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Wyatt v. Stickney — Long Odyssey Reaches an End

by Clarence J. Sundram

The case that is emblematic of an era in mental disability law, **Wyatt v. Stickney**, 344 F.Supp. 373 (M.D.Ala.1972), *aff'd in part*, 503 F.2d 1305 (5th Cir.1974), came to an end in federal court in Montgomery, AL, on December 5, 2003, when Judge Myron Thompson found that the state of Alabama had complied with the latest settlement agreement in this 33-year-old case, and dismissed the action. Over the lifespan of this case, there have been seven United States presidents, nine Alabama governors, and 14 mental health commissioners.

Wyatt is perhaps one of the most influential cases not decided by the United States Supreme Court, one which has shaped the course and development of mental health law in the United States and beyond. Originally commenced in 1970, at the behest of employees fearing the loss of their jobs at Bryce Hospital during a budget crisis, it became a case about patients' rights to adequate services with, of course, an adequate number of employees being indispensable to that right.

Wyatt Standards

As the case wound its way through the judicial process, and expanded to embrace the entire state Mental Health and Mental

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What Self-Neglecting Clients Have to Teach Us

by Jennifer L. Merck

I first met Mr. and Mrs. M. one hot July. My supervisor left me a message at home late one Sunday night recommending that I wear jeans to work the next day, and to be sure to bring bug spray. As a protective service worker one year on the job, this was a first for me. I was game for anything, though, so I boldly donned my denim and toted my Off to work the next day. The intake I received upon arriving at work detailed concerns regarding Mrs. M.'s "filthy" living conditions, as well as her poor nutrition and diabetes care. Mr. M., as her husband and caregiver, was named as the alleged perpetrator of her neglect.

On that 85 degree July 5th, I arrived at the basement door of Mr. and Mrs. M.'s apartment. The stench was apparent even from the street. My colleague and I knocked and waited. Finally, thinking our trip across town had been for naught, we turned to go. Walking toward us was an older, disheveled-looking couple. I turned to the woman and asked, "Are you Mrs. M.?" Thus began a several-year relationship with this interesting couple. I am not sure if my casework was helpful to Mrs. M. Of one thing I am sure, however. Both Mr. and Mrs. M. taught me much about protective services and about myself. I often look back upon my work with this couple as a reference point.

Couple's Conditions

Mrs. M. was 73-years-old. She had been diabetic since childhood, and was diagnosed with bipolar disorder as a teenager. She had been married to Mr. M. for over 50 years. There is no better word to describe Mr. and Mrs. M. than "quirky." They were a quirky couple. They were quite wealthy, though you wouldn't know it by their basement apartment. They were intelligent, well-read, and Mr. M. had an especially sophisticated sense of humor. Mr. M. was physically healthy, though he had begun to show early signs of dementia. Mr. and Mrs. M. had no children and few who would call them friends. Mrs. M. had been hospitalized occasionally for her mental illness, though it had been several years since her last hospitalization. She relied upon her husband to help manage her insulin-dependent diabetes.

That hot July day, I did indeed find their apartment to be filthy by any standards. The apartment consisted of a living room, kitchen, bedroom, and bathroom. The living room was piled six to eight feet high with—well, junk. We discovered later, when we cleaned out this space, that the room held living room furniture in addition to countless newspapers, boxes of financial papers, bro-

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Retardation system, many amici, including the American Association on Mental Deficiency and the United States Department of Justice, assisted the original trial judge, Frank M. Johnson Jr., in formulating what came to be known as the **Wyatt** standards to implement the right to treatment that had been declared.

These standards rested on four pillars, namely:

1. Humane psychological and physical environments;
2. Qualified staff in numbers sufficient to administer adequate treatment;
3. Individualized treatment plans; and
4. Services in the least restrictive environment.

These core concepts have since been embodied in one form or another in federal and state laws, public policies, regulations, and professional standards which govern not only mental health and mental retardation facilities, but a wide range of other institutional and community programs that serve other populations including juvenile and the elderly. Language from the **Wyatt** rulings has made its way into international declarations of human rights of persons with disabilities.

Space limitations do not permit an adequate recounting of the twists and turns the case took over the ensuing three decades as the state wrestled with

the challenge of implementing these standards. Suffice it to say, there were many rounds of litigation over compliance or the lack thereof. At different times, the trial judge appointed a court monitor, a special master, and placed the system in receivership, first appointing the governor as receiver and later naming his chief legal adviser to the position. None of these measures succeeded in securing compliance with the court orders. This is not to say that there was no progress. In the years following the

Agreement on New Consent Judgment

In 1986, the parties reached an agreement on a new consent judgment. This time, the emphasis was on the language of the **Wyatt** standards calling for placement in the least restrictive environment. The consent judgment focused on community placements rather than institutional improvements alone. It also created a new body—the Wyatt Consultant Committee—to replace the court monitor and advise the department on how to achieve compliance with the consent judgment. I

The Wyatt standards calling for placement in the least restrictive environment such as community placements rather than institutional.

initial disclosure of the squalid conditions of care in the state institutions (which, in fairness, were likely no worse than conditions in similar institutions in many other states at the time), Alabama built new, smaller, more modern, and code-compliant institutions to reduce the overcrowding at Bryce and Searcy Hospitals and Partlow State School for the Mentally Retarded.

was privileged to be invited to join this committee of four outside experts and the director of Internal Advocacy, Kathy Sawyer.

