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For Immediate Release

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Disability rights organization asks DA to release man with mental retardation

Man Has IQ of 50

Raleigh, NC - Carolina Legal Assistance, a disability rights center (CLA), asked the Anson County District Attorney Michael Parker to dismiss the charges against Floyd Brown, the man with mental retardation who has been held at Dorothea Dix Hospital for 14 years without a trial. Brown has an IQ of 50. Within a month of his arrest he was found by state doctors to lack the mental capacity to participate in his trial.

Carolina Legal Assistance, a non-profit disability law project, is North Carolina's Protection and Advocacy organization (P&A). Under federal law, every state has a P&A, a federally mandated system with the authority under federal law to protect and advocate for the human and legal rights of individuals with mental illness and developmental or other disabilities.¹ On September 7, 2007, Carolina Legal Assistance wrote to Anson County District Attorney Michael Parker, who has so far refused to dismiss the charge against Brown, requesting that he change his position concerning the prosecution of Brown. CLA is also submitting an amicus brief with the Durham County Superior Court in support of Brown's application for a writ of habeas corpus.

Within a month of his arrest, Brown was found by state doctors to lack the mental capacity to participate in his trial. Brown has an IQ in the low 50's. Brown's mental retardation is significant and his special needs have been recognized all his life. While in school, he was placed in a special needs class. In 1981 he was in a Trainable Mentally Handicapped high school class. In this class students worked on self-help skills such as how to read simple words like "boy," count money, write their name, and tell time. After school, Brown worked in a vocational rehabilitation setting for individuals with retardation. Today he cannot tell time or the day of the week. His cognitive ability is seriously limited and he has little appreciation of the complexities of the world in which he lives. Brown spends his time at Dix working on the grounds and looking forward to

1. See Protection and Advocacy for Individuals with Mental Illness Act ("PAIMI Act"), 42 U.S.C. § 10801 *et seq.*; Developmental Disabilities Assistance Bill of Rights Act ("DD Act"), 42 U.S.C. § 15001, *et seq.*; and Protection and Advocacy of Individual Rights Program ("PAIR"), 29 U.S.C. § 794e, *et seq.*; and all of the accompanying regulations.

visits from his family. His behavior has been described in competency reports as “essentially exemplary,” doing well in his activities at Dix Campus, such as vocational work in the laundry, therapeutic recreation and occupational therapy.

There are serious questions about the strength of the evidence against Brown including:

- Critical physical evidence is “missing” from the Anson County Sheriff’s Department;
- Two of the investigators have since been convicted of federal racketeering charges related to their work in law enforcement;
- State forensic experts have determined that Brown could not have given the “confession;” and
- The physical evidence that has been tested shows no links to Brown.

In essence, Brown has been confined for 14 years because he is mentally retarded. Brown is not like people who have mental illness who may become competent with treatment. Until Parker dismisses the charges with prejudice, Brown will remain confined in a state psychiatric hospital. Brown’s attorneys report that a group home is ready to accept Brown if the charges are dismissed.

“Mr. Brown has fallen through the cracks. He is not going to become competent to stand trial. He is a person with mental retardation and that is not going to change,” said Greg McGrew, Board Chairman of Carolina Legal Assistance. In his letter, McGrew urged Parker to dismiss the charge and “send a message to the disability advocacy community that you have an understanding of mental retardation and compassion for our most vulnerable citizens.”

Carolina Legal Assistance has a staff of 31, with a central office in Raleigh and an office in Morganton that serves the western part of the state. For further information, contact Carolina Legal Assistance Legal Director John Rittelmeyer at 919 856-2195.