

IN THE CIRCUIT COURT OF MAYCOMB COUNTY, ALABAMA

STATE OF ALABAMA,

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v.

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Case No. CC-00-0000

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JOE CLIENT.

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**MOTION TO BAR THE DEATH PENALTY BECAUSE
JOE CLIENT IS SEVERELY MENTALLY ILL**

Joe Client respectfully moves this Court to prohibit the State from seeking the death penalty in this case because Mr. Client is severely mentally ill and his execution would violate the United States Constitution and Alabama law. In support of this motion, Mr. Client submits the following:

1. In Ford v. Wainwright, 477 U.S. 399, 409 (1986), the Supreme Court “seriously question[ed] the retributive value of executing a person who has no comprehension of why he has been singled out and stripped of his fundamental right to life.” If a person’s mental illness prevents him from comprehending his penalty or its implications, his execution is prohibited by the Eighth Amendment. Id. at 417. Subsequently, the Court in Panetti v. Quarterman, 551 U.S. 930, 959-60 (2007), held that an individual whose mental disorder prevents him from having a “rational understanding” of his execution cannot be executed by the State. In Panetti, the Court found that severe delusions may distort the person’s reality to such a degree that he has little awareness of a link between a crime and its punishment. Id. at 960-62.

2. In Atkins v. Virginia, 536 U.S. 304 (2002), the Supreme Court declared that the execution of intellectually disabled individuals is cruel and unusual punishment prohibited by the Eighth Amendment. Although intellectually disabled individuals are not exempt from criminal sanction, the Court in Atkins found their culpability is lessened by “diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others.” Id. at 318.

3. Individuals with severe mental illnesses such as schizophrenia are impaired in a similar manner. See Schizophrenia, National Institute of Mental Health, <http://www.nimh.nih.gov/health/publications/schizophrenia/complete-publication.shtml> (noting that schizophrenics struggle to organize thoughts logically, understand information,

and make decisions based on that information). For those who are intellectually disabled and those who suffer from schizophrenia, the death penalty provides neither retributive nor deterrent value because both populations are less likely to process the possibility of an execution and control their conduct based on this information. See Atkins, 536 U.S. at 320. Unless it is shown to advance a penological purpose, executing the severely mentally ill “‘is nothing more than the purposeless and needless imposition of pain and suffering,’ and hence an unconstitutional punishment.” Id. at 319 (quoting Enmund v. Florida, 458 U.S. 798 (1982)).

4. Moreover, the Atkins Court noted that reduced mental capacity can create a “special risk” of wrongful execution because of the increased likelihood of a false confession, inability to assist defense counsel, inability to serve as a witness, and the danger that the person’s demeanor creates a false impression of lacking remorse. Atkins, 536 U.S. at 320-21. This risk applies equally to individuals suffering from severe mental illness. See Ford, 477 U.S. at 420-22 (recognizing that insanity rendering defendant incompetent at trial can prevent him from assisting in his defense).

5. Juries often use evidence of lack of control and ability to reason as a sign of increased dangerousness. Penry v. Lynaugh, 492 U.S. 302, 324 (1989). Thus, where severe impairment should diminish blameworthiness for a crime, because of the extreme symptoms associated with severe mental illness, juries may actually treat this evidence as an indication that a person is more deserving of the death penalty instead of less. Atkins, 536 U.S. at 321; see also Roper, 543 U.S. at 572-73 (noting that nature of crime can overpower mitigating evidence of defendant’s young age and cause jury to overlook reduced culpability). Accordingly, a categorical exemption to the death penalty is the only way to ensure the protection against cruel and unusual punishment for mentally ill people.

6. Moreover, there is a growing national consensus that the death penalty should not be imposed on individuals with severe mental illness. Twenty-five jurisdictions currently prohibit the death penalty completely. States With and Without the Death Penalty, Death Penalty Information Center, <http://www.deathpenaltyinfo.org/states-and-without-death-penalty> (counting nineteen states and the District of Columbia that have repealed the death penalty and four states that have governor-imposed moratoriums on executions). Some of the most active death penalty states introduced legislation in 2017 to exempt the severely mentally ill from being eligible for the death penalty.¹ In addition to legislative action, several state court judges have advocated against sentencing individuals with severe mental illness to death. See State v. Nelson, 803 A.2d 1, 42-45 (N.J. 2002)

¹ These states include Ohio, Virginia, Texas, Indiana, Tennessee, Arkansas, South Dakota, and Idaho.

(Zazzali, J., concurring) (finding some public consensus against the death penalty for the mentally ill and determining that it serves no penological goals); State v. Ketterer, 855 N.E.2d 48, 86-87 (Ohio 2006) (Lundberg-Stratton, J., concurring) (urging legislators to create a death penalty exemption for the mentally ill).

