

Judge David L.

BAZELON CENTER

for Mental Health Law

NEWS

Judge Denies Connecticut's Request to Dismiss Charges that It Unnecessarily Warehouses People with Mental Illnesses in Nursing Homes, Violating Federal Law

Hartford, CT – April 1, 2010 – A U.S. District Court yesterday denied the State of Connecticut's attempt to dismiss a lawsuit alleging that the State failed to provide "the most integrated setting appropriate" to meet the needs of hundreds of people with mental illnesses who have been warehoused in state nursing homes. The court also granted class-action status for the case, *Office of Protection and Advocacy v. State of Connecticut*.

The lawsuit was filed in February 2006 by the state [Office of Protection and Advocacy for Persons with Disabilities \(OPA\)](#) and the [Bazelon Center for Mental Health Law](#). On behalf of OPA and individuals in three nursing facilities (Chelsea Place Care Center Hartford, Bidwell Care Center in Manchester and West Rock Care Center in New Haven) it claims that the state failed to provide a "comprehensive and effectively working plan" to place residents with mental illnesses into more integrated, supported living situations, as required by the landmark 1999 *Olmstead* Supreme Court decision and the Americans with Disabilities Act.

"The judge's favorable decision will allow the case to go forward on behalf of all nursing home residents with mental illnesses in the homes at issue," said Karen Bower, senior staff attorney at the Bazelon Center. "This is a win for people in Connecticut who have disabilities."

"This case is about freeing people from segregation -- people who should not be locked away -- and giving them their lives back," said James McGaughey, executive director of Connecticut's Office of Protection and Advocacy for Persons with Disabilities.

"We are very pleased with Judge Thompson's decision. This allows us to move forward with the litigation to ensure the civil rights, freedom and dignity of nursing home residents with mental illnesses at these homes and future Connecticut citizens at risk of entering these facilities," said Ken Pasquale of Stroock & Stroock & Lavan LLP, who along with Joseph Strauss and Danielle Alfonzo Walsman, are co-counsel to OPA and the class representatives.

The decision also grants the Office of Protection and Advocacy standing to proceed with the complaint as a plaintiff on behalf of its constituents. "This provides an important tool to use in our work to protect the rights of individuals with disabilities in Connecticut," said Nancy B. Alisberg, the advocacy agency's managing attorney.

The Commissioners of Social Services, Mental Health and Addiction Services, and Public Health, and the State of Connecticut itself are the defendants.

Links to the original complaint and histories of some residents are at <http://www.bazelon.org/incourt/docket/opavct.html>