

The amicus brief, Ernest Paul McCarver v. State of North Carolina, was joined by Clifton Kirkpatrick, as Stated Clerk of the General Assembly of The Presbyterian Church (U.S.A.). The brief was filed in the United States Supreme Court on June 8, 2001.

No. 00-8727

IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 2000

ERNEST PAUL McCARVER,  
Petitioner,

v.

STATE OF NORTH CAROLINA  
Respondent.

On Writ of Certiorari to the  
Supreme Court of North Carolina

BRIEF AMICI CURIAE OF THE UNITED STATES CATHOLIC CONFERENCE AND OTHER  
RELIGIOUS ORGANIZATIONS, IN SUPPORT OF PETITIONER

#### INTEREST OF AMICI

Representatives of diverse religious communities unite here as amici curiae on behalf of the Petitioner. These amici have differing views about the death penalty as a whole. Some oppose it in all or virtually all circumstances; others do not. Some support it in principle, but object to its application in certain cases or in some circumstances. Despite these differences, all of these amici share a conviction that the execution of persons with mental retardation cannot be morally justified. In our view, such an execution violates the standards of decency of American society and the Eighth Amendment guarantee against cruel and unusual punishment.

Individual statements of interest are provided in the attached Appendix.

#### SUMMARY OF ARGUMENT

This case presents the sole issue whether the execution of a mentally retarded man satisfies the constitutional injunction against inflicting cruel and unusual punishment. That standard is not static, anchored to practices that existed in the Eighteenth Century when the Amendment was adopted, but reflects the continuing development of our society. *Weems v. United States*, 217 U.S. 349, 378 (1910). The interpretation of the constitutional provision "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles*, 356 U.S. 86, 101 (1958) (plurality opinion). How to discern and weigh those standards of decency is an issue that has divided this Court in the intervening years. The best evidence would be objective and unassailable, but this Court divides also over what evidence passes that test. E.g., *Stanford v. Kentucky*, 492 U.S. 361 (1989). Moreover, to pass constitutional scrutiny, this Court insists that the penalty of death be reserved for those who are most blameworthy and that imposition of the penalty serve legitimate ends, lest it be arbitrary or disproportionate.

Whether to impose the death penalty at all, or on particular classes of defendants, or in specific cases, under the standards of decency, blameworthiness, and proportionality all involve moral questions. There are certain minimum thresholds below which the Court will not go -- for example, the execution of young children -- which reflect a moral consensus among the Justices. On these questions, seeking guidance from the actions (or inaction) of legislatures and juries alone seems insufficient. Likewise, to look only to non-religious sources of advice on essentially moral questions is, at a minimum, unduly narrow. In our view, on moral issues a critical source of advice about the direction of U.S. society is the religious community.

Legislation and jury determinations alone cannot always provide a clear and unequivocal answer to Eighth Amendment questions. Moreover, the Amendment, like the English guarantee against cruel and unusual punishment on which it was modeled, was intended as a limitation on the power of legislatures; hence its scope cannot depend exclusively on what legislatures do. Nearly a century of Eighth Amendment jurisprudence demonstrates the legitimacy of examining additional sources in deciding what is cruel and unusual punishment. Failure to do so here would betray both the original purpose of the Amendment and longstanding precedent.

Historically, the religious community has always worked to set and improve social standards of justice, equity, behavior, and decency. From the Nation's founding, and especially during times of intense debate on moral issues, the religious community has played a

pivotal role in shaping the national conscience. The amici's collective views are therefore an important benchmark of the Nation's evolving standards of decency. Moreover, the amici by their nature have experience and expertise in evaluating moral questions such as capital punishment. Drawing on that experience and expertise, we are convinced that applying the death penalty, a punishment that this Court has said must be reserved for the most blameworthy, to persons with mental retardation -- those whose intellectual and adaptive impairments by definition render them among the least blameworthy -- is the very embodiment of arbitrariness and disproportionality which this Court rejected in *Furman* and other cases. Such a practice also fails to serve the legitimate ends for which punishment may be imposed. The execution of persons with mental retardation in those jurisdictions that do not yet affirmatively forbid it violates the central lessons of this Court's death penalty decisions and is contrary to contemporary standards of decency.