7. Nearly every major mental health association in the United States has issued policy statements recommending the banning of the death penalty for defendants with serious mental illness. See American Psychiatric Association, Position Statement on Diminished Responsibility in Capital Sentencing; American Psychological Association, Report of the Task Force on Mental Disability and the Death Penalty, <http://www.apa.org/pubs/info/reports/mental-disability-and-death-penalty.pdf> (last visited Aug. 9, 2017); National Alliance on Mental Illness, Death Penalty, <https://www.nami.org/Learn-More/Mental-Health-Public-Policy/Death-Penalty> (last visited Aug. 9, 2017). The American Bar Association also publicly opposes the death penalty for defendants with serious mental illness. ABA Recommendation 122A, American Bar Association, <https://deathpenaltyinfo.org/documents/122AReport.pdf> (last visited Aug. 9, 2017) [hereinafter ABA Recommendation].²

8. In Atkins and Hall v. Florida, 134 S. Ct. 1986 (2014), the Supreme Court referenced the clinical definition of intellectual disability set forth by the American Association of Intellectual and Developmental Disabilities and the American Psychiatric Association. See Atkins, 536 U.S. at 308, n.3 (citing American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 41 (4th Ed. 2000)); Hall, 134 S. Ct. at 1994 (citing American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders 33 (5th Ed. 2013)[hereinafter DSM-5]). Subsequently, the Court affirmed the use of these clinical definitions when it held that states must rely on current medical standards when defining and analyzing intellectual disability. Moore v. Texas, 137 S. Ct. 1039, 1053 (2017) (holding that Texas court failed to employ current medical standards when

²In a 2016 paper on the Death Penalty, the ABA acknowledged that for over ten years, “the ABA, in conjunction with the American Psychiatric Association, American Psychological Association and National Alliance on Mental Illness (NAMI) adopted a policy opposing the death penalty for individuals with severe mental disorders or disabilities present at the time a crime is committed.” American Bar Association Death Penalty Due Process Review Project, Severe Mental Illness and the Death Penalty, at 1 (Dec. 2016) https://www.americanbar.org/content/dam/aba/images/crsj/DPDPRP/SevereMentalIllnessandtheDeathPenalty_WhitePaper.pdf. Mental Health America adopted a similar position in 2011. Id. The ABA published the paper as a tool to “help states pass laws that will establish clear standards and processes to prevent the execution of those with severe mental illness.” Id.

assessing intellectual disability for purposes of Atkins). The Court found that manuals such as the DSM-5 are the best indicators of how mental disorders are diagnosed and treated, and states should be constrained by these manuals. Id.

9. Under Moore, the clinical definition of severe mental illness is instructive for evaluating whether a person should be exempt from the death penalty. The American Psychological Association defines severe mental illness as: “mental disorders that carry certain diagnoses, such as schizophrenia, bipolar disorder, and major depression; that are relatively persistent (e.g., lasting at least a year); and that result in comparatively severe impairment in major areas of functioning.” Am. Psychological Association, Assessment and Treatment of Serious Mental Illness (2009), at 5. The DSM-5 states that people with schizophrenia experience a combinations of delusions, hallucinations, disorganized speech, grossly disorganized or catatonic behavior, and diminished emotional expression or avolition. DSM-5 at 295.90. They also suffer diminished levels of functioning in work, interpersonal relationships, and self-care. Id.

10. The American Bar Association followed the DSM guidelines in adopting position that “defendants should not be executed or sentenced to death if, at the time of the offense, they had a severe mental disorder or disability that significantly impaired their capacity (a) to appreciate the nature, consequences or wrongfulness of their conduct, (b) to exercise rational judgment in relation to conduct, or (c) to conform their conduct to the requirements of the law.” ABA Recommendation at 1. Combining this summary with the DSM-5 definition of schizophrenia, one can medically determine that individuals with schizophrenia lack the culpability necessary for imposition of the death penalty. ABA Recommendation at 5-7.

11. Mr. Client is schizophrenic under the clinical definition of the mental illness and therefore is not eligible for the death penalty. First, he has persistently suffered from significant delusions, hallucinations, and highly disorganized behavior. Mr. Client was institutionalized in 2001 and 2004 for severe mental illness; was fired from multiple jobs because of loud outbursts and erratic behavior; lost prior housing because one of his roommates complained that he screamed and yelled for no reason; hallucinated at his college graduation ceremony that individuals were harassing him and calling him names; believed the FBI, CIA, and Al-Qaeda were trying to kill him; and refused to take out the garbage, asserting that when he did so people shot at him with lasers. Mr. Client unsuccessfully attempted treatment with psychotropic medications, including Anafranil, Ativan, Cogentin, Haldol, Inderal, Luvox, Norphronin, Paxil, Prozac, Risperdol, Seroquel, Trilafon, Zolof, and Zyprexa.

12. Second, at the time of the crime, Mr. Client was suffering from a psychotic break that affected his perception and reasoning. For two weeks before the incident, Mr. Client was under the impression that his next-door neighbor was a demon sent by Satan to prevent him from rescuing humanity from impending darkness. Reports from the Maycomb County Dispatch Center indicate that Mr. Client called the police ten times in the space of two days to report that he heard his neighbor raising an army of undead servants in his living room. On the day of the incident, Mr. Client believed that Satan's invasion had arrived and he needed to prevent his neighbor from serving as the gateway agent.

13. In light of this consistent evidence of Mr. Client's severe mental illness, this Court should bar the State of Alabama from seeking the death penalty in this case because executing Mr. Client would violate the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution and Alabama law.

For these reasons, Mr. Client respectfully requests that this Court:

- (a) provide Mr. Client with any discovery necessary to prove his claim;
- (b) conduct an evidentiary hearing prior to trial and outside the presence of the jury at which Mr. Client may present evidence in support of this motion; and
- (c) enter an order granting the motion, finding that Mr. Client is severely mentally ill and prohibiting the State from seeking the death penalty in this case.

Respectfully submitted,

/s/ Linda Lawyer

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[CERTIFICATE OF SERVICE]

[MOTION UPDATED ON 10/05/17]