

July 6, 2020

Governor Ralph Northam
P.O. Box 1475
Richmond, VA 23218

The Hon. Kelly Thomasson
Secretary of the Commonwealth
1111 East Broad Street, 4th Floor Richmond, Virginia 23219

Sent via email

Re: Request for Complete Pardon and Other Relief for Reginald Latson

Dear Governor Northam and Secretary Thomasson:

We are writing as a coalition of nearly 50 Virginia and national disability and racial justice organizations and Virginia legislators to request that you grant a full pardon to Reginald “Neli” Latson, a young Black man with intellectual disability and autism who has suffered and continues to suffer greatly due to actions of the Commonwealth that have transpired over the last decade. Many of the groups listed here have been involved in advocating for Mr. Latson since his initial tragic encounter with law enforcement in 2010. As Ruth Marcus wrote in the *Washington Post* in 2014: “Latson’s case is an individual tragedy that cries out for remedy...It is also sadly representative of a criminal justice system poorly equipped to deal with issues of mental illness and developmental disability.”¹ At this critical turning point in history, we call on the Commonwealth to hold itself morally responsible and accountable in the case of Mr. Latson and the continuing injustice of his prosecution and horrifying mistreatment in the criminal justice system. Specifically, we demand that the Commonwealth: (1) provide Mr. Latson a full pardon; (2) commit to providing ongoing disability supports to Mr. Latson in Florida; and (3) apologize to Mr. Latson and his family.

As our country faces a critical reckoning with the systemic racism and racial injustice that have plagued our society and systems for generations, we are seeking long overdue legal and moral justice for Mr. Latson, who has suffered irreparable harm. Sadly, Mr. Latson’s case represents the discrimination people with intellectual and developmental disabilities (I/DD) experience in the criminal justice system and how that discrimination is compounded for Black people with I/DD.

Mr. Latson’s Story

On May 24, 2010, Mr. Latson was an 18-year old high school student waiting for his neighborhood library to open. Despite being unarmed and having committed no offense, a police officer confronted Mr. Latson, patted him down, and arrested and restrained him when he

¹Ruth Marcus, “In Virginia, a cruel and unusual punishment for autism,” *Washington Post*, November 14, 2014, available at: https://www.washingtonpost.com/opinions/ruth-marcus-in-virginia-a-cruel-and-unusual-punishment-for-autism/2014/11/14/9d7f6108-6c3b-11e4-b053-65cea7903f2e_story.html

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refused to give the officer his name. Mr. Latson responded with a “fight or flight” reaction—a common response for people with Mr. Latson’s disabilities—that resulted in injuries to the officer and criminal charges against Mr. Latson. Mr. Latson was then charged with felony assault on a law enforcement officer and sentenced to over ten years in prison. The prosecutor in Mr. Latson’s case outrageously dismissed claims that Mr. Latson’s charged offenses were manifestations of his disabilities as a mere “convenience” for Mr. Latson.

Tragically, Mr. Latson endured prolonged trauma while incarcerated. Some correctional staff did not believe that Mr. Latson had disabilities and refused to provide him with necessary accommodations. He lost weight and experienced mental health issues, including paranoia, hallucinations, and psychosis in solitary confinement. He was sent to the Rappahannock Regional Jail in Stafford County, despite the judge’s sentencing order recommending he not be placed there since it was an inappropriate setting for someone with Mr. Latson’s disabilities. At the jail, in response to a minor disciplinary incident, he was shocked with a Taser and strapped in a restraint chair for nine hours. He was forced to spend days in a small cell with no sink or toilet. As a result of continued advocacy, Mr. Latson was moved to Marion Correctional Treatment Center intended for individuals with mental health issues who are convicted of crimes. This placement was no better for Mr. Latson: of 243 days at the facility, he spent 182 in solitary confinement for up to 24 hours per day because of minor behavioral incidents that were manifestations of his disabilities. Virginia’s Department of Behavioral Health and Disability Services (DBHDS) offered to assist the prison to develop appropriate supports for Mr. Latson, but this offer was inexplicably refused. Mr. Latson’s incarceration and placement in solitary confinement were particularly shameful given the commitments Virginia had recently made in a 2012 settlement agreement with the U.S. Department of Justice to provide community services—including crisis response services and training for law enforcement—to prevent the unnecessary institutionalization of Virginians with I/DD, including in jails and prisons. Not only was Mr. Latson unjustly institutionalized for the crime of being Black and disabled; he was placed in solitary confinement, the most restrictive and isolating form of institutionalization, for most of his time incarcerated.