## ARGUMENT

### I. The Applicable Standard

The Eighth Amendment guarantee against cruel and unusual punishment "is not fastened to the obsolete, but may acquire meaning as public opinion becomes enlightened by a humane justice." *Weems v. United States*, 217 U.S. 349, 378 (1910). The guarantee "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles*, 356 U.S. 86, 101 (1958) (plurality opinion). The Court identifies these standards by considering "objective" factors that "reflect the public attitude toward a given sanction." *Stanford v. Kentucky*, 492 U.S. 361, 370 (1989). Chief among these are the actions of legislatures. *McCleskey v. Kemp*, 481 U.S. 279, 300 (1987). Secondarily, the Court considers jury sentencing records as reflective of society's values. *Coker v. Georgia*, 433 U.S. 584, 596 (1977) (plurality opinion).

Eighth Amendment analysis does not end there, however. Other objective factors the Court takes into account include the common law, the actions of prosecutors, commutation records, the laws of other nations, and the views of professional organizations with relevant expertise. The Court also considers (1) whether the death penalty is proportional to the degree of harm inflicted on the victim and to the degree of the defendant's blameworthiness, and (2) whether imposition of the death penalty serves the twin penological goals of retribution and deterrence. In considering proportionality, the Court compares the injury caused by, the punishment imposed for, and the mental state or culpability associated with, the crime under consideration to the harm, punishment, and mental state or

culpability associated with other crimes.

In recent years, this framework has come under fire. Individual Justices have suggested that the actions of legislatures, prosecutors, and juries are the exclusive measure of contemporary standards of decency, and they reject any consideration of other evidence. *Stanford v. Kentucky*, 492 U.S., at 374-81 (plurality opinion); *Penry v. Lynaugh*, 492 U.S. 302, 351 (1989) (Scalia, J., concurring in part and dissenting in part). More fundamentally, it has been suggested that no inquiry into proportionality or the relation of punishment to penological goals is necessary or justified. *Id.*

This Court has struggled, as shown by the divisions among the Justices, to identify the proper standard and the evidence relevant in making Eighth Amendment decisions. Even if that evidence were limited to the actions of legislatures and juries, the task of identifying and interpreting those actions in Eighth Amendment cases has been fraught with difficulty and has frequently occasioned sharp disagreement within the Court. Indeed, one strains to identify any modern capital sentencing case in which the Justices of this Court have not drawn different, even opposite, conclusions from the same set of legislative enactments and jury determinations. The instant case creates yet another situation where the standard or standards, what is relevant to their assessment, and how the law should be interpreted or changed, are all tested. It is to these questions that amici believe their contribution is important.

## II. WHY THE AMICI'S VIEWS SHOULD BE CONSIDERED

Whether American society has "evolved" to such an extent where it can be reliably judged that the execution of persons with mental retardation violates our sense of decency is presented here. That issue implicates several moral questions. Indeed, this Court has held that imposition of the death penalty in every case requires a moral judgment. *Penry v. Lynaugh*, 492 U.S., at 319 (noting that capital punishment must reflect a "reasoned moral response to the defendant's background, character, and crime") (original emphasis). Likewise, a moral judgment is contemplated in this Court's proportionality review and its inquiry into whether punishment serves the purposes of retribution. See notes 5 & 6, *supra*. Both inquiries require consideration of blameworthiness, which is a quintessential moral question. *Id.* As religious bodies and religiously-affiliated organizations, we are uniquely qualified to comment on moral issues such as the death penalty. Few (if any) institutions can claim a greater tradition of working with and studying the conscience of the human person and related questions of guilt, blame and punishment

than the religious community. These amici have developed a rich tradition of reflection and scholarship that has been informed by the experience of countless millions of people over centuries. Failure to consider these views would diminish the authority this Court would bring to the resolution of these essentially moral questions.

The other means identified by this Court from which to glean views on what society does or does not condemn are fraught with limitation. For example, one cannot unhesitatingly assume that legislation and jury sentencing are the only "certain" measures of a national consensus. The Court should not accept without reservation the action or inaction of legislatures and juries as "certain" or "objective" evidence of evolving standards of decency. The meaning of legislative action or inaction is not always easy to discern. Political majorities and legislative agendas often have extremely short life spans that call into question their "objectivity." Likewise, because persons opposed to the death penalty may be excluded from such sentencing deliberations altogether, see *Lockhart v. McCree*, 476 U.S. 162 (1986), jury sentences will not always or necessarily reflect a national consensus. *Stanford v. Kentucky*, 492 U.S., at 387 n.3 (Brennan, J., dissenting) (the exclusion of jurors opposed to capital punishment "renders capital jury sentences a distinctly weighted measure of contemporary standards").

