

**Disability Advocates, Inc. Vs NYS Governor David A. Paterson et al  
Nicholas G. Garaufis, United States District Judge. United States  
District Court Eastern District Of New York  
Excerpts by NYAPRS**

## **Background**

- “The Supreme Court held in *Olmstead v. L.C.*, 527 U.S. 581 (1999), that ‘[u]njustified isolation . . . is properly regarded as discrimination based on disability,’ observing that ‘institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life.’
- The ‘integration mandate’ of Title II of the American with Disabilities Act... requires that when a state provides services to individuals with disabilities, it must do so ‘in the most integrated setting appropriate to their needs.’ The ‘most integrated setting,’ according to the federal regulations, is “a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”

## **Lawsuit**

The suit (was waged by) “Disability Advocates, Inc. (“DAI”), a protection and advocacy organization authorized by statute to bring suit on behalf of individuals with disabilities...on behalf of individuals with mental illness residing in, or at risk of entry into, “adult homes” in New York City with more than 120 beds and in which twenty-five residents or 25% of the resident population (whichever is fewer) have a mental illness.” This number comes to about 4,300.

The suit was brought against...“the New York State Department of Health (“DOH”), the New York State Office of Mental Health (“OMH”), as well as Governor David A. Paterson and the Commissioners of DOH and OMH.”

## **Judge’s Overall Conclusions**

“Following a five-week bench trial, DAI has proven by a preponderance of the evidence that its constituents, approximately 4,300 individuals with mental illness, are not receiving services in the most integrated setting appropriate to their needs. The adult homes at issue are institutions that segregate residents from the community and impede residents’ interactions with people who do not have disabilities. DAI has proven that virtually all of its constituents are qualified to receive services in “supported housing,” a far more integrated setting in which individuals with mental illness live in

apartments scattered throughout the community and receive flexible support services as needed. DAI has also proven that its constituents are not opposed to receiving services in more integrated settings. Therefore, DAI has established a violation of the integration mandate of the ADA and the Rehabilitation Act.”

“The court concludes that Defendants have not demonstrated a comprehensive or effective plan to enable Adult Home residents to receive services in more integrated settings. Defendants’ efforts to comply with the integration mandate with respect to the Adult Home residents at issue do not meet any of the standards that other courts have articulated for Olmstead plans.”

“Defendants have not made a genuine commitment to comply with the integration mandate with respect to adult home residents, let alone implemented a comprehensive and effective plan to enable adult home residents to receive services in more integrated settings.”

“DAI has proven that Defendants have discriminated against DAI’s constituents in violation of the integration mandate of the Americans with Disabilities Act and the Rehabilitation Act. In carrying out their administration of New York’s mental health service system, Defendants have denied thousands of individuals with mental illness in New York City the opportunity to receive services in the most integrated setting appropriate to their needs.

DAI has proven that the large, impacted Adult Homes at issue are not the most integrated setting appropriate to the needs of DAI’s constituents, especially compared to supported housing, in which individuals with mental illness live in apartments and receive flexible support services as needed. DAI has also proven that virtually all of DAI’s constituents are qualified to receive services in supported housing and are unopposed to receiving services in a more integrated setting.

Defendants have failed to prove that the relief DAI seeks would constitute a “fundamental alteration” of the State’s mental health service system. Accordingly, DAI is entitled to declaratory and injunctive relief. Following additional briefing from the parties, the court will issue a separate Order and Judgment once it determines the appropriate injunctive remedy.”

### **Judge’s Specific Findings**

“Adult homes in New York State were originally designed to house the “the frail elderly,” not people with psychiatric disabilities. They became a place

for people with mental illness to live and receive services when the State began to deinstitutionalize its State psychiatric hospitals in the early 1970s, and State psychiatric hospitals began discharging patients directly into adult homes."

"Adult homes discourage residents from engaging in activities of daily living and foster 'learned helplessness.' "

"Virtually all of DAI's constituents are qualified for supported housing."

"The evidence demonstrates that serving DAI's constituents in supported housing rather than adult homes would not increase costs to the state."

"The dependency-based model of adult homes contributes to increased Medicaid expenditures."

"When the cost of Medicaid is properly included, it costs the state less to serve an individual in supported housing than in an adult home."

"Defendants have not proven by a preponderance of the evidence that the requested relief would increase costs to the State; the weight of the evidence shows that it would actually cost less to serve DAI's constituents in supported housing than in Adult Homes."

"The state has demonstrated its ability to redirect funds as individuals move from one setting to another."