

November 17, 2006

The Honorable Michael F. Easley, Governor
State Capitol, 116 West Jones Street
Raleigh, N.C. 27603-8001

RE: Execution of Guy LeGrande

Dear Governor Easley:

The American Civil Liberties Union's Capital Punishment Project (CPP)¹, based in Durham, North Carolina, strongly urges you to grant clemency to Guy LeGrande because of his mental illness. The CPP recognizes that "[p]eople with significant mental disorder at the time of the offense may often be culpable enough to deserve conviction for murder, but they are never as culpable as the consummately evil killer envisioned by the Supreme Court's death penalty jurisprudence." Christopher Slobogin, Mental Disorder as an Exemption from the Death Penalty: The ABA-IRR Task Force Recommendations, 54 Cath. U. L. Rev. 1133, 1136-37 (2005). For this reason, among others, CPP strongly endorses the American Bar Association's recent call to ban imposition of the death penalty on individuals, such as Guy LeGrande, with serious mental illness.² LeGrande is scheduled to be executed by the State of North Carolina on December 1, 2006.

The facts from Guy LeGrande's trial tragically underscore the need to grant clemency in this case. LeGrande is psychotic and delusional, and was at the time of his crime and his trial. Despite this, LeGrande was permitted to fire his court-appointed attorneys and represent himself at trial. The judge appointed "standby counsel" who sat in the courtroom,

¹ The ACLU is a nationwide, nonprofit, nonpartisan organization with more than 500,000 members dedicated to the principles of liberty and equality embodied in the Constitution. The CPP, based in Durham, North Carolina, engages in public advocacy and litigation, including direct representation of capital defendants across the country.

² See Recommendations of the American Bar Association House of Delegates, August 7-8, 2006 ("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. A disorder manifested primarily by repeated criminal conduct or attributable solely to the acute effects of voluntary use of alcohol or other drugs does not, standing alone, constitute a mental disorder or disability for purposes of this provision.")

but were not allowed to do anything without LeGrande's permission, including presenting critical evidence of his mental illness.

Standby counsel filed a motion suggesting that LeGrande was severely mentally ill and not competent to represent himself, but the court refused to hear the evidence. The attorneys wanted, but were not allowed, to tell the court that LeGrande believed that he was receiving signals from Oprah Winfrey and Dan Rather over the television, that he suffered from delusions of grandeur and extreme mood swings, and that he believed he would receive a large monetary settlement after his acquittal. The judge asked LeGrande, who was wearing a "Superman" t-shirt, if he wanted him to disregard the motion; LeGrande's response was to tear the document in half. The judge allowed the trial to proceed.

At one point in the trial, the judge was moved to comment on LeGrande's increasing agitation and urged him to take time to calm himself. LeGrande's testimony and arguments culminated in incoherent ramblings. LeGrande told jurors to "kiss my natural black ass through the window of Heilig-Myers," and that "hell ain't deep enough for you people."

That jury's verdict of a death sentence after LeGrande's delusional and outrageous presentation is unsurprising. Even in cases where juries are presented with evidence of a defendant's mental illness from lay witnesses and qualified experts (which did not occur in this case), juries will sometimes punish defendants because of their mental illness rather than considering the mental illness as a mitigating factor.³ In this case, the worst possible scenario developed: the jury was exposed to symptoms of LeGrande's mental illness—his grandiose delusions, his outbursts—without any expert evidence to place his behavior in context. Indeed, another reason for clemency in this case is that the jury was not presented with critical mitigating evidence.

Guy LeGrande was, and remains, seriously mentally ill. If you are not convinced of this, the North Carolina Constitution, Article III, sec. 5, cl. 6 confers upon you power to grant a reprieve pending a mental health evaluation of Mr. LeGrande to determine his mental status. It also grants you the plenary power to commute his sentence of death. The ACLU Capital Punishment Project urges that you exercise that power and commute the death sentence of Guy LeGrande.

³ Christopher Slobogin, *id.*, at 1136-37 ("Juries and judges, like people generally, harbor hostile attitudes toward people with mental disability. Numerous studies document that capital sentencing juries tend to devalue evidence of significant mental disorder, often treating it as an aggravating circumstance rather than a mitigating one. And prosecutors routinely play to this bias.")

Sincerely,

Marshall Dayan