

CAPITAL DEFENDANTS WITH INTELLECTUAL DISABILITY: Available Assistance to Capital Defenders from The National Center on Criminal Justice and Disability

In *Atkins v. Virginia*, 536 U.S. 304 (2002) and *Hall v. Florida*, 134 S. Ct. 1986 (2014), the U.S. Supreme Court clearly prohibited the execution of individuals with intellectual disability (“ID”), stating that such a practice would violate the Eighth and Fourteenth Amendments to the U.S. Constitution. People with ID are vulnerable at every stage of the criminal justice system, though the stakes are never higher than in capital cases. Whether preparing for trial or filing a final appeal, attorneys must be sure to consider the unique challenges faced by defendants with ID. If you believe that your client may have ID, make sure to consult with experts in the field to determine next steps—and consider contacting The Arc for assistance as early as possible in the process.



MORE INFORMATION

The Arc’s [Position Statement on People with ID in the Criminal Justice System](#)

The website for The Arc’s [National Center on Criminal Justice and Disability](#)

For inquiries, contact **Shira Wakschlag**, *Director, Legal Advocacy & Associate General Counsel* at wakschlag@thearc.org, and make sure to include:

- ▶ A document that briefly summarizes the facts and procedural history of the case and clarifies where it currently stands; the errors/legal claims related to the client’s diagnosis of ID according to each of the three factors (IQ below 75, significant limitations in adaptive behaviors, and onset of disability prior to age 18); and the bases of the Government’s opposition to the relevant issues (ideally, no more than 2-3 pages).
- ▶ A specific request detailing precisely the assistance you are seeking from The Arc; and
- ▶ All of the relevant deadlines at play.

How Can The National Center on Criminal Justice and Disability Help You?

The Arc has a long history of assisting attorneys representing clients with ID in capital cases and of engaging our national network of nearly 700 state and local chapters in this process. Examples of work The Arc has done and continues to do in this area are as follows:

- ▶ Drafting and submitting clemency letters
- ▶ Drafting and/or signing on to amicus briefs
- ▶ Participating in media campaigns and/or submitting editorials
- ▶ Providing access to the National Center on Criminal Justice and Disability’s Expert Witness Database
- ▶ Connecting attorneys with our local and state chapters where your case is being tried



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