The trauma Mr. Latson endured during his incarceration was tremendous and is lasting. A psychologist who examined Mr. Latson following his release from prison noted that the “repeated and sustained trauma he experienced in Rappahannock and Marion utterly derailed his life” and that he “continues to struggle with horrific memories of trauma, experiences overwhelming anxiety when stressed, and is often depressed, stating feelings of hopelessness and despair.”

In 2014, many of the undersigned groups mobilized to advocate for Mr. Latson, demanding that Governor McAuliffe grant him a pardon. In January 2015, Governor McAuliffe granted a conditional pardon, requiring that Mr. Latson remain in a secure treatment facility in Florida until the staff determined that it was appropriate for him to move to a less restrictive setting. The conditional pardon also provides that Mr. Latson is subject to arrest and incarceration should he fail to comply with any of the conditions of the pardon over a ten-year period.

Following the conditional pardon, Mr. Latson was transferred to Carlton Palms in Florida, a secure residential facility for individuals with disabilities. Based on good behavior, he was able to move to less restrictive housing on site and, in 2017, staff agreed he was ready to move to an off-site group home with supports and regular monitoring and supervision, including from the criminal justice system. Though Mr. Latson is now living in a small group setting, he continues to feel the burden of his conditional pardon restrictions which limit what he can do and cause him anxiety that he could be sent back to prison at any time. His life is organized around the needs of a group, not his needs as an individual, and he does not receive the individualized education or vocational training that would prepare him for greater independence. Mr. Latson may not leave the residence without staff and is closely monitored at all times. The conditional pardon also means that Mr. Latson receives regular visits from a Florida probation officer, causing him anxiety and making him feel like a criminal.

Our Demands of the Commonwealth

The restrictions imposed by the conditional pardon cause Mr. Latson ongoing harm. He lacks autonomy and has expressed that he feels like he is still incarcerated, without control over his life. Though Mr. Latson can never regain the years he spent incarcerated or under probation and will have lifelong trauma as a result, there are things the Commonwealth can do to begin to rectify the harms it has caused to Mr. Latson and his family. As a coalition of state and national disability rights and racial justice groups, we demand that the Commonwealth do the following:

1. **Provide Mr. Latson with a full, unconditional pardon.** Mr. Latson has served over five years under the restrictions of a conditional pardon which limit his freedom and cause him constant anxiety. It is time to relieve Mr. Latson and his family of this burden and allow him to move on with his life as a free man. Mr. Latson should never have been charged or incarcerated, let alone been forced to endure the tremendous trauma he experienced over the past decade. Granting a full pardon will allow Mr. Latson to begin the healing process and attempt to rebuild and move on with his life.
2. **Commit to providing ongoing disability supports in Florida:** Virginia's Department of Behavioral Health & Developmental Services (DBHDS) and Department of Medical Assistance Services (DMAS) sent Mr. Latson to a treatment program in Florida as part of his conditional pardon. His family moved to Florida to be with him. To ensure that Mr. Latson's services are not disrupted, we call on Governor Northam to explicitly convey to DBHDS and DMAS that they must continue to fund the supports to which he is entitled in Florida (where his family now lives) rather than requiring return to Virginia to receive services or forcing him to seek services in Florida. Such services are crucial to his future success and ability to thrive as an autonomous and independent adult.
3. **Apologize to Mr. Latson and his family:** Mr. Latson should not even be in the position to request a pardon and certainly should never have endured the decade of harm that he has experienced. He was a Black man with a disability sitting outside a library. There was no reason for him to be stopped and frisked in the first place nor to be prosecuted or

