his mental state. But to execute a man with an IQ of 77 is simply itself criminal. It may be 'legal' in the sense that refusing to serve black people at lunch counters was 'legal' in this State less than 50 years ago, but that doesn't make it right. Future generations saw that Jim Crow was wrong. It took time but eventually everyone agreed that it was wrong. At the time, to some, it was not so obvious. Petitioner has no doubt that soon enough it will be evident to all civilized members of society that executing a man with an IQ of 77 is wrong. Petitioner can only hope that this Court recognizes that basic reality, and does not allow this execution to take place. This Court has an opportunity to be remembered as a wise Court, a Court that made a difference, stood for sanity and justice and reason, a Court like Brown v. Board of Education, or this Court can be remembered as just another Court that went along with the established social order, that justified what future generations will surely see as unjustifiable, a Court like Dred Scott v. Sanford. This is not just about a man's life, as important as that is. It's about standing for the principles that define us as a society. This Court's decision will say a lot about what those principles are, and about who we are as a society in the

year 2010, the same way that the Dred Scott decision said a lot about who we were in 1896, or that Brown said a lot about who we were in 1954, or at least tried to be.

5. Execution is not necessary for justice to be done. Even if the Appellant is not executed, he has suffered terribly and will in all likelihood continue to suffer terribly for the rest of his life. Let's not kid ourselves. Whatever happens here, Martin Grossman has suffered. From the day he was arrested, he has been physically attacked by other inmates. He has had not one day of peace for the last 26 years. Attached hereto as Exhibit A is an affidavit from Charles Brian Croston, who was arrested for a DUI probation violation in Pinellas County in the fall of 1985, while the Appellant was on trial. Mr. Croston's Affidavit states that he was in the next cell over from the Appellant while the Appellant was on trial. Mr. Croston testifies that the Appellant was attacked *daily*. He testifies that the suit that the Appellant was allowed to wear at his trial was urinated on and spit on by other inmates. This was in 1985. It is now 2010 – 26 years later. Does anyone seriously believe that a man who has had to endure this daily for the past 16 years has not suffered, and suffered horribly, for what he did? Does this bring back Margaret Parks? No. But neither will executing him. But let us please not take seriously the State's argument that Mr. Grossman must be executed in order to provide justice for Margaret Parks. The man has suffered every single day of his life for the past 26 years. He will continue to suffer. Nothing can bring back Margaret Parks, but if suffering is any measure of justice, then justice has been done, and we do not need to execute Martin Grossman in order to achieve it.

6. Executing the Appellant after 26 years on Death Row constitutes cruel and unusual punishment. Proponents of the death penalty argue that the death penalty is a deterrent for

murderers. If that is true, then Petitioner asks: where is the deterrent in executing someone after 26 years on Death Row? There is no deterrent, and it is cruel and unusual, and therefore this Court should not allow the execution to proceed.

7. In addition to the lack of a deterrent to the death penalty in executing someone who has been on Death Row for 26 years, being on Death Row and facing death for 26 years has a rotting effect on a man's mind. It is difficult, even for a layman, to see how someone can face death for 26 years on Death Row and still be of sound mind and body. At a minimum, Justice demands a Stay in order to conduct a hearing to determine the Appellant's mental state. Even if the State doesn't care that he spent 26 years on Death Row, doesn't care that he was 19, doesn't care that he has an IQ of 77, and still maintains that he should be executed, this Court must surely recognize that, at the very minimum, basic standards of fairness and justice demand that a hearing be conducted into the man's mental state before executing him. To refuse to do so would be tantamount to this Court declaring that the mental state of those executed in Florida is irrelevant. And such a position would be a very sad commentary of the state of justice in Florida indeed.