Moreover, a constitutional prohibition that depended solely on the actions of legislatures would in practice be no prohibition at all. The guarantee against cruel and unusual punishment, like the English guarantee on which it was based, was intended precisely to curb legislative power. *Weems v. United States*, 217 U.S., at 371-73. The objective evidence upon which this Court relies in deciding what restraints the Amendment places on legislatures therefore cannot be confined to the actions of the very same legislatures the Amendment is intended to restrict. *Gregg v. Georgia*, 428 U.S., at 174 n.19 (plurality opinion) ("legislative judgments alone cannot be determinative of Eighth Amendment standards since that Amendment was intended to safeguard individuals from the abuse of legislative power"). To hold otherwise would betray the reasons for adopting the Amendment.

In practice, even in the absence of legislation, there is a floor below which punishment will be declared "cruel and unusual." *Thompson v. Oklahoma*, 487 U.S. 815 (1988), illustrates the point. There the Court considered whether it would be "cruel and unusual" to execute a person who was 15 years of age at the time of the offense. The plurality wrote:

Most state legislatures have not expressly confronted the

question of establishing a minimum age for imposition of the death penalty. In 14 States, capital punishment is not authorized at all, and in 19 others capital punishment is authorized but no minimum age is expressly stated in the death penalty statute. One might argue on the basis of this body of legislation that there is no chronological age at which the imposition of the death penalty is unconstitutional and that our current standards of decency would still tolerate the execution of 10-year-old children. We think it self-evident that such an argument is unacceptable....

487 U.S. at 826-28. As Justice O'Connor explained in her concurring opinion, the entire Court agreed on the "fundamental proposition[]" that "there is some age below which a juvenile's crimes can never be constitutionally punished by death...." *Id.* at 848 (O'Connor, J., concurring in the judgment). No Justice suggested he or she would find anything other than a violation of evolving standards of decency in the plurality's hypothetical execution of a 10-year-old child, though nearly half the state legislatures had instituted no such statutory limitation. If, however, it is "self-evident" (487 U.S., at 828) that the execution of a 10-year-old child would be unconstitutional, it follows that whether a particular punishment violates the Eighth Amendment does not depend exclusively on whether legislatures have acted or failed to act, or on how juries have decided that issue in the past. Rather there is some level of disproportionality which the Eighth Amendment will not tolerate even in the face of legislative action or inaction and jury conduct. The issue is: on what does that judgment rest. If this is a moral floor, to whom does the Court look for guidance?

The Court must look to the views of expert and moral authorities to resolve Eighth Amendment questions. When, for example, the Court considered the constitutionality of the death penalty as applied to 16- and 17-year-old offenders, four Justices examined the views of various religious organizations, including some of the amici here. *Stanford v. Kentucky*, 492 U.S., at 388 n.4 (Brennan, J, joined by Marshall, Blackmun and Stevens, JJ., dissenting) (citing briefs of amicus United States Catholic Conference and others). Respected professional organizations are among the sources this Court has consulted in assessing whether punishment is disproportionate and in identifying evolving standards of decency. *Thompson v. Oklahoma*, 487 U.S., at 830 (plurality opinion). "Where organizations with expertise in a relevant area have given careful consideration to the question of a punishment's appropriateness, there is no reason why that judgment should not be entitled to attention as an indicator of contemporary standards." *Stanford*, 492 U.S., at 382, 383 (Brennan, J, joined by Marshall, Blackmun and Stevens, JJ., dissenting). Twelve years ago, for

example, when this Court first took up the question of the constitutionality of executing persons with mental retardation, it considered and placed particular emphasis on the views of the American Association on Mental Retardation. *Penry v. Lynaugh*, 492 U.S., at 333-40; *id.* at 344-47, 349 (Brennan, J., concurring in part, dissenting in part); *id.* at 350 (Stevens, J., concurring in part and dissenting in part).

It would be unwise to dismiss as "uncertain" or "unobjective" the considered judgment of the Nation's churches, synagogues, mosques, and temples. These bodies exist for the very purpose of educating, uplifting, and inspiring our citizenry and, perhaps more than any other institutions, they shape the evolving standards of morality and decency to which the Eighth Amendment's requirements are inextricably tied. As developed immediately below, the views of religious organizations are an especially helpful means of identifying forms of punishment that do and do not constitute a "reasoned moral response" (*Penry v. Lynaugh*, 492 U.S., at 319) that conform to "evolving standards of decency."

