



For people with intellectual
and developmental disabilities

November 23, 2020

President Donald J. Trump
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

RE: Executive Clemency for Corey Johnson

Dear Mr. President:

We write on behalf of The Arc of the United States (“The Arc”) and other national disability advocacy organizations to urge you to commute the death sentences of Corey Johnson to life without the possibility of parole. The Arc is a national non-profit organization which, for nearly 70 years, has sought to promote and protect the civil and human rights of individuals with intellectual and developmental disabilities through the work of its national office and over 600 state and local chapters throughout the country.

Mr. Johnson’s personal and legal history is replete with evidence indicating an intellectual disability diagnosis, which brings him under the protection of the United States Supreme Court’s decisions in *Atkins v. Virginia*, 536 U.S. 304 (2002), *Hall v. Florida*, 134 S. Ct. 1986 (2014), and *Moore v. Texas*, 137 S. Ct. 1039 (2017). In *Atkins v. Virginia* (2002), the U.S. Supreme Court recognized the special risk of wrongful execution faced by persons with intellectual disability and banned their execution as cruel and unusual punishment under the Eighth Amendment. Since the Georgia Supreme Court last reviewed its death penalty statute in 2011, the U.S. Supreme Court mandated that states cannot ignore clinical science or impose procedures that create an “unacceptable level of risk” that people with intellectual disability will be executed. In *Hall v. Florida* (2014), the Court rejected an arbitrary cutoff for IQ scores in making the intellectual disability determination and emphasized the importance of courts consulting clinical standards in their analysis. The Court’s decisions in *Moore v. Texas* (2017, 2019) strengthened this precedent by emphasizing the need to rely on well-established clinical standards—rather than stereotypes—in making intellectual disability determinations in death penalty cases.

According to three nationally renowned psychologists, each with extensive experience in the evaluation of intellectual disability, it is clear that Mr. Johnson has met the three prongs of an intellectual disability diagnosis: (1) significantly impaired intellectual functioning; (2) adaptive behavior deficits in conceptual, social, and practical adaptive skills; and (3) origination of the disability before the age of 18. These forensic experts agree that Mr. Johnson’s IQ has consistently fallen below the threshold for an intellectual disability diagnosis, based on four different IQ assessments across Mr. Johnson’s lifespan. It is also clear that Mr. Johnson has

significant limitations in his adaptive functioning, which includes social, practical, and conceptual skills. Significant impairment in only one of these areas is sufficient to confer an intellectual disability diagnosis, and Mr. Johnson exhibits significant challenges in all three areas. Throughout his schooling, Mr. Johnson failed several grades and, to this day, Mr. Johnson has failed to complete his GED program in prison, despite his best efforts to do so for many years. Mr. Johnson's disability also impacts his decision-making and his ability to socialize with others, making him vulnerable to peer pressure. He has experienced challenges living alone, performing simple tasks involving money, and traveling independently.

Mr. Johnson also experienced significant trauma in his childhood that impacted his development. Mr. Johnson cycled between a home marred by domestic violence, drug addiction, numerous schools, and residential institutions during his early life and through high school. Mr. Johnson also suffered constant emotional and physical abuse at the hands of his mother and several of her boyfriends. At the age of 13, Mr. Johnson entered the foster care system and a number of residential placements.

The series of lawyers who represented Mr. Johnson throughout his trial and attempts at post-conviction relief did not conduct a thorough investigation of various avenues of mitigating evidence and did not locate critical information concerning Mr. Johnson's intellectual disability. The evidence of Mr. Johnson's intellectual disability as affirmed by three experts means that Mr. Johnson's death sentences violate current prohibitions against cruel and unusual punishment as set forth in the U.S. Supreme Court decisions in *Atkins*, *Hall*, and *Moore*. He should be facing life without parole, not the death penalty. Failure to consider this evidence risks a significant miscarriage of justice.

We have deep sympathy for the family and friends of the victims in this case, and we support appropriate punishment of all responsible parties. We do not seek to eliminate punishment of Mr. Johnson or others with disabilities but, rather, to ensure that justice is served and the rights of all parties are protected. We are committed to seeking lawful outcomes for people with intellectual disability and will continue working to ensure that the U.S. Supreme Court rulings on this issue are abided by in jurisdictions across the country. We humbly ask that you consider commutation to address the miscarriage of justice in the case of Corey Johnson.

Most respectfully,

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