Significant progress was made over the next three years in developing community services and a supporting infrastructure, creating a quality assurance system and the internal advocacy program. Nevertheless, disputes between the parties about compliance resulted in yet another round of litigation. This time, I was asked to serve as a neutral fact finder selected by both parties. The systemic evaluation of compliance with the **Wyatt** standards concluded that the state had substantially complied with many of the standards, but remained out of compliance with several. At the conclusion of a 35-day trial in 1995, at which other experts and I testified, Judge Myron Thompson reached substantially the same conclusion.

New Settlement Agreement Approved

The state continued its efforts to come into compliance with the remaining standards and worked with the plaintiffs to secure rulings confirming their compliance with several standards. In 1999, the court approved a new settlement agreement, dissolving the 1986 consent decree and setting a three-year period to implement several specific requirements, including the following:

- Maintaining accreditation and certification of the state's institutions;
- Achieving a 600 extended-care bed census reduction in both the mental

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health and mental retardation institutional systems and expanding community options;

- Maintaining a trained staff of at least 26 full-time equivalent internal advocates;
- Incorporating the **Wyatt** standards into the department's policy and procedure manual and requiring that all facilities expressly adhere to and implement these policies;
- Continuing to operate its continuous quality improvement system and the system for investigating specified serious incidents;
- Securing the services of qualified consultants to provide recommendations in several areas including dual diagnosis; traumatic brain injury; self-injurious behavior; HIV/AIDS/ARC; treatment of patients who are deaf, blind, or with serious physical impairments; the use of seclusion and restraint; and the use and administration of psychotropic medications;
- The close involvement of and consultation with the Alabama Disabilities Advocacy Program (ADAP), the state's protection and advocacy agency, which is also the plaintiffs' legal representative, in the course of implementing the settlement agreement.

Earlier this year, Kathy Sawyer, who is now the commissioner of the Department of Mental Health, Mental Retardation, and Substance Abuse Services, with the consent of the plaintiffs' counsel, invited me to once again evaluate the state's compliance with the terms of the settlement agreement. This evaluation examined compliance not only with the items listed above, but also examined the services provided to a sample of patients in two state institutions—Bryce Hospital and Wallace Developmental Center—which were selected as exemplars of the state institutions, with the concurrence of the parties. In addition, the evaluation assessed the quality of services and supports provided to a random sample of persons discharged from state psychiatric and developmental centers over the preceding three years.

Results of Evaluation

At the conclusion of my evaluation, I briefed the parties and a broader group of stakeholders about my conclusions. In summary, I found that the efforts of the state in recent years, under the leadership of Com-

missioner Kathy Sawyer, and with the consistent support of Governors Seigelman and Riley and the state legislature, have resulted in a dramatic transformation of the culture and performance of the mental health and mental retardation systems in Alabama. I found substantial compliance with practically all of the settlement agreement's provisions. Not only were most of the class members living in safe and at times exceptional housing, but also there were also many examples of thoughtful and creative person-centered supports.

Remaining Challenges

This is not to say that the system is trouble-free. Like many other systems, Alabama struggles with its ability to provide services to people with multiple disabilities, be they dual diagnosis of mental illness and mental retardation, substance abuse, deafness, etc. Staff across the board need more assistance in responding to people with challenging behavior. Access to dental care and specialty services in the community remains a problem. The service system has not fully incorporated access to adaptive equipment and technology such as communication devices, which could improve the capacity for self-determination for many people. Coordination of care among multiple providers continually challenges the nursing staff of some providers. Opportunities for work remain very limited. Incident reporting practices among community providers are widely variable. Readers will recognize that these are the same issues with which most service systems across the country continue to struggle, with more or less success.

Following the evaluation, the parties joined in a motion for a finding of compliance with the settlement agreement. In attendance at the hearing in federal court on the motion were Governor Robert Riley and Ricky Wyatt, now 49-

years-old, seated in a wheelchair, alongside James Tucker, the ADAP attorney who has represented the plaintiffs (along with Ira Burnim, the legal director of the Bazelon Center for Mental Health Law). Governor Riley pledged to continue adequate funding of the mental health system, notwithstanding the severe budget problems facing the state.

Credit Where Due

In years past, as litigation dragged on, there was plenty of blame spread around to all sides. It is fitting, therefore, to hand out some credit to the many people who finally helped bring this case to a satisfactory conclusion. The defendants are typically blamed for noncompliance with court orders; so it is appropriate that the lion's share of the credit for achieving compliance should go to Commissioner Sawyer and the staff of the Alabama DMHMRSAS for their daily efforts to make the changes that were necessary. Credit is also due to Governors Seligman and Riley for providing the political and financial support necessary. For much of the long life of this case, the United States Department of Justice provided critical support for the efforts to establish and enforce standards of care. The Bazelon Center for Mental Health Law has been a mainstay of the plaintiffs' efforts over the years to enforce the court orders, more recently partnering with ADAP. Both organizations were able to establish relationships of mutual trust and respect with Commissioner Sawyer that provided them with broad access to information and to participation in the process of reform, while giving departmental staff the space they needed to achieve time-consuming changes in both practices and culture.

One cannot overlook the role of the federal court in the persons of the original trial Judge Frank Johnson (sometimes characterized as the "real" governor of Alabama during a time when many state services, including its prisons and mental health facilities were under federal court supervision), and the current Judge Myron Thompson. Their steadfast attention to the rights of class members over the life of this case ensured that gaining compliance with the court orders remained a requirement over the long history of this case.

In the end, success was achieved, as it usually is, by the collaboration of people of vision and good will. And a large dose of competence. ■

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