

**EMERGENCY RESOLUTION IN OPPOSITION TO THE SCHEDULED EXECUTION  
OF JOHN FERGUSON, A MENTALLY ILL FLORIDA DEATH ROW INMATE**

WHEREAS the Governor of Florida, Rick Scott, has signed a death warrant for John Errol Ferguson, a 64-year-old African American man who has spent the last 34 years on death row;

WHEREAS Mr. Ferguson has a long-standing and well-documented history of severe mental illness, having been diagnosed with paranoid schizophrenia and found not guilty by reason of insanity in the mid-1970's;

WHEREAS Mr. Ferguson was thereafter institutionalized for his mental illness but was then inexplicably released by the State of Florida without medication or supervision;

WHEREAS Mr. Ferguson was then tried, convicted and sentenced to death in 1978 for crimes he was found to have committed after being released from a mental institution without medication or supervision;

WHEREAS Mr. Ferguson has, for most of the time he has been institutionalized, been medicated by the State of Florida with anti-psychotic medications in apparent recognition of his mental illness;

WHEREAS in the mid-1990's, State officials decided to take Mr. Ferguson off of his anti-psychotic medications in the mistaken belief that he was "malingering" or feigning mental illness;

WHEREAS Mr. Ferguson quickly decompensated into a catatonic state, was unable to move, speak, or eat, and had to be fed through an intravenous tube in his arm;

WHEREAS Mr. Ferguson was then transferred to Chattahoochee State Hospital, a state mental hospital in Chattahoochee, Florida, and put back on anti-psychotic medication by a different team of physicians;

WHEREAS his condition improved to the point that with medication, he was again able to speak, move and eat;

WHEREAS, even under the best of circumstances, with or without anti-psychotic medication, medical records document that Mr. Ferguson is nevertheless extremely paranoid, emotionally disturbed, and suffers from hallucinations;

WHEREAS there can be no doubt that Mr. Ferguson is not feigning mental illness but is, in fact, mentally ill and not competent to be executed;

WHEREAS the Supreme Court ruled, in a decision authored by Justice Thurgood Marshall (a member of this esteemed organization when he was an attorney) in *Ford v.*

*Wainwright*, 477 U.S. 399, 417 (1986), that the Eighth Amendment prohibits the death penalty in cases where the defendant is insane and that it is “abhorrent” to “exact in penance the life of one whose mental illness prevents him from comprehending the reasons for the penalty or its implications;”

WHEREAS the Supreme Court reaffirmed in *Panetti v. Quarterman*, 551 U.S. 930, 934 (2007), that society must “seriously question the retributive value of executing a person who has no comprehension of why he has been singled out and stripped of his fundamental right to life;”

WHEREAS the Supreme Court also clarified in *Panetti* that it would be “error” to apply “a strict test for competency that treats delusional beliefs as irrelevant” where the prisoner is aware that the State seeks his execution;

WHEREAS it would similarly be cruel and unusual punishment to execute Mr. Ferguson after he has spent 34 years of his life on death row;

WHEREAS the number of African American men on death row and in the general prison population in the United States is disproportionately high when compared to percentage of the population, due to the institutionalized racism and vestiges of slavery that continue to pervade the criminal justice system in this country; and

WHEREAS the criminal justice system, by failing to address the mental health needs of persons with psychiatric disabilities, fails society as a whole, including the victims of crime;

THEREFORE BE IT RESOLVED THAT THE NATIONAL LAWYERS GUILD, MEETING AT ITS OCTOBER 2012 CONVENTION IN PASADENA, CALIFORNIA, condemns in the strongest terms the scheduled execution of John Errol Ferguson, a severely mentally ill African American man who has spent the last 34 years on death row, on the ground that it would be cruel and unusual punishment under the Eighth Amendment to the United States Constitution and would also violate international conventions on human rights to which the United States is a party, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and urges officials in the State of Florida to stop the scheduled execution and commute Mr. Ferguson’s death sentences to life imprisonment.

IMPLEMENTATION: This resolution, upon adoption by this body, will be presented to the Governor of Florida and Board of Executive Clemency by the National Office of the National Lawyers Guild, urging them to stop the impending execution, and publicized by the National Office .

SUBMITTED BY: Anne O’Berry, Southern Regional Vice President, NLG; and Aaron Frishberg and Alan Timothy Lunceford, on behalf of the Disability Rights Committee, NLG.