

People with significant disabilities
HAVE THE RIGHT to get institutional services in the **COMMUNITY.**

Department of Justice vs Georgia: Where Are We Now?

By H.M. Cauley

1 It all started with a mom who just wanted to go home.

That legal case centered around a Pennsylvania woman who sued under the Americans with Disabilities Act (ADA) to get the support she needed to move out of a nursing home and back into her community. Under *Helen L. vs DiDario (1995)*, it was contested that such a facility was a segregated setting, and living in the community with support services was a more integrated environment.

The woman won her case, which blazed a path for two patients at the Georgia Regional Hospital Atlanta, a facility for those with mental health issues and developmental disabilities, to demand similar consideration.

“They argued that doctors said they could live in the community and that it wouldn’t cost very much,” said Talley Wells, director of the Disability Integration Project for the Atlanta Legal Aid Society.



Olmstead plaintiff, Lois Curtis, speaks to the crowd at GCDD’s 2014 Disability Day while RespectAbility USA CEO Jennifer Laszlo Mizrahi looks on.

The two women were Lois Curtis and Elaine Wilson, who have become synonymous with the landmark US Supreme Court case, *Olmstead vs L.C.*

“They believed they had a right to get those services in the community. The US Supreme Court took their case and ruled in their favor and now, it is the law of the land,” said Wells. “People with significant disabilities have the right to get institutional services in the community.”

1999: The Ruling

That ruling, handed down on June 22, 1999, became known as the *Olmstead* decision. Though it confirmed the rights of adults with disabilities to live in communities of their choice, the State of Georgia did little to make that happen for its patient population.

“There just wasn’t a lot of progress,” said Wells, who notes that the transitional program applies only to adults. “The rest of the people at Georgia Regional did not get the same support and services as the plaintiffs in that case. In fact, *Olmstead* was not actually implemented, and hospitals became worse places of abuse, neglect and death.”

When a 2007 investigation by the *Atlanta Journal-Constitution* uncovered more than 100 deaths at state-run facilities, the Department of Justice (DOJ) and the State met with experts and advocates from the mental health community to address the problem.

2010: The Settlement

After more than a year of deliberations, the DOJ and the State agreed to a new settlement that included moving patients from institutions to community-centered environments. The deadline to implement those changes expired at the end of June 2015, and Georgia was not able to meet the settlement.

While much work remains to be done, some substantial positive gains have been made.

“At the heart of the recovery movement is the importance of having employment along with medication, treatment and peer support,” Wells said. “But the crown jewel is housing. It has been a game changer and made us a model for other states. For people with long-term and persistent mental illness, who have been in and out of jails and homeless, housing is the key to recovery. Until you’ve got a stable place to live, it’s hard to go forward with other parts of recovery and treatment.”

Under the settlement, the State issued 2,000 housing vouchers that allowed many people to establish stability and move forward. In addition, hundreds of peer-support workers have been trained. “Talk to anyone in the mental health community, and they’ll say both these things have transformed people’s lives by having housing and intense levels of service,” said Wells. “People who otherwise would be in institutions can now live in the community.”

While considerable strides have been made for those with mental health issues, patients with developmental disabilities have not seen similar results. “For people with developmental disabilities, there was no specific action around the number of housing units or vouchers that the State must make available,” said Georgia Council on Developmental Disabilities Executive Director Eric Jacobson. “Most of the settlement language was around making sure that people with developmental disabilities get to make ‘informed choices’ about where they live i.e., their own home or with a family member, a host home or other congregate setting. The truth is that the settlement did not have many specific actions required of the State other than getting people out of

institutions, funding a robust family support network and creating better crisis response efforts and support coordination.”

2013: The Moratorium

At a May forum held at The Carter Center, Frank Berry, Georgia’s commissioner of Behavioral Health and Developmental Disabilities, stated that 268 people still remain in state facilities. A news report aired on WABE-FM 90.1 quoted Berry, saying, “Almost two years ago I had to stop transitions because we were concerned about the quality of those transitions to the community.”

Berry’s key concern, the report noted, was the deaths of several people who moved into community environments, and until improved systems could be put in place, the process of relocating patients was halted.

“The State decided that to do it right, it needed to stop the process, fix the problems, then start up again,” said Wells. “It’s worked on fixes, but it has not started the transitions back up, and there are still a lot of issues with the provider network and system of care.”

Along with calling a moratorium on transitions, “Georgia has lagged in complying with other areas of the settlement,” said Lewis Bossing, a senior staff attorney at the Bazelon



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Center for Mental Health Law in Washington, DC. The nonprofit represents various stakeholders in the system.

The faces of people with disabilities who have benefitted from the *Olmstead* decision that confirmed the rights of adults with disabilities to live in the communities of their choice.

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“It’s ironic that *Olmstead* took place in the State of Georgia, but we still don’t have a plan in place to implement it.”

“The State was supposed to assemble persons who could provide support to people with developmental disabilities, develop individualized service plans, help people in transition gain access to medical care, education, transportation, housing and other services,” Bossing explained. “And it was to monitor individual service plans to make sure people who did transition had support coordination services provided in an effective manner.”

