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June 4, 2001  
0019197-00002

Ms. Kathleen C. Montgomery  
Executive Vice President  
Unitarian Universalist Association  
25 Beacon Street  
Boston, MA 02108

Re: UUA - Amicus Curiae

Dear Kay:

What follows is a summary of the cases in which the UUA joined in filing an amicus curiae brief. This report is for the period beginning August 16, 2000 (the date of my last report—copy attached) and continuing to the present.

**United States Supreme Court**

1. McCarver v. North Carolina. In 1989, the Supreme Court held, in Penry v. Lynaugh, that it was constitutionally permissible to execute mentally retarded persons. In March 2001, in McCarver v. North Carolina, the Court decided to address the issue again in its next term, which begins October 1, 2001. Specifically, the Court will be looking at whether significant objective evidence demonstrates that national standards have evolved such that executing a mentally retarded person would violate the 8<sup>th</sup> Amendment prohibition against cruel and unusual punishment.

The UUA has joined the United States Catholic Conference and other religious organizations in a brief arguing that the Court can (and should) look to the views of these religious organizations to determine that national standards of decency have evolved to the point where the execution of persons with mental retardation is morally unacceptable. Because of the nature of this argument, every signatory to this brief increases the weight the Court is likely to give the argument.

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Human Rights Watch estimates that 200 to 300 mentally retarded people are currently on death row. Thus, a decision to overrule Penry would have significant present as well as future consequences.

2. Cellular Phone Taskforce v. FCC. This case involved FCC rules regulating radiofrequency (RF) exposure from the telecommunications industry. RF radiation has known effects on biological systems and on electronic equipment, including hearing aids, wheelchairs, and other medical devices. However, the Second Circuit Court of Appeals held that FCC rulemaking is exempt from the provisions of the Americans with Disabilities Act and the Rehabilitation Act. This decision could lead to a situation where any federal agency may regulate any industry without regard to the effects of the regulations on persons with disabilities.

The UUA joined with the Disability Council of the White Mountains and other organizations and individuals concerned about the rights of disabled people in filing an amicus brief arguing that the U.S. Supreme Court should consider the issue and reverse the Circuit Court decision. The Court, however, declined to hear the case.

### Rights of Gays and Lesbians

1. In re Adoption of R.B.F. and R.C.F. In November 2000, the Pennsylvania Superior Court, Pennsylvania's appellate court, ruled that gay and lesbian people do not have the right to adopt the children of their partners. The UUA joined in a brief written by the Women's Law Project that argued that Pennsylvania's Adoption Act must be construed to permit second-parent adoption, that the best interests of the children involved are paramount, and that the psychological literature demonstrates that children raised by lesbian and gay parents do very well.

The case has been appealed to the Pennsylvania Supreme Court, which has yet to decide if it will accept the case for review. If the Pennsylvania Supreme Court does decide to hear the case, the Women's Law Project plans to file another amicus brief.

2. T.B. v. L.R.M. T.B. is seeking partial custody for purposes of visitation with the child she raised for three years together with her former partner, L.R.M., the child's biological mother. The Pennsylvania Supreme Court will be deciding whether a same sex former partner who has established a parental relationship with a child has standing to seek visitation with that child. This case is viewed as one that may determine the rights of lesbian and gay parents and their children for many years to come.

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The UUA is participating as an amicus in a brief co-authored by the Women's Law Project, the Center for Lesbian and Gay Civil Rights, and the Support Center for Child Advocates. The briefs were filed in the spring of this year, and the case has not yet been set for argument.

If you would like additional information regarding any of these cases, please let me know.

Very truly yours,



Edward P. Leibensperger

EPL:ljm

Enclosure

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