Morality and decency are subjects on which religious bodies legitimately can claim a particular experience and competence. Every revival of the conscience of the country has had as its center religious leaders and congregations. Whether the call was for abolition, or temperance, or equal rights under law, religious leaders have been in the forefront of these movements. We have not abandoned our prophetic voice as we exhort our people and our fellow citizens to abandon the paths of war or to show solidarity with the least fortunate among us. Although we disagree among ourselves on the morality of capital punishment generally, we join our voices to urge the Court to see the indecency of executing persons with mental retardation.

### III. Amici's Views Concerning the Execution of Persons With Mental Retardation

As noted above, these amici's views about the death penalty *per se* vary, but they are united in their view that the execution of persons with mental retardation is cruel and unusual punishment. Their views, set out in brief, follow.

1. The American Jewish Committee ("AJC"). While Jewish Biblical tradition mandates the imposition of capital punishment under certain, rare circumstances, rabbinical interpretation of that tradition has required such procedural assurances with respect to the application of the death penalty that it, in effect, virtually prohibits it. AJC opposes capital punishment in general, as cruel,

unjust and incompatible with the dignity and self-respect of man, and in particular with respect to the execution of mentally retarded individuals.

2. The Evangelical Lutheran Church in America ("ELCA"). In 1991, ELCA adopted a Social Statement on the Death Penalty which, while affirming that God entrusts the state with power to take human life when failure to do so constitutes a clear danger to society, nonetheless urged abolition of the death penalty for various reasons, including its unfair administration. The Statement noted that mental capacity, among other factors, has unfairly been used in deciding who is sentenced to death. Statement at 4. ELCA believes the execution of persons with mental retardation is particularly inappropriate because of their diminished culpability.

3. The General Board of Church and Society and the General Board of Global Ministries of the United Methodist Church. The United Methodist Church has been opposed to the death penalty since 1956. The Church's Social Principles, in a section entitled "Basic Freedoms and Human Rights," states that "we oppose capital punishment and urge its elimination from all criminal codes." Social Principles, Section 164, V, A. The Social Principles also "call on the Church and society to protect the civil rights of persons with disabilities." Id., Section 162, III, G.

Given the well-established principle that diminished mental capacity also reduces moral culpability, it is clear to the General Board of Church and Society and the General Board of Global Ministries that the execution of persons with mental retardation would constitute cruel and unusual punishment in violation of the Eighth Amendment.

4. Clifton Kirkpatrick, as Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.). Since 1959, the General Assembly of the Presbyterian Church has declared that "capital punishment cannot be condoned by an interpretation of the Bible based upon the revelation of God's love in Jesus Christ." The General Assembly has declared capital punishment to be an "expression of vengeance which contradicts the justice of God...." The General Assembly has expressed special concern for the weakest and most defenseless among God's children. It has stated that "[j]ustice should guarantee and defend especially the rights of those who are weakest, most vulnerable, most likely to be forgotten, exploited or oppressed, most unable to defend themselves." Presbyterian Church in the United States Minutes, at 200-01 (1978). Persons with mental retardation are among those who are "most vulnerable, most likely to be forgotten, exploited or oppressed, most unable to defend" and

hence entitled to special protection.

5. Progressive Jewish Alliance ("PJA"). PJA believes that capital punishment, and in particular the execution of persons with mental retardation, is antithetical to both our Jewish and American values.

While Biblical law mandates capital punishment for a number of offenses, Talmudic interpretations essentially abolished the death penalty 1,800 years ago. Talmudic rules regarding capital punishment erected procedural obstacles that made it virtually impossible for the death penalty ever to be imposed by the Sanhedrin (the high Jewish court). For example, the rabbis ruled that two witnesses were required to testify not only that they witnessed the act for which the criminal was being condemned, but also that they had warned the perpetrator beforehand that, if he carried out the offense, he would be executed, and that he accepted the warning and nevertheless stated his willingness to carry out the act despite the knowledge that it would result in his execution. In addition to prescribing these procedural safeguards, the Talmud also records the opposition of some of the tradition's great sages.

Under Jewish law, persons with mental retardation were not considered responsible or obligated because they were held to be unable to form the necessary intent. Because a finding of intent was a necessary prerequisite of guilt (and only a guilty party could be executed), mentally retarded individuals could not be put to death by a Sanhedrin, or Jewish High Court.

