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The Honorable Asa Hutchinson  
Governor of Arkansas  
State Capitol Room 250  
500 Woodlane Street  
Little Rock, AR 72201

Dear Governor Hutchinson:

I write on behalf of the American Bar Association regarding the case of death-row inmate Jack Greene, whose petition for executive clemency is now before your Office. His execution is currently scheduled for November 9, despite his long history of severe mental illness and the fact that his current mental state suggests he may not have a rational understanding of why he is being put to death. While the ABA does not take a position for or against the death penalty per se, nor is Mr. Greene's guilt in the tragic murder of Sidney Burnett in dispute, the ABA has significant concerns about whether the death penalty is the appropriate punishment in his case in light of his severe mental illness.

The ABA has a long-standing interest in promoting a fair and accurate criminal justice system. For this reason, we opposed the execution of juveniles and people with intellectual disabilities for many years before the U.S. Supreme Court ruled that the death penalty was unconstitutional as applied to those groups. Based on the same principles, the ABA also opposes the execution of individuals with severe mental illness present either at the time of their crime or at the time of their execution. See [ABA Mental Illness Resolution, 122-A, 2006, Paragraph 1](#).

The ABA has determined that a sentence of death should not be imposed "if the prisoner has a mental disorder or disability that significantly impairs his or her capacity ... to understand the nature and purpose of the punishment, or to appreciate the reason for its imposition in the prisoner's own case." See [ABA Mental Illness Resolution, 122-A, 2006, Paragraph 3](#). We noted that, if the primary purpose of a competence-to-be-executed requirement is to vindicate the retributive aim of punishment, then offenders should have more than a shallow understanding of why they are receiving the death penalty. A year after the ABA Resolution was adopted, the U.S. Supreme Court echoed these principles in *Panetti v. Quarterman*, 551 U.S. 930 (2007), holding that determining incompetence to be executed requires an analysis of whether the inmate has a rational understanding of the government's reason for executing him, noting, "[a] prisoner's awareness of the State's rationale for an execution is not the same as a rational understanding of it."

There is ample evidence both that Mr. Greene was mentally ill at the time he committed his crime and that his mental state has deteriorated such that he is currently incompetent to be executed. Extensive records show that Mr. Greene began exhibiting symptoms of mental illness over a decade before the crime for which he is on death row. He was involuntarily

committed to a psychiatric hospital as early as 1985, nine years before the crime. Mr. Greene's delusions continued after he was sentenced to death in 1992 and are still present – indeed, they have worsened since then. In 2017 and 2011, he was examined by a psychiatrist, Dr. Woods, who diagnosed him with a psychotic disorder. A second neuropsychologist, Dr. Dale Watson, who examined Mr. Greene in 2009, made the same clinical diagnosis. And another psychologist, Dr. Garrett Andrews, diagnosed Mr. Greene with Delusional Disorder after evaluating him earlier this month. Evidence in his medical and legal records shows that Mr. Greene's delusions are characterized by a belief that he is the victim of a conspiracy and that he is presently being physically injured despite the absence of injuries other than those he causes himself. Notes by the Arkansas Department of Correction medical staff have captured Mr. Greene's bizarre appearance and delusions. He frequently contorts himself, stuffs paper into his nose and ears until bloody (which can even be seen in his official prison photos), and eats out of his sink to minimize the pain he believes he suffers.

Additionally, there is evidence that his mental health and psychotic symptoms have steadily worsened while on death row. In his 2017 evaluation, Dr. Woods found that Mr. Greene's mental state had "significantly deteriorated" since his first examination six years prior. The medical report noted that "Mr. Greene does not comprehend that his execution will be imposed as the final judgment of a court of law for the killing of Sidney Burnett. Instead, because of his psychotic disorder, Mr. Greene understands his execution to be yet another step in an all-encompassing scheme to physically harm him." Likewise, Dr. Andrews says: "Because Mr. Greene has incorporated his execution into his persecutory and somatic delusions, he does not have a rational understanding of his execution." This all strongly suggests that Mr. Greene may not meet the requirements of *Panetti* and that the ultimate retributive purpose of the death penalty would not be achieved by carrying out an execution in this case.

We understand that the Arkansas constitution grants you broad authority in reviewing petitions for clemency. (*See* Ark. Const. art. VI, § 18.) We know that it is a duty that you take seriously, and it is particularly important that cases involving a person with profound mental disabilities receive your close and careful review prior to carrying out the ultimate punishment.

We therefore urge you to give full consideration to Mr. Greene's long history of severe mental illness, how his psychotic disorder impacts his understanding of his execution, and whether the use of the death penalty in this case will effectively further the goal of fair and proportional justice in Arkansas. If you would like more information about the complex issue of severe mental illness and the death penalty as you consider this case, we have a variety of resources available at <http://www.ambar.org/smiexemption> that may be helpful.

Sincerely,



Hilarie Bass