As late as spring of 2015, an independent reviewer of the settlement’s progress found the State noncompliant with many of those obligations.

“The State has characterized this as an issue about the capacity of the community to serve people effectively and safely,” Bossing said. “It wants to ensure that all the services are in place, so wherever a person chooses to live, they will have access to all the services they need. But it hasn’t happened on the timetable the parties agreed to.”

Bossing notes that after five years, the number of people affected by these changes is relatively small. “There are about 300 to 400 people currently served in the state hospitals and facilities,” he said. “And virtually all of them could be served in the community if the State and its providers can make available the services needed.”

Other states charged with meeting the same goals have done so, though it has taken time, Bossing notes. “Some states have even closed their institutions. Sometimes it took years; sometimes there was political opposition. But I think the DOJ and State [of Georgia] thought it could be accomplished in five years. Now the question is how much longer will it take?”

2015: The Deadline

As of the end of June, Georgia and the DOJ were still working toward a plan to complete the state’s obligations under the 2010 settlement.

Officials from the Department of Behavioral Health and Developmental Disabilities wouldn’t give particulars on what form that plan might take due to the complexity of the issue, but provided this statement:

“We continue to work cooperatively with the individuals we serve and their family members, providers, advocates and the United

States Department of Justice to implement the agreed-upon requirements of the 2010 Settlement Agreement. As a department, we remain focused on our

vision of easy access to high quality care that leads to a life of independence and recovery for the people we serve.”

Just how the State will move forward to accomplish the ADA goals remains to be seen.

“The Department of Justice settlement was a major statement that people with developmental disabilities must be moved out of state operated institutions,” said Jacobson.

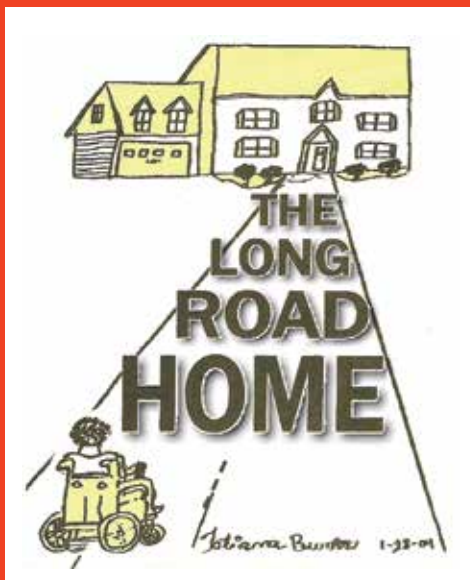
“When the settlement was negotiated it would have been better if the same level of detail around services, the number of people served and dollars allocated that were provided for mental health had been included for developmental disabilities. There have been many stumbling blocks along the way and we are behind. Hopefully, in a renegotiated settlement we can make sure that issues such as housing, employment and quality of life can be addressed.”

There is widespread agreement that it has to be done and be done right.

Stay in touch with GCDD for updates on the DOJ Settlement at www.gcdd.org and on Facebook at www.facebook.com/georgiaddcouncil



2006: Samuel Mitchell at The Long Road Home celebration.



2004: Leonard Roscoe at the first Long Road Home event.

Remembering *Olmstead*: The Long Road Home

Eleven years ago, a band of local activists came together to educate others in Georgia about the promises and accomplishments of the *Olmstead vs L.C.* decision. The US Supreme Court ruling, handed down on June 22, 1999, declared that segregating persons with disabilities was a form of discrimination that violated the Americans with Disabilities Act.

The group's original concept was to stage a march from Milledgeville to the Georgia State Capitol as a way for those with developmental disabilities and their families and supporters to demonstrate the importance of the decision. The Long Road Home, as the event was dubbed, became an annual June event celebrating the connectivity of community.

Over the years, the event has shifted its focus to the challenges and the unmet promises the decision created.

"It's ironic that *Olmstead* took place in the State of Georgia, but we still don't

have a plan in place to implement it," said Cheri Mitchell, who chairs the campaign and nationwide celebrations. "So now we are more about bringing attention to the issues." This year, seven states hosted events to commemorate and raise awareness of the landmark legislation.

In Georgia, gatherings took place in Atlanta, Bainbridge, Fitzgerald, Gainesville, Savannah, Tifton, Thomasville and Toccoa. There were walks, rallies and information sessions and in Atlanta, supporters staged a rally and mounted a display of works by artists with disabilities at the State Capitol on June 22.

No matter what form the event takes, Mitchell said there is always a key component: "We want to tell stories of how people with disabilities have gotten out of institutional settings and are living successfully in the community."

The Long Road Home celebration was sponsored by People First of Atlanta,

People First of Georgia, Georgia Advocacy Office, Georgia Council on Developmental Disabilities, Center for Leadership in Disability at Georgia State University, Atlanta Chapter of the Autistic Self Advocacy Network, Statewide Independent Living Council of Georgia, Georgia Mental Health Consumer Network, disABILITY LINK and the National Federation of Blind of Georgia.

For more details on the Long Road Home, visit peoplefirstofga.com.



2015: Chair Cheri Mitchell and Lois Curtis at this year's Long Road Home event.



2006: The march from Milledgeville.