6. The Religious Action Center. The Central Conference of American Rabbis ("CCAR") has resolved that capital punishment "does not act as an effective deterrent to crime." The Union of American Hebrew Congregations likewise notes: "We believe that there is no crime for which the taking of human life by society is justified, and that it is the obligation of society to evolve other methods in dealing with crime."

[Anything to add here about the RAC's views on the execution of persons with mental retardation in particular?]

7. Unitarian Universalist Association. The Unitarian Universalist Association has opposed capital punishment since its first General Assembly as a consolidated denomination in 1961. Through adopted resolutions, the Association has declared that "respect for the value of every human life must be incorporated into our laws if it is to be observed by our people" and that "modern justice should concern itself with rehabilitation, not retribution."

Because the member congregations of the Unitarian Universalist Association covenant to affirm and promote the inherent worth and dignity of every person, the Association is especially interested in preventing the execution of persons with mental retardation.

8. United States Catholic Conference. The Catholic Church accepts in "principle that the state has the right to take the life of a person guilty of an extremely serious crime." U.S. Bishops' Statement on Capital Punishment at 3 (Nov. 1980). But the execution of an offender, the Church teaches, can be justified only "in cases of absolute necessity," that is, when "it would not be possible otherwise to defend society." Pope John Paul II, *Evangelium Vitae* (The Gospel of Life) paragraph 56. "Today ... as a result of steady improvements in the organization of the penal system, such cases are very rare if not practically nonexistent." *Id.* See also Catechism of the Catholic Church, paragraph 2267 (2d ed. 1997) ("the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor") (emphasis added).

In the United States, those Catholic bishops who have addressed the issue have concluded that the execution of persons with mental retardation is especially inappropriate. In 1999, for example, while reiterating their opposition to the death penalty generally, the Catholic bishops of Texas issued a statement urging an end to the execution of persons with mental retardation. The bishops began by comparing the lesser culpability ascribed to persons with mental retardation with that of children:

Children aren't held to a standard beyond their mental capacity. To hold them to such a standard would be clearly unreasonable.

Mentally retarded persons by definition have sub-average intellectual functioning with concurrent deficits in socially adaptive behavior. That is not to say such persons cannot tell right from wrong or should not be held responsible for criminal behavior. However, the death penalty is the most extreme sanction available to the state, and is therefore reserved for offenders who have the highest degree of blameworthiness for an extraordinarily aggravated crime.

How can an individual who by definition is significantly intellectually impaired ever meet the highest standard of blame required for such a penalty? It is not simply a question of knowing right from wrong. It is rather an issue of proportionality and

equity....

Statement by the Catholic Bishops of Texas Opposing Execution of the Mentally Retarded (Jan. 21, 1999).

#### CONCLUSION

This Court's insistence on "individualized consideration as a constitutional requirement in imposing the death sentence," *Lockett v. Ohio*, 438 U.S. 586, 605 (1978), has never prevented it from declaring that certain categories of crimes (see n.7, supra) and certain classes of defendants are constitutionally beyond reach of the death penalty. A similar exemption for persons with mental retardation is warranted by virtue of the Nation's evolving standards of decency, as demonstrated by the views of these amici. All the amici agree that the death penalty -- a penalty this Court has said must be reserved for the most blameworthy -- should not be imposed upon persons with mental retardation because of their diminished capacity. Furman's command that arbitrariness be avoided in capital sentencing dictates this result, for nothing could be more arbitrary than to subject those who are least blameworthy to a form of punishment reserved for the most blameworthy.

The same low levels of intellectual functioning that characterize children and differentiate them from adults of normal functioning are present in all persons with mental retardation. "Adults with mental retardation never have a mental age greater than twelve years old." Emily Fabrycki Reed, *The Penry Penalty: Capital Punishment and Offenders with Mental Retardation*, 14 (1993). If, as this Court said in *Thompson v. Oklahoma*, 487 U.S., at 827-28, there is some chronological age below which execution would "self-evident[ly]" violate the Eighth Amendment, then necessarily there is some level of intellectual functioning below which it would be unconstitutional to carry out the death penalty.

For these reasons, and for the other reasons set forth in this Brief, we respectfully request that the judgment below be reversed.

Respectfully submitted,

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APPENDIX (List of Amici)

1. The American Jewish Committee ("AJC"). AJC, a national organization of approximately 100,000 members and supporters, was founded in 1906 to protect the civil and religious rights of Jews. It is the conviction of AJC that those rights will be secure only when the rights of all Americans are equally secure.

