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Mentally Retarded Georgia Prisoner Warren Hill Files Stay Motions With Eleventh Circuit U.S. Court of Appeals and the U.S. Supreme Court for July 15th Execution Date

Widespread Support for a Stay of Execution In Mr. Hill's Case from Mental Disability Experts, the Victim's Family, President Carter, International Human Rights Organizations and Others

(ATLANTA, GEORGIA; Monday, July 8) --- Warren Hill, a Georgia man with an undisputed I.Q. of 70, today filed motions for a stay of execution with the Eleventh Circuit U.S. Court of Appeals (<http://goo.gl/3lJLv>) and the U.S. Supreme Court (<http://goo.gl/J3q1f>). Mr. Hill is scheduled to be executed on Monday, July 15th at 7 p.m. EST.

Attorneys for Mr. Hill are asking the Eleventh Circuit to stay the execution until Mr. Hill's Petition for a Writ of Habeas Corpus, which includes new evidence showing unanimous agreement by every doctor who has examined Mr. Hill that he is a person with mental retardation, can be considered by the U.S. Supreme Court. A stay of execution is needed in this case in order to ensure that this new evidence, which shows that Mr. Hill is ineligible for execution, is considered and that the Supreme Court's ruling in *Atkins v. Virginia*, prohibiting the execution of the mentally retarded, is enforced. The stay motion with the U.S. Supreme Court is based on a separate petition pending at the Court.

The Petition for Original Writ (<http://goo.gl/GKBcX>), which asks the court to remand the case to federal district court for a hearing on the compelling evidence demonstrating that Mr. Hill is mentally retarded and ineligible for the death penalty states:

"This case presents the extraordinary circumstance that each and every mental health expert the State of Georgia presented in state habeas proceedings to rebut Mr. Hill's substantial proof of mental retardation has since repudiated his initial finding." (p.2)
"Every court to which Mr. Hill has petitioned in an effort to present this new and compelling evidence has denied him the opportunity to prove the merits of his claim. The Georgia State Board of Pardons and Parole has likewise refused to reopen proceedings in light of this evidence." (p.12)

On April 23, an Eleventh Circuit panel in a 2-1 vote denied Mr. Hill's habeas petition, finding that he did not meet the restrictive standards of the Anti-Terrorism and Effective Death Penalty Act and that the Court was therefore barred from considering the evidence of Mr. Hill's mental retardation.

Georgia courts have repeatedly found that Mr. Hill is mentally retarded. In 2002, the year the U.S. Supreme Court decided *Atkins*, a Georgia state court judge found Mr.

Hill's IQ to be approximately 70 beyond a reasonable doubt and to fulfill the overall criteria for mental retardation by a preponderance of the evidence. In 2012, the state court judge reaffirmed that Mr. Hill is a person with mental retardation, but found he did not meet Georgia's "beyond a reasonable doubt" standard – the strictest in the nation for proving intellectual disability.

In February 2013, three doctors who had previously testified on behalf of the state regarding Warren Hill released sworn affidavits affirming that Mr. Hill has mental retardation. In December 2000, at the request of the Georgia Attorney General's Office, the doctors examined Mr. Hill and testified at an evidentiary hearing that Mr. Hill did not fit the criteria for mental retardation, instead diagnosing him with borderline intellectual functioning. The doctors, Dr. Donald Harris, Dr. Thomas Sachy and Dr. James Gary Carter, now concur with all other doctors who have examined Mr. Hill and find that Mr. Hill has mental retardation.

In their affidavit testimony (links: [Harris](#); [Sachy](#); [Carter](#)), the doctors report that their initial evaluation of Mr. Hill was "extremely and unusually rushed" and "not conducive to an accurate assessment of Mr. Hill's condition" (Carter p.2, 7) and that advances in psychiatric understanding of intellectual disability now convince them that their initial finding was in error.

Mr. Hill's attorney Brian Kammer stated, "All experts who have evaluated Warren Hill agree: he is mentally retarded. Mr. Hill's execution would therefore be a grotesque miscarriage of justice and render the Eighth Amendment a mere paper tiger. This case presents the extraordinary circumstance where an individual who is ineligible for a capital sentence is about to be executed. Mr. Hill has no recourse left but to beg the court to intervene, and we trust and hope that the Eleventh Circuit will hear his plea."

Two amicus briefs were recently filed in support of Mr. Hill's Petition for a Writ of Habeas Corpus:

Six leading clinicians and scholars in the field of mental disability and the American Association on Intellectual and Developmental Disabilities (AAIDD) filed a brief urging the Court to consider the new evidence from the doctors, stating: "In the case at bar, all three of the government's expert witnesses have determined, correctly, that they previously relied on insufficient facts, that their methodology of diagnosis was unsound, and that, as a result, they had reached an incorrect conclusion. A sentence of death cannot rest on such a flawed foundation." (p. 9) (mental disability experts brief here: <http://goo.gl/g3JQp>)

The other amicus brief was filed by law professors who have written extensively on the history of habeas corpus. The brief states that Mr. Hill's is the exceptional and rare case "where relief is both appropriate and necessary to avoid a manifest injustice." (p.2) (law professor brief here: <http://goo.gl/3CHhX>).

In her dissent to the Eleventh Circuit's recent ruling, Judge Rosemary Barkett condemned the majority holding that even Mr. Hill's proof beyond a reasonable doubt was procedurally barred, stating: "The idea that courts are not permitted to acknowledge that a mistake has been made which would bar an execution is quite incredible for a country that not only prides itself on having the quintessential system of justice but attempts to export it to the world as a model of fairness.... [The federal habeas statute] should not be construed to require the unconstitutional execution of a mentally retarded offender who, by presenting evidence that virtually guarantees that he can establish his mental retardation, is able to satisfy even the preposterous burden of proof Georgia demands."

Mr. Hill's case is the subject of diverse and extensive support, including from numerous mental health and disability groups such as the Georgia Council on Developmental Disabilities. The largest national group for intellectual disability rights, the American Association on Intellectual and Developmental Disabilities (AAIDD), is a co-author of the amicus brief pending with the Supreme Court. Dr. Margaret Nygren, Executive Director of AAIDD wrote an opinion editorial about Mr. Hill's case that can be read here. In it she states that the courts:

"...should move to protect Mr. Hill from execution because of his undisputed intellectual disability. The court has already found that our constitution protects those who are intellectually disabled from execution; now they must ensure that those rights are applied in a fair and just manner."

Notably, the family of the victim does not wish to see Mr. Hill executed, specifically citing his mental retardation. In addition, President Jimmy Carter and Rosalyn Carter have called for a commutation of Mr. Hill's death sentence to life without parole.

Several jurors who sat on Mr. Hill's original jury have also stated under oath that they believe that life without parole is the appropriate sentence in this case. It was not offered to them as an option at trial in 1991.

Numerous others have called for the execution of Mr. Hill to be stopped. Christof Heyns, the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, wrote an opinion piece in The Guardian, "Georgia Will Violate Both Justice and the Constitution if It Executes Warren Hill."

Mr. Hill's attorney Brian Kammer, Director of the Georgia Resource Center, is available to speak with you. He can be reached at: brian.kammer@garesource.org and 404-222-9202.

For more information or to speak with Mr. Kammer, please contact Laura Burstein at: Laura.Burstein@squiresanders.com or 202-626-6868.

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