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Senate Judiciary Committee  
Senator Mark E. Amodei, Chairperson  
Nevada Senate  
Carson City, Nevada

**TESTIMONY IN SUPPORT OF AMENDED AB 15:  
PROHIBITING A SENTENCE OF DEATH FOR A PERSON  
WHO IS MENTALLY RETARDED**

Chairman Amodei and members of the Senate Judiciary, good morning. For the record, my name is John Emerson and I reside in Sparks, Nevada. I am a retired, but still very active, United Methodist minister of 47 years; and I am a member of the board of directors of the Religious Alliance in Nevada ("RAIN") - a consortium of five mainline Christian denominations (Roman Catholic, Episcopal, Evangelical Lutheran, United Presbyterian, and United Methodist) with a combined constituency in Nevada of a half a million church members. We advocate on behalf of social justice issues where we find common agreement in official statements of our respective national bodies. In that regard, I am here to place on the record our support of Assembly Bill 15 as amended on March 27, 2003.

I am testifying for certain restraints on capital punishment before this honorable body at an interesting juncture in my advocacy that began when Paul Laxalt resided in the Governor's Mansion, Woodrow Wilson was Nevada's first black assemblyman, Lawrence Jacobson, Harry Reid, and Richard Bryan began their distinguished legislative careers, <sup>SEN. HELEN HERR AND</sup> Senator Warren "Snowy" Monroe <sup>WERE</sup> among your predecessors as was a good mentor, Cliff Young, who taught me important lessons about being a "people lobbyist," to use his phrase. Over the intervening 36 years I have observed a movement toward what I consider more humane legislation regarding capital punishment.

Even as RAIN calls upon you to recommend passage of AB 15 in the Senate, we of the religious community have **grave concerns about violent crimes, their victims and surviving loved ones** - a blight upon our society that cries out for more thought and resources for preventive measures. However, **we cannot accept retribution or social vengeance as a reason for taking human life**, especially the life of mentally incompetent persons incapable of understanding the nature and seriousness of their

crime or the consequences of their actions, thus making moot the concept of deterrence which the U.S. Supreme Court itself questioned in a broader application in the case of *Gregg vs. Georgia* (1976).

As you know, there is a growing national awareness of the fact that **the death penalty falls unfairly and unequally, and therefore unjustly, upon marginalized people in our society**, including those with mental retardation and brain damage due to head injuries at an early age. Pursuant to such an understanding the U. S. Supreme Court has declared that it is unconstitutional to execute mentally retarded persons. If enacted into law, AB 15 would place our great state of Nevada in compliance with that ruling.

RAIN believes that the **provisions in AB 15 contain ample due process safeguards** by which it may be determined that a defendant is or is not mentally retarded. The language of Section 1, number 5 (b), on page 2 is very clear: "*The defendant has the burden of proving by a preponderance of the evidence that he [or she] is mentally retarded.*"

Finally, we of the religious communities represented by RAIN, who have an awesome responsibility to espouse and nurture the highest virtues of human character and civility, must raise this question: what value do you (and all of us) want to embrace as **the highest value** with respect to mentally retarded persons who commit a capital crime - **revenge or mercy**? Do we want the Commonwealth of Nevada to model the acceptance of revenge or do we want our judicial system to teach its citizens that the highest good is to temper justice not with pardon but with mercy?

Talking about legislators, Mark Twain quipped, "*Fleas can be taught nearly anything that a Congressman can.*" But fleas surely cannot be taught statesmanship that courageously takes a stand for what is right. AB 15 is right for our time in history. Please do what is right and vote in favor of this legislation. Thank you for giving me this opportunity to speak and for your courtesy in listening.

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