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**GEORGIA SETS EXECUTION DATE DESPITE
UNANIMOUS FINDINGS OF MENTAL RETARDATION
AND PENDING SUPREME COURT REVIEW**

July 15 Execution Raises Critical Constitutional Issues

WASHINGTON, DC - Georgia has scheduled the execution of Warren Hill for July 15 despite unanimous agreement from state mental health experts that Hill is mentally retarded. In an extraordinary petition filed directly with the U.S. Supreme Court, Hill's attorneys have challenged the constitutionality of the execution, noting that the Court banned the execution of mentally retarded defendants in 2002. Georgia insists that Hill must prove his mental retardation beyond a reasonable doubt - the strictest standard in the country - and that his latest evidence from examiners has come too late.

"All experts who have evaluated Warren Hill agree: he is mentally retarded," said Brian Kammer, attorney for Warren Hill. "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 nation's highest court to intervene, and we trust and hope that the U.S. Supreme Court will hear his plea."

The High Court is scheduled to review Hill's petition on September 30.

In 2002, the U.S. Supreme Court held in *Atkins v. Virginia* that it is unconstitutional to execute defendants with mental retardation. However, legal questions surrounding this issue remain unresolved as the Court in *Atkins* left the definition and method of determining this intellectual disability up to the states. Georgia has the strictest requirement for determining whether a defendant has intellectual disabilities, but even under that standard, Hill's mental retardation has been proven.

Richard Dieter, Executive Director of the Death Penalty Information Center, said, "If Hill's attorneys could belatedly prove he was a juvenile, no one would question stopping his execution. Instead he has offered clear proof of his mental retardation, and the execution of that class is equally barred under the Constitution. No evidence is too late if it would prevent a grave injustice."

On May 23, attorneys for Hill filed a petition for a writ of habeas corpus with the U.S. Supreme Court based on new evidence showing agreement by every doctor who has examined Hill that he is mentally retarded. The petition 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 ... and now concludes that Mr. Hill is, in fact, mildly mentally retarded."

Two amicus briefs in support of Hill's petition were recently filed, including one from mental disability experts at the American Association on Intellectual and Developmental Disabilities (AAIDD). Margaret Nygren, the Executive Director of the AAIDD, and Eric Jacobsen, Executive Director of the Georgia Council on Developmental Disabilities, have also called for a halt to Hill's execution.

The second amicus brief was filed by law professors with expertise on habeas corpus, who wrote that Hill's is the exceptional and rare case "where relief is both appropriate and necessary to avoid a manifest injustice."

The family of Warren Hill's victim has expressed its opposition to Hill's execution, citing his intellectual disabilities as the primary reason. Additionally, several jurors from Hill's 1991 trial have stated under oath that they believe life without the possibility of parole is a more appropriate sentence for Hill, but it was not an option at the time of trial.

Georgia refuses to divulge the source of the drug or drugs it plans to use in Hill's lethal injection.

To speak with Warren Hill's attorney, Brian Kammer, please contact Laura Burstein at 202-626-6868 or laura.burstein@squiresanders.com

To speak with Richard Dieter about the broader implications of this case, please contact Elaine de Leon at 202-289-2275 or edeleon@deathpenaltyinfo.org.

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The Death Penalty Information Center (www.deathpenaltyinfo.org) is a non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment. DPIC was founded in 1990 and prepares in-depth reports, issues press releases, conducts briefings for the media, and serves as a resource to those working on this issue.