

The Office of Civil Rights (OCR) Group Complaint

The Highest Court of the Land Tells Georgia It Is Violating the Law

by Leigh Anne Clark

*On June 18, 2001, President Bush signed an executive order calling for "swift implementation of the Olmstead decision." Disability advocates have awaited the order since February when Bush announced that an Olmstead implementation order is a key component of his "New Freedom Initiative." The order puts Bush on record, confirming that the "United States is committed to community-based alternatives for individuals with disabilities and recognizes that such services advance the best interests of Americans." **

More than two years ago, the United States Supreme Court issued a ruling finding that Georgia was violating the civil rights of two women with mental illness and mental retardation by providing services to them in an institution when their doctors said they could receive services in the community. This was known as the *L.C. and E.W. v. Olmstead* case.

Specifically, the Court found that:

- Institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life; and
- Confinement in an institution

severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.

Further, the Court ruled that States are required to provide community-based services for persons with disabilities

ported disability services.

For two years, Georgia ignored the Supreme Court's guidance on how to comply with the ADA.

The Court encouraged States to develop a comprehensive, effectively working plan for placing qualified persons with disabilities in the most integrated setting appropriate. It also stated that a

State could have waiting lists for services as long as such waiting lists move at a reasonable

pace that are not controlled by the state's endeavors to keep its institutions fully populated.

For more than two years, Georgia failed to develop a comprehensive, effectively working plan for placing qualified persons with disabilities in the most integrated setting appropriate. It has only in the past few months begun to do so. Georgia has also failed to include qualified persons living in institutions on the community waiting lists nor

sought legislative approval to redirect funds to the community or the allocation of new funds for such services. Individuals are still being institutionalized years after they are found to be appropriate for community-based services, and there are not significant steps being made to change this illegal practice.

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Joyce Ringer (left) looks on as Roosevelt Freeman of the OCR accepts the group complaint from Michele Alhouse of DisAbility Link.

who would otherwise be entitled to institutional services when:

- The State's treatment professionals reasonably determine that such placement is appropriate;
- The affected persons do not oppose such treatment; and
- Placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others who are receiving State-sup-

* "Advocacy Training/Technical Assistance Center Update," Vol. 6, No. 7, July 2001.

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Pressuring Georgia to do what is right and legally required.

Therefore, in May, 2001, the Georgia Advocacy Office, Georgia Legal Services Program, Disability Law and Policy Center, and Atlanta Legal Aid Society filed a large group Office for Civil Rights Complaint on behalf of 14 individuals living in Gracewood State School and Hospital, Central State Hospital, Georgia Regional Hospital, and a nursing home. The complaint was also filed on behalf of all similarly situated individuals living in the State Hospitals and nursing homes who have a right to receive services in the community under the Americans with Disabilities Act (ADA).

There are more than 1,700 people living with disabilities in Georgia's institutions for people with mental retardation and mental illness and more than 3,000 people with mental retardation or mental illness living in Georgia's nursing homes. Many individuals are in the same situation the two plaintiffs were in the *L.C. and E.W.* case and should have been moved to the community as the law requires. Instead, many individuals remain in institutions and nursing homes.

Why file an OCR Group Complaint?

There are several ways to enforce the federal law. One option is to go to court and sue the State of Georgia. Another option is to ask the federal government to investigate and use its enforcement power to ensure compliance with the law.

The US Department of Health and Human Services has

a division called the Office for Civil Rights (OCR). The OCR promotes and ensures that people have equal access to and opportunity to participate in and receive services in all Health and Human Services programs without facing unlawful discrimination. When a complaint is received, OCR conducts investigations and may resolve the complaint through voluntary dispute resolution, enforcement (legal action or other steps), providing technical assistance, policy development and information services.

More specifically, the Title II

would be worthwhile to try this approach first.

How do you let OCR know if you believe you are being unlawfully discriminated against because you cannot move out of an institution or nursing home?

If you believe you or someone else is being unlawfully discriminated against by not letting you move out of an institution or a nursing home, call the Georgia Advocacy Office at 1-(800) 537-2329 and speak to Leigh Anne Clark. Ms.



Leigh Anne Clark

So far, many of the named complainants have moved out of the institutions and into places in the community.



A.J. is one of 14 individuals included in a group complaint filed with the Office of Civil Rights. After years of living in an institution, she recently moved into the Augusta community. She looks forward to making new friends and being a good neighbor.

ADA regulations direct OCR to investigate complaints against health and human service-related State and local government entities. Already, more than twenty complaints have been filed in Georgia on behalf of individuals. Many of these complaints have resulted in individuals obtaining services in a more integrated setting. Because of this past success, advocates thought it

Clark will help you find out how best to let OCR know about your complaint.

What happens next with the Group Complaint?

The Office of Civil Rights divided the Group Complaint into more than thirty different smaller complaints and is beginning to investigate each one. OCR will start with the individually named complainants, conducting a visit to each one. So far, many of the named complainants have moved out of institutions and into places in the community. If you would like to join your name or someone you know to the group complaint, please let

us know by calling the GAO at 1-(800) 537-2329 and speaking to Leigh Anne Clark. •