8. In addition to the fact that executing someone who has been on Death Row for 26 years makes a mockery of any deterrent effect the death penalty is purported to have, and in additional to the effect of the 26 years on Death Row on the Appellant's mental state, there is another factor related to the Appellant's 26 years on Death Row that must be considered in assessing the issue now before this Court. And that is that executing a man after he has been facing execution for 26 years would not be allowed in any other civilized country on Earth. The custom in all civilized countries of the world is that if someone is not executed in a timely manner, they are not executed. If a man goes to the gallows and the gallows breaks, such that he does not die, he is spared. That is the custom

in civilized countries. This does not mean that he goes free or that he does not suffer punishment for his crime, but simply that his life is spared. It is not a 'get out of jail free' card. It is a statement of humanity, that people, even the condemned, are human beings and are deserving of dignity. Imagine a man going to the gallows again and again, and each time the rope breaks and he does not die, but we send him there again and again to face death again and again. What civilized person would not consider that a sick carnival, a mockery of all meaningful human values? Yet we keep a man on 'Death Row' for **26** years, facing death every day, and yet have the moral audacity to bring him now to the death chamber? No civilized state, no civilized nation on the face of the Earth would do this. Yet, we do this here in Florida? Iran would not do it. Russia would not do it. They would consider it undignified, uncivilized, beneath them. But we have no compunctions to treat a man like this? By way of example, most people would kill cockroaches. Yet most people would not place a cockroach under a glass and leave it there to slowly suffocate. Even though we consider a cockroach a loathsome creature deserving to die, a creature dangerous to our health and well-being, we still are humane towards it in some measure. We recognize a living creature. We recognize that it is sentient. Yet we bring a man out to die **26 years** after living every day facing death. Honorable Justices, with no exaggeration or hyperbole, in the most literal of terms, we would not treat a cockroach that way. We would not bring it out to be killed after 26 years. None of us would do it. Yet we do it to a fellow human being? Does not the fact that no civilized nation on Earth would do such a thing give us even momentary pause, even such nations as we claim to abhor, claim to be superior to, does the fact that they would not do such a thing not even give us the most momentary of pause, to pause and

consider that maybe we too should not do such a thing?

9. Appellant's remorse is sincere, serious and meaningful. This remorse, coupled with the other mitigating factors expressed above, should weigh heavily on the Court's decision and, taken together with the other mitigating factors enumerated above, argues against allowing the execution. Attached hereto as Exhibit B is an affidavit from the Appellant's Rabbi, Rabbi Menachem Mendel Katz of Miami. In this affidavit, Rabbi Katz testifies that he is the Appellant's spiritual advisor, and that he has spent significant time getting to know the Appellant. Rabbi Katz further testifies that *the Appellant is in no way, shape or form the same person that he was 16 years ago*. This is not to suggest that the Appellant should not pay for what he did 26 years ago, merely because he is a different person today. But as noted above, he already has suffered, is continuing to suffer, and will continue to suffer. The fact that the Appellant is not the same person he was 26 years ago is relevant, however, to the cause of justice for Margaret Parks. The Appellant sincerely, passionately regrets what he did 16 years ago. He hates that part of himself that let it happen. He hates his stupidity in doing it. He hates that he took the life of someone who was loved by her family and community as the Appellant is loved by *his* family and community. He hates that he can't take it back, unwind the clock, redo things, start over; he knows its too late now for any of that, has been too late for a long time now, a generation, too late for Margaret's family, too late for Martin, too late, in a sense, for all of us. But is it too much to ask that the Appellant's deep, sincere, soul-felt remorse not at least be a relevant factor in not executing him after 26 years sitting on Death Row for a spur of the moment action that he now hates with every fiber of his being?

10. Almost as bad as executing someone at the age of 19 or keeping someone in a

perpetual state of facing death for 26 years and then seeking to execute them, is executing a 44 year old for something he did when he was 19. Now that he's a different person, now that he's grown up and has the more fully developed sense of judgment that he did not have at 19 (albeit still severely limited by his mental state), now we execute him. It is as if we say to someone, 'ok, you're too young to fully appreciate what you did, you're still a young tyke, so we're going to keep you around for a couple of decades and then, when you're old enough to fully appreciate what you did, we'll execute you.'

