



S.B. 162 Testimony by Bob Spada
Board Member - National Alliance on Mental Illness of Ohio
Ohio Senate Criminal Justice Committee
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Thank you Chairman Eklund, Vice Chairman Obhof, Ranking Member Thomas and members of the Committee for the opportunity to testify before you today on S.B. 162. My name is Robert Spada and I am here representing the National Alliance on Mental Illness of Ohio. For those of you who are not familiar with the National Alliance on Mental Illness of Ohio, we represent the voice of over 525,000 individuals living with serious mental illness, including schizophrenia, bipolar disorder and major depression and their families. In addition to being a current member and Immediate Past President of the NAMI Ohio Board, I am also a member of NAMI National's Board of Trustees and its current Treasurer. I am also the father of a son who lives with a serious mental illness.

As I have indicated in previous testimony to you about SB 162, the majority of people with serious mental illness are not violent. In fact, according to the National Institute of Mental Health, individuals suffering from major brain disorders are eleven times more likely to be victims of crime than perpetrators of a crime. However, lack of appropriate treatment can exacerbate the symptoms of serious mental illness and lead to negative outcomes such as homelessness, suicide, and criminal behavior. When violent tragedies do occur in which the perpetrator had a mental illness, it can often be traced back to a break

down in the mental health system. It is not uncommon for such individuals who need hospital level of care to be rejected or discharged back to the community prematurely.

With that in mind, it is clear that the death penalty is not the answer to the problem of violence committed by persons with serious mental illness. The better policy is to enhance access to appropriate mental health care. One day, we will look back and be ashamed that we let individuals with serious mental illness be executed.

As you heard during the previous hearings on the bill from proponents and interested parties, there is wide support for Senate Bill 162. Nine statewide mental health agency organizations who represent thousands of Ohioans living with mental illness, family members, provider organizations and mental health boards are in favor of the bill. Policy organizations, civic groups and faith leaders are in favor of this bill. More than 50 Ohio law professors have voiced opinions that tell us this proposed change is appropriate and needed. Former Supreme Court justices have expressed the need for this type of narrow exemption. So too, have former directors of the Department of Rehabilitation and Correction and one former Ohio Attorney General.

The committee also heard from three experts who specialize in forensic psychiatry and forensic psychology. All three doctors expressed individuals who, because of SMI, lacked the capacity to exercise rational judgment in relation to conduct, to conform his/her conduct to the requirements of law, or to appreciate the nature, consequences or wrongfulness of his/her conduct, at the time of commission of a crime, should not be put to death by the state of Ohio. One doctor, as you'll

recall has a serious mental illness and eloquently spoke about psychosis for those who have not experienced it.

The essence of the problem with current law is individuals with serious mental illness are sentenced to death. This happens because there are not adequate protections to avoid this outcome. As David Niven of the University of Cincinnati aptly pointed out:

Studies that survey jurors after their service in capital cases find that they report having used mental illness to the detriment of the defendant.

Studies that supply otherwise death qualified individuals with the fact pattern of a case find clear, causal evidence that invocation of serious mental illness – such as schizophrenia – is the “least effective” mitigating evidence and is directly cited as a reason to impose the death penalty.

Mr. Chairman, members of the committee, we are getting the exact opposite result during mitigation with respect to evidence of mental illness. Mental illness regularly turns into an aggravating factor instead of a mitigating factor. This bill will address that shortcoming.

In keeping with the recommendation by the Ohio Supreme Court’s [Joint Task Force to Review the Administration of Ohio’s Death Penalty](#), which passed by a task force vote of 15 – 2, S.B. 162 exempts from the death penalty defendants who, at the time of the offense, had a serious mental illness. However, the bill in no way absolves defendants of legal responsibility for their crimes. It simply aligns sentencing with culpability in a more appropriate way.

As a former member of this body, as well as a father of a son with serious mental illness, I urge you to pass this bill without delay. You know that the decisions that we have all made as members of the Ohio Senate are often difficult and complex. After thoroughly examining this issue, I believe that SB 162 clearly corrects a significant problem with the way Ohio's criminal justice system treats people with serious mental illness. It is time to correct the problem, as our calling to public service to this great state compels us.

Thank you again for this opportunity to testify on this important bill. I am happy to answer any of your questions at this time.