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endure the harms of incarceration which continue to the present day. Because of the qualified immunity doctrine, the courts will not provide a full remedy for what happened to him in jail and prison. Mr. Latson is currently left without so much as an apology for a decade of mistreatment. It is critical to Mr. Latson and his family's healing process to receive formal and public acknowledgement from the Commonwealth. An apology would also send a strong message to the public that the Commonwealth recognizes the wrongs of the past and is committed to preventing such incidents from occurring in the future through an improved understanding of necessary accommodations for people with disabilities who become entangled in the criminal justice system.

As today's national conversation intensifies over the clear need for criminal justice reform and an end to police violence against Black people, Mr. Latson recently wrote to the *Washington Post*: "I hope there will finally be change and there will be equality for black people. I understand how fortunate I am to be alive."² Today, we ask that you honor Mr. Latson's humanity by granting him a full pardon, an assurance that Virginia is committed to continuing to provide his disability services, and an apology. These things will not return what was taken from Mr. Latson or his family, but may help by facilitating their healing. Overcoming the trauma he has endured will take time and the demands outlined above are a necessary first step to allowing Mr. Latson to heal and live freely, with the supports he needs to thrive.

If you have any questions about this letter, please contact Shira Wakschlag at The Arc of the United States (wakschlag@thearc.org) or Alison Barkoff at the Center for Public Representation (abarkoff@cpr-us.org).

Thank you for your consideration.

Virginia Delegate Lamont Bagby
Virginia Delegate Joshua Cole
Virginia Delegate Patrick Hope
Virginia Delegate Kaye Kory
Virginia Senator Jennifer Boysko
Virginia Senator Barbara Favola
Arlington Inclusion Task Force
Appalachian Independence Center
Association of University Centers on Disabilities
Autism Society of America
Autism Society Central Virginia
Autism Society of Northern Virginia

² Theresa Vargas, "Remember Neli Latson, the black teen with autism who seemed 'suspicious' sitting outside a library? Ten years after his arrest, he still isn't fully free," *Washington Post*, June 10, 2020, available at: https://www.washingtonpost.com/local/remember-neli-latson-the-black-teen-with-autism-who-seemed-suspicious-sitting-outside-a-library-ten-years-after-his-arrest-he-still-isnt-fully-free/2020/06/10/53565cec-ab39-11ea-a9d9-a81c1a491c52_story.html

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Autism Speaks
Autistic Self Advocacy Network
Bazelon Center for Mental Health Law
Center for Public Representation
CommunicationFIRST
Disability Rights DC at University Legal Services
Down Syndrome Association of Northern Virginia
ENDependence Center for Northern Virginia
Inclusion Consultants, LLC
Including Me in Virginia
Lutheran Family Services of Virginia
National Association of Councils on Developmental Disabilities
National Down Syndrome Society
Partnership for People with Disabilities at Virginia Commonwealth University
Pozez Jewish Community Center of Northern Virginia
Quality Trust for Individuals with Disabilities
SEIU Virginia 512
Self Advocates Becoming Empowered
SPARC
TASH
The Arc of Augusta
The Arc of Greater Prince William
The Arc of Hanover
The Arc of Harrisonburg and Rockingham
The Arc of Loudoun
The Arc of New River Valley
The Arc of North Central Virginia
The Arc of Northern Virginia
The Arc of Southside
The Arc of Virginia
The Arc of the United States
Valley Associates for Independent Living
Virginia Association of Centers for Independent Living
Virginia Board for People with Disabilities
Virginia Inclusive Practices Center at Radford University
Virginia State Conference NAACP
Virginia TASH