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September 20, 2010

Via Email

Honorable Robert F. McDonnell
Office of the Governor
Commonwealth of Virginia
Richmond, Virginia

Re: **Petition for Executive Clemency On Behalf of Teresa Lewis**

Dear Governor McDonnell:

On behalf of my client, Teresa Lewis, I am asking that you reconsider your decision to deny her Petition for Executive Clemency.

Respectfully, the decision you announced on September 17, 2010 does not address any of the compelling reasons for clemency that have been advanced, including the significant *new evidence* that none of the courts have previously considered. Teresa's new evidence, which procedural rules prevented her from presenting to any court, is exactly the kind of information a governor should consider in deciding whether to grant clemency *in spite of* the decisions of the procedurally-bound courts.

For example, your statement ignores the repeated admissions of Shallenberger – both before and after he was sentenced – that HE was the mastermind, that he saw Teresa as an easy target, that he was only using her to get to the money, and that he engaged in the conduct that he did to dupe her into believing he loved her so that he could achieve his own selfish goals.

These facts are critical to determining the “hierarchy of culpability” that the trial court asserted as *the only basis* for the gross disparity in the sentences of Teresa, who is on the verge of execution, and the triggermen, who received life. If she was not the mastermind – and it is now clear she was not – it is grossly unfair to impose the death sentence on her while Shallenberger and Fuller received life.

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Your statement also completely ignores the fact that every other individual with direct knowledge of the Shallenberger–Lewis relationship in October 2002 (none of whom have anything to gain from their statements) confirm that Shallenberger was controlling and using Teresa, *not* the other way around.

As noted, much of the above is *new evidence*, never considered by the courts. You are the first public official to be in a position to consider this evidence for purposes of making a decision. Regrettably, you addressed none of this new evidence in your statement of reasons, nor did you explain how allowing the execution to go forward in light of these new facts is justifiable. Instead, you seemed to suggest that because many courts have reviewed the legal issues, there is no compelling reason for reducing Teresa’s punishment to life without parole. That cannot possibly be a reasonable test for clemency, particularly in a case like this, where the courts’ decisions addressed different, narrower legal issues on the basis of a clearly different and far less complete factual record than has been presented to you.

Equally important, you stated that no medical professional has determined that Teresa is mentally retarded. That may be, but that fact does not address the very serious issue of the impact of Teresa’s borderline intellectual functioning, her dependent personality disorder or her prescription drug addiction on her level of culpability. Indeed, I doubt seriously that any competent medical professional would conclude that a woman with borderline intellectual functioning could control, direct and “mastermind” the actions of someone like Shallenberger, whose IQ was *forty points higher* than Teresa’s. All of those compelling facts demonstrate that she lacked the ability to mastermind the killings.

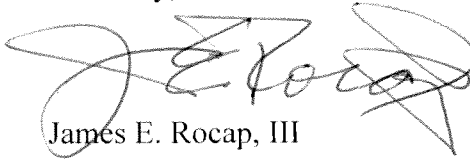
Finally, you stated that Teresa admitted her participation in the crime. That is correct, but it does not elevate her culpability above that of the two triggermen, both of whom received life sentences. Indeed, if anything, Teresa’s early cooperation with the police that led to the identification of the triggermen supports *less severe* treatment for her, not more.

Both opponents and proponents of the death penalty agree that, if it is to be reserved for anyone at all, the death penalty must be reserved for the “worst of the worst.” Your decision abandons that widely accepted principle. Teresa is not even arguably close to the “worst of the worst.” If not reversed, your decision will result not only in the death of a good and decent human being, it will undermine any claim that the death penalty is fairly, consistently and evenly applied. Indeed, the thousands of persons who have signed in support of the Petition, as well as the many organizations and prominent citizens who have urged you to grant clemency, are at a loss for why you believe Teresa should be treated more harshly than the triggermen, much less as someone among the “worst of the worst.” The disparity of treatment in this case cries out for reversal of your decision.

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For Teresa's sake, and for the sake of the fair administration of justice, I ask that you reconsider your decision, and commute Teresa's sentence from death to life without parole.

Sincerely,



James E. Roca, III