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The Honorable Robert F. McDonnell
Governor of Virginia
1111 East Broad Street
Richmond, VA 23219

September 14, 2010

Dear Governor McDonnell:

The Arc of Virginia urges your office to commute the death sentence of Teresa Lewis, a woman whose IQ has been measured at 70 and 72 and who is scheduled to be executed by the Commonwealth on September 23, 2010, to a sentence of life without parole.

As you know, the Supreme Court decided in *Atkins v. Virginia* that executing a person with mental retardation is unconstitutional. Significant components of the mission of The Arc of Virginia include educating people about intellectual disabilities and protecting these people, their families and supporters from false or misunderstood perceptions that persist about people with this disability. Ms. Lewis's case calls us to task on each component.

First and foremost, the execution should not go forward without a comprehensive professional assessment of Ms. Lewis's intellectual functioning. As we understand it, forensic psychologists involved in the criminal case have commented regarding Ms. Lewis's capacity but no competent professional assessment of her intellectual functioning – including an investigation and evaluation of her adaptive functioning as well as intelligence testing - has been made. We urge you, in this case of life-or-death, not to make any determination of her eligibility for execution without first obtaining a thorough evaluation of her intellectual functioning made by a trained professional with extensive and current experience working with people with intellectual disabilities. Anything less, would ignore the efforts and expertise of persons who have spent their lives identifying and caring for people with disabilities and risk the carrying out of an improper execution.

We make this urgent and most serious request in light of specific concerns we see in the Lewis case. For example, in an all-too-common error, the court found one of Teresa's IQ scores, which falls within the 70-72 range, was “not at or below the level of [an intellectual disability].” This is, in fact, a indisputably false statement. It is directly refuted by the universally recognized definition of intellectual disability and by Virginia law codifying this definition.

“Mentally retarded” is defined by the Code of Virginia in § [19.2-264.3:1.1](#). (*Capital cases; determination of mental retardation*) as:

*"Mentally retarded" means a disability, originating before the age of 18 years, characterized concurrently by (i) **significantly subaverage intellectual functioning** as demonstrated by performance on a standardized measure of intellectual functioning administered in conformity with accepted professional practice, that is **at least two standard deviations** below the mean and (ii) significant limitations in adaptive behavior as expressed in all of the following: conceptual adaptive skills, social adaptive skills and practical adaptive skills.*

The American Association on Intellectual and Developmental Disabilities (AAIDD) developed the definition of mental retardation that is used by Virginia. As stated in the Code of Virginia, "significantly subaverage intellectual functioning" is defined as being two standard deviations below the mean. Using this definition, AAIDD identifies the upper boundary for mental retardation at IQ scores of approximately 70-75. This range also was expressly acknowledged in the *Atkins* decision.

Since Teresa's IQ score falls within this 70-75 range and no professional assessment was made using the Code of Virginia's definition of "mentally retarded", The Arc of Virginia joins several national and state organizations in urging you to exercise your power of clemency and commute her sentence to life in prison without parole. At a minimum, however, the execution should not go forward without a comprehensive professional assessment of Ms. Lewis's intellectual functioning.

We are grateful for your thorough consideration of this matter.

Sincerely,



Howard Cullum
President, The Arc of Virginia