11. The Death penalty, as mentioned above, is the ultimate penalty, and should be reserved for the most heinous murders, with the least mitigating circumstances -- a standard far from met in this case, where there are numerous mitigating circumstances. The death penalty should also only be reserved for first-degree murder. The record reflects that the Appellant was convicted of first-degree murder. Further, Petitioner recognizes, as the State asserts, that the trial judge and jury are best suited to be the triers of fact. However, the unique and special nature of the Death penalty, due to its finality and inability to be corrected later, argues for an even higher standard. In a case where a person is put to death, it should be crystal-clear that first-degree murder was committed. In the present case, there was no malice aforethought, an element necessary to be present for first-degree murder. Here, the Appellant was out shooting a gun in the woods. Had Margaret Parks not come upon him, no murder would have been committed. The Appellant was not looking to murder someone. He was not looking to murder Margaret Parks. Unfortunately, due to his stupidity, as noted above, that is what happened, which, as noted above, he deeply and passionately regrets. By this was not malice aforethought. This was, as noted above, a spur of the moment altercation that led

to a spur of the moment tragic and horrific action, which was the death of Margaret Parks. But is was not a murder with malice aforethought. It was therefore not first degree murder. Petitioner recognizes that Appellate Courts must respect the verdicts of juries, and should, as a general rule not try to second-guess trial judges. However, i*n a death penalty case*, where there is no possibility of later reversal, no possibility of later redress if error is found, it is critically important to make sure that first degree murder was present, *even* if that means second-guessing the trial., Why? Because executing a man who does not meet the legal standard required for execution is a greater wrong than second-guessing the trial judge. The facts here are that the Appellant, Martin Grossman, did NOT have malice aforethought, and therefore should not have been convicted of first-degree murder, and therefore should not be executed.

12. Pinellas County, where this happened, has sentenced more people to death than any other county in Florida. Therefore, the fact that a Defendant from Pinellas County was sentenced to death should not carry the same weight with the Court as would be the case from a county that did not lead the state in sentencing people to the death penalty. This does not mean that just because Pinellas leads the state in death convictions that a death conviction from Pinellas County is not justified -- just that the Court should view it more with a grain of salt and look at the facts more closely, given the commonality with which Pinellas County sentences Defendants to death. In fact, this Court should be very familiar with overzealous prosecutorial conduct when it comes to Pinellas County. When the Florida Supreme Court reversed the murder conviction of James Floyd in 2005 because the Pinellas state attorney's office had withheld evidence, Pinellas County Assistant State Attorney Douglas Crow said it most likely was an "honest mistake". Floyd had been

sitting on death row, sentenced to die for allegedly murdering an 86-year-old woman. Pinellas prosecutors had failed to produce statements from a neighbor who had claimed to see two other men entering the woman's house at the time of her death. They also failed to tell the defense about inconsistent reports from detectives and about how a snitch tried to barter his testimony for a lighter sentence on his own criminal charges. Anything for a conviction seems to be the motto in Pinellas County. Pinellas County also has bonds higher than other counties. They are 100 to 200% higher. This is a factor in why the Pinellas County Jail is overcrowded. Florida's law states defendants are entitled to a reasonable bond, unless there is a flight risk or a threat to society. If someone is sitting in jail for two years waiting to go to trial, the bond is obviously not reasonable. Pinellas County thus far goes unchallenged in this behavior. All of this simply suggests that the explosion of death penalty cases in Pinellas County warrants this Court looking at such cases with a very skeptical eye. Indeed, it is reasonable to suspect, given the facts of Mr. Grossman's case, that had Mr. Grossman's case taken place in a different county in Florida, life imprisonment would likely have been the sentence. It therefore seems particularly specious that, at this late date, it is Pinellas County that is continuing to beat the drumbeat to "close" yet another in their assembly line of cases seeking to put people to death. Lest anyone think that their interest is merely in seeking 'justice' for murder victims, the Floyd case makes clear that they are in fact more interested in winning death cases, *regardless* of the particularities of the case. This Court should recognize that something is wrong when executions from a particular county become commonplace.

13. The jury at trial was instructed as to felony murder. We know that Florida recognizes felony murder, whereby when a Defendant commits a felony, if someone's murder occurs

as a result of a chain of events that grew out of that felony, felony murder attaches, even if that Defendant did not intend to commit murder. We know as well that Florida allows the death penalty in cases of felony murder. However, it is well to ask whether this should be the case. Petitioner understands that the statutory responsibility rests with the Legislature, but the application of the law rests with this Court. Petitioner submits to the Court that executing someone in a case of felony murder as opposed to murder where *bona fide* malice aforethought is present, should not be sanctioned. Petitioner submits that in such a case, such as the case at Bar, execution is not appropriate.

