

Judge David L.

# BAZELON CENTER

for Mental Health Law

## NEWS

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### Federal Court Upholds Rights of People with Mental Illnesses in Adult Homes

February 19, 2009 - A federal court in New York ruled today that people with mental illnesses now housed in private adult homes have a right to be fully integrated in the community. The Bazelon Center for Mental Health Law is co-counsel in the case.

The suit maintains that the state is violating the American with Disabilities Act (ADA) by administering its mental health service system in a way that isolates thousands of individuals with mental illnesses in large, for-profit board and care facilities in New York City, known as "adult homes." Advocates filed the case in the U.S. District Court for the Eastern District of New York in 2003.

"This is a major step in advancing the rights of disabled citizens," said Ira A. Burnim, Legal Director of the Bazelon Center. "The U.S. Supreme Court ruled in 1999, in the *Olmstead* case, that the ADA outlaws needless segregation of people with mental disabilities. Today's decision means that New York's cynical attempt to escape its obligations under the ADA has failed. It sends a loud and clear message to other states that would similarly flout federal civil rights law."

In April 2002, a Pulitzer Prize-winning series in *The New York Times* called attention to the squalor and chaos in New York City's large adult homes. The state's own studies over the years have repeatedly decried conditions found in these institutions. Yet the state has permitted the situation to persist, according to the plaintiff.

"For decades New York has unnecessarily warehoused people with mental illnesses in squalid institutions, although they can live with dignity in the community at no greater cost. This important decision brings us a step closer to obtaining justice," said Cliff Zucker, executive director of Disability Advocates, Inc.

The suit seeks an order requiring the state to offer alternative services to adult home residents so they can be more integrated into their communities. It also seeks the creation of additional "supported apartments" for adult home residents, where appropriate rehabilitation and support services could be provided to those who wish to live outside an institution. The state already licenses and provides financial support for such apartments, but has failed to create enough of them to meet the needs of adult home residents. Providing integrated care in supported apartments costs no more than providing the segregated care that prevails in adult homes. In fact, it may cost less.

After years of discovery in the case, the state filed a motion for summary judgment in an attempt to dismiss the case in its entirety -- asserting, among other contentions, that the state cannot be held responsible under the ADA for segregating people in adult homes because the facilities are privately owned.

Today, the U.S. District Court in a 100-page opinion denied the state's motion for summary judgment in its entirety and ordered the case for trial. The court made clear that a state violates the ADA when it operates a mental health system that unnecessarily segregates persons with disabilities. It further explained that the state cannot evade its obligation to comply with the ADA by using private entities to deliver its services. The ADA requires the state to provide mental health treatment in "the most integrated setting."

The plaintiff in the case is [Disability Advocates, Inc.](#), an organization that protects the rights of people with disability. The defendants include the Governor of New York and cabinet-level officials. DAI is represented by the Bazelon Center for Mental Health Law, DAI's own legal staff, [New York Lawyers for the Public Interest](#), [MFY Legal Services](#), the [Urban Justice Center](#) and the law firm of [Paul, Weiss, Rifkind, Wharton & Garrison LLP](#).