AJC opposes capital punishment, which it believes is cruel, unjust and incompatible with the dignity and self-respect of man. AJC has previously joined in amicus briefs opposing the imposition of the death penalty on those who have committed capital crimes while under the age of eighteen as violative of evolving standards of decency and believes that the same principles apply with respect to the imposition of capital punishment on the mentally retarded.

2. The Evangelical Lutheran Church in America. The Evangelical Lutheran Church in America ("ELCA") is the largest Lutheran denomination in North America and the fifth largest Protestant body in the United States. It has approximately 11,000 member congregations, with approximately 5.2 million individual members. In 1991, ELCA adopted a Social Statement on the Death Penalty urging abolition of the death penalty.

3. The General Board of Church and Society and the General Board of Global Ministries of the United Methodist Church. The General Board of Church and Society and the General Board of Global Ministries are the two primary church-wide entities within the United Methodist religious denomination that do advocacy on justice and peace issues. These two sister agencies are interested in this case because it involves both the death penalty and mental disability. The United Methodist Church is a worldwide religious denomination with approximately 9 million members in the United States, and it has approximately 36,000 local churches and 43,500 pastors in the United States. Only the United Methodist legislative body, the General Conference, has authority to set policy and speak for the entire denomination.

4. Clifton Kirkpatrick, as Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.). Clifton Kirkpatrick,

as Stated Clerk of the General Assembly, is the senior continuing officer of the highest governing body of the Presbyterian Church (U.S.A.). The Presbyterian Church (U.S.A.). The Presbyterian Church (U.S.A.) is the largest Presbyterian denomination in the United States, with approximately 2,650,000 active members in 11,300 congregations organized into 173 presbyteries under the jurisdiction of 16 synods.

The General Assembly does not claim to speak for all Presbyterians, nor are its deliverances and policy statements binding on the membership of the Presbyterian Church. The General Assembly is the highest legislative and interpretive body of the denomination, and the final point of decision in all disputes. As such, its statements are considered worthy of the respect and prayerful consideration of all the denomination's members.

The General Assembly has declared that "capital punishment cannot be condoned by an interpretation of the Bible based upon the revelation of God's love in Jesus Christ." As noted in the body of this brief, the General Assembly has expressed special concern for the weakest and most defenseless among God's children.

5. Progressive Jewish Alliance. The Progressive Jewish Alliance ("PJA") is a national membership organization dedicated to the Jewish traditions of ensuring social and economic justice, promoting equality and diversity, and pursuing peace. Under the rubric of "Tikkun Olam, Tikkun Ha Ir" ("Repair of the World, Repair of the City"), PJA works in alliance with organizations and individuals similarly dedicated to achieving these goals in the Los Angeles area and beyond. PJA is a Jewish voice in the progressive community and a progressive voice in the Jewish community. The issues raised in this case are of profound concern to PJA, which believes that capital punishment, and in particular the execution of persons with mental retardation, is antithetical to both our Jewish and American values.

6. The Religious Action Center. The Religious Action Center is the Washington office of the Union of American Hebrew Congregations ("UAHC") and the Central Conference of American Rabbis ("CCAR"), representing 1.5 million Reform Jews and 1,800 Reform rabbis in 900 congregations throughout North America. Since 1959, the CCAR and the UAHC have formally opposed the death penalty. In 1999, both bodies adopted resolutions calling for a moratorium on executions based on mounting evidence of injustices in the application of the death penalty, including execution of persons with mental retardation. The imposition of death sentences on mentally retarded individuals such as Mr. McCarver is one of the most

egregious aspects of the capital punishment system in the United States, and Reform Judaism condemns it.

7. Unitarian Universalist Association. The Unitarian Universalist Association is a religious association of more than 1,000 congregations in the United States, Canada and elsewhere. Through its democratic process, the Association adopts resolutions consistent with its fundamental principles and purposes. In particular, the Association has adopted numerous resolutions expressing its opposition to the death penalty. Most relevant to the case at bar is the Association's resolution specifically opposing the execution of persons who are mentally retarded. This resolution was adopted consistent with the Association's principles and purposes affirming the inherent worth and dignity of every person.

8. United States Catholic Conference. The United States Catholic Conference is a nonprofit corporation organized under the laws of the District of Columbia. Its members are the active Catholic Bishops of the United States. The Conference is a vehicle through which the Bishops speak cooperatively and collegially on matters affecting the Catholic Church, its people, and society in general. The Conference advocates and promotes the pastoral teaching of the Church on diverse issues, including the protection of human rights and the sanctity and dignity of human life.