14. There is a public interest in the fairness of the application of the death penalty. In the application of the death penalty, the totality of the circumstances should argue against mitigation, and there should be a dearth of mitigating circumstances. In the present case, there are numerous mitigating circumstances: his age, his state of mind, the length of time he has been on Death Row, the length of time since the crime, his demonstrated remorse, his low IQ, his mental state, his lack of prior intention to murder someone, the fact that he has suffered very significantly, the fact that the jury brought the death penalty on the basis of false testimony. Taken together, these numerous and very serious mitigating circumstances argue strongly against allowing the Appellant's execution. Indeed, allowing the execution under the present circumstances would constitute a travesty of justice.

IV. A FINAL WORD

The Appellant, Martin Grossman, is of the Jewish faith. It therefore seems appropriate to present to this Court, by way of alternative, and hopefully persuasive, law, the view of Jewish Law on the matter of execution. It is well known that Jewish Law provides for the

application of the death penalty in certain cases. What may be less well-known is that Jewish Law considers a Court which allows one execution in 70 years to be a Murderous Court. Why this apparent contradiction? Because the Torah, the source of Jewish Law, recognizes that life is always paramount, and that a Court should try to find a way to preserve a Defendant's life. Death should only be a last resort, and should be rare. Jewish Law also rules that a man is not punished for his transgressions until the age of 20. He is responsible to keep the laws from the age of 13, or Bar Mitzvah. But he is not actually *punished* for not keeping the laws until the age of 20. The reason for this is that the Torah recognizes that a man's mind, judgment and critical thinking are not fully developed before that age. It is thus instructive, ironic, and more than a little sad that Mr. Grossman, according to Jewish Law, would have been considered too young to suffer for his crime. In such a case, it would of course be very difficult for the family of a murder victim to accept this. It is of course true that their pain would be great. But the Court would know that its job is to mete out justice in a fair and logical manner, and it would know that someone who is under 20 simply cannot be dealt with the same way as someone older, even despite the pain of the family, because that person simply doesn't have the presence of mind, the judgment, the experience in life, to be judged as harshly as someone who does. We know as well that the Bible states 'an eye for an eye, a tooth for a tooth.' Many people assume that this means that Jewish Law advocates or provides for the execution of one who murders, as a matter of course. In fact, in Jewish Law 'an eye for an eye, a tooth for a tooth' refers to *monetary* damages for the loss of a tooth or an eye, not a literal tooth or a literal eye. Thus, we understand how Jewish Law would view a Court who executed one man in 70 years to be a murderous Court. In Jewish Law,

all nations of the world are required to set up court systems, so that people can resolve their disputes in a civilized manner, and so that there is order and not anarchy. But those courts are also expected to have compassion, compassion for someone who is killed and his or her family, to be sure, but also to temper justice with compassion in judging the killer as well. Courts are supposed to emulate Divine elements of Justice: There is the aspect of Severity of Justice, but also the aspect of Mercy of Justice. They are the male and female components required for Justice to be in balance There can not be one without the other. If there is, then it is not true Justice. There must be severity but there must also be mercy. That is how courts are supposed to rule. Petitioner understands that Jewish Law does not apply here, Florida Law applies. But Petitioner asks only this: Some would say that an execution such as the one the State advocates in this case is an example of 'Judeo-Christian' values. That is simply not true. In point of fact, there is nothing 'Judeo' about it. So if the State wants to execute Mr. Grossman in this case, there may be little the Petitioner can do about it. But just this: Please don't call it *our* values. Just this: Not in my name. Not in our name.

Respectfully Submitted,

_____

Edward Werner, Petitioner, *Pro Se*
9270 East Bay Harbor Drive, Suite 3B
Bay Harbor Islands, FL 33154
Tel.: (786) 262-1888
Email: wernered1234@yahoo.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I e-mailed a true and correct copy of the foregoing to warrant@flcourts.org, that I mailed the original and eight copies via overnight mail to the Clerk of The Supreme Court of Florida, 500 S. Duval St., Tallahassee, FL 32399, and that I mailed true and correct copies of the foregoing to the parties listed below, this 3rd day of February, 2010.

