

AAMR F.Y.I. asked members of the disability community to comment on the *Atkins v. Virginia* decision of the U.S. Supreme Court

"Imposing the death penalty on people who do not fully understand the crimes they may have committed or their consequences is unconstitutional and cruel. We applaud the Supreme Court's recognition of this principle in banning the death penalty for people with mental retardation. NMHA seeks further examination of the death penalty, however, as we believe that individuals with mental illness are being executed without the criminal justice system knowing of that illness, and, therefore, without having considered whether that mental illness may be a mitigating factor. NMHA has thus called for suspension of the death penalty until more just, accurate, and systematic ways of determining a defendant's mental status are developed. NMHA also considers the execution of people for crimes they committed as children to be unjust and inhumane."

Michael Faenza, president and CEO of the National Mental Health Association

The Bazelon Center applauds the Supreme Court's decision in *Atkins v. Virginia*. Mental retardation and mental illness can have a profound effect both on an individual's ability to determine right from wrong and on the person's ability to defend himself or herself in court. People with mental impairments may unwittingly confess to crimes they did not commit or be unable to give their counsel meaningful assistance. Ignoring these factors is a gross injustice.

The Bazelon Center, Washington, DC

"The Supreme Court's decision this term in *Atkins v. Virginia* represents a watershed moment in the history of death penalty litigation and in the movement to extend the rights of people with mental disabilities. To many, the case looks like an interesting example of the Supreme Court--and an extremely conservative court at that---reconsidering a relatively recent precedent (the *Penry* case). But the result is more accurately seen as the product of a great deal of intensive, purposeful advocacy on the part of AAMR leaders such as Jim Ellis and others who have worked tirelessly to explain to state legislators and executives why banning executions of defendants with mental retardation not only does not entail being soft on crime but is an appropriate response to the cognitive limitations that necessarily affect all people with mental retardation. Moreover, the result can be seen as in part a response to the growing innocence movement in this country. Recent high-profile examples of innocent death-row defendants, including some with mental retardation, exonerated by DNA tests, has reinforced the long-held view that defendants sometimes confess to crimes, or are otherwise implicated in them, even though they are innocent. The combination of societal rethinking of the death penalty, at least in some kinds of cases, with the realization that moral distinctions in blameworthiness are not only possible but inevitable, has made the Supreme Court's decision possible. Much work remains to be done at the state level concerning issues such as defining mental retardation and clarifying the role of judge and jury in making that determination, but the Court's decision is one to be celebrated."

*Robert Dinerstein, Associate Dean and Professor of Law, Washington College of Law,
American University*