1) Carol Marie Dittmar
Florida Attorney General's Office
3507 E. Frontage Rd., Suite 200
Tampa, FL 33607
carol.dittmar@myfloridalegal.com

2) Carloyn M. Snurkowski
4519 Camden Rd.
Tallahassee, FL 32303
carolyn.snurkowski@myfloridalegal.com

3) Douglas E. Crow
14250 49th Street North
Clearwater, FL 33762
dcrow@co.pinellas.fl.us

4) Ali Andrew Shakoor
CCRC - Middle Region
3801 Corporex Park Dr., Suite 210
Tampa, FL 33619
cbus03@gmail.com

5) Richard E. Kiley
CCRC - Middle Region
3801 Corporex Park Dr., Suite 210
Tampa, FL 33619
Kiley@ccmr.state.fl.us

6) James V. Viggiano, Jr.
CCRC - Middle Region
3801 Corporex Park Dr., Suite 210
Tampa, FL 33619
jviggiano@tampabay.rr.com

EXHIBIT “A”

AFFIDAVIT OF CHARLES BRIAN CROSTON

AFFIDAVIT OF CHARLES BRIAN CROSTON

In the State of Florida,

County of Miami-Dade,

_____ being duly sworn, deposes and

states as follows:

1. I, Charles Brian Croston, was arrested in the fall of 1985 for a DUI violation, and incarcerated in the Pinellas County Jail.

2. I was incarcerated there for approximately 5 days.

3. The time that I was incarcerated in the jail coincided with Martin Grossman's trial.

4. At the time that I was at the jail, I was told first-hand by those with knowledge of it that numerous continuous assaults against Mr. Grossman took place.

5. From what I was told while in the jail, the assaults against Mr. Grossman were repeated and continuous from the time that he first arrived at the jail.

6. I personally witnessed inmates spitting on and urinating on the suit that Mr. Grossman was using to wear to Court during the trial.

7. I was further told while there that the assaults and abuse got so bad that he was eventually placed in solitary confinement for his own protection.

In witness whereof he has hereto set his hand and seal.

_____

(SEAL)

_____

(Title)

I, _____, a Notary Public of the County and State aforesaid, hereby certify that _____ personally known to me to be the affiant in the foregoing affidavit, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above affidavit are true and correct.

Witness my hand and official seal this the _____ day of _____, _____.

(SEAL) _____

Notary Public

My Commission expires:

____ / ____ / _____.

EXHIBIT “B”

AFFIDAVIT OF RABBI MENACHEM MENDEL KATZ

AFFIDAVIT OF RABBI MENACHEM MENDEL KATZ

In the State of Florida,

County of Miami-Dade,

_____ being duly sworn, deposes and

states as follows:

1. My name is Menachem Mendel Katz. I am an Orthodox Rabbi in Miami, Florida.

2. I am Martin Grossman's spiritual advisor.

3. Based on my meetings and discussions with Martin Grossman in my capacity as his spiritual advisor, it is my sincere opinion that Mr. Grossman is deeply and sincerely remorseful over the death of Margaret Parks.

4. Based on my meetings and discussions with Martin Grossman in my capacity as his spiritual advisor, it is evident to me that he has grown as a person and is in no way the same person he was in December, 1984.

5. It is my sincere opinion that Mr. Grossman desires the chance to live in order to do some good in the world in his limited prison environment, and to in some small way recompense society for the wrong that he knows he committed.

6. I ask the Court to spare his life.

In witness whereof he has hereto set his hand and seal.

_____

(SEAL)

_____

(Title)

I, _____, a Notary Public of the County and State aforesaid, hereby certify that _____ personally known to me to be the affiant in the foregoing affidavit, personally appeared before me this day and having been by me duly sworn deposes and says that the facts set forth in the above affidavit are true and correct.

Witness my hand and official seal this the _____ day of _____, _____.

(SEAL) _____

Notary Public

My Commission expires:

____ / ____ / _____.