

ADAP

Alabama Disabilities Advocacy Program



JULY 2004

ADAP Services for Social Security Beneficiaries Who Want to Return to Work

By Lauren Wilson Carr
Senior Staff Attorney, ADAP

One of ADAP's newest programs is its Protection and Advocacy for Beneficiaries of Social Security (PABSS) program. Through this funding source, ADAP can work with people who receive social security benefits (SSI and/or SSDI) who want to return to the workforce.

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Transition Training in the Black Belt: ADAP and the Full Life Ahead Foundation to Collaborate

By Nancy Anderson
Senior Staff Attorney, ADAP

Over the next three years, ADAP and the Full Life Ahead Foundation (FLA) will be teaming together to provide training in transition planning to youth with disabilities, their families, and service providers. Funded by a grant from the Alabama Council for Developmental Disabilities (ACDD), the trainings will emphasize serving families living in the Black Belt area of the state.

Transition planning – getting ready for life

Finishing high school is the beginning of adult life for all children. Young people and
(Continued on Page 10)

Wyatt v. Stickney: A Landmark Decision



The *Wyatt v. Stickney* lawsuit created minimum standards for the care and rehabilitation of people with mental illness and mental retardation that have been emulated throughout the nation. Filed on October 23, 1970, the case was finally dismissed on December 5, 2003. This is the first in a series of articles on the history of the *Wyatt* lawsuit, the people involved in the suit, and the results of its historic decision.

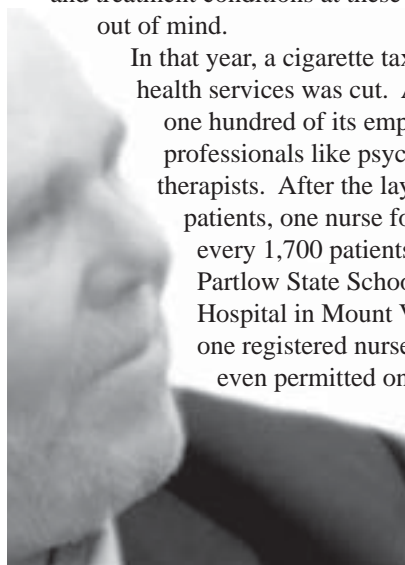
By Lauren Wilson Carr
Senior Staff Attorney, ADAP

In 1970, Bryce State Hospital in Tuscaloosa, Alabama had 5,200 patients living in inhumane conditions and receiving woefully inadequate treatment. Remembering what he had seen during his coverage of the Nazi war trials, Hal Martin, the editor and publisher of the *Montgomery Advertiser*, went so far as to liken the conditions at Bryce and the state's other mental health institutions to those at concentration camps. Few members of the public knew about the horrible living and treatment conditions at these facilities; patients were out of sight and out of mind.

In that year, a cigarette tax whose income was earmarked for mental health services was cut. As a result, Bryce was forced to fire almost one hundred of its employees. Of the employees fired, 20 were professionals like psychologists, social workers and occupational therapists. After the lay-offs, there was one physician for every 350 patients, one nurse for every 250 patients and one psychiatrist for every 1,700 patients. Staffing ratios and conditions at the Partlow State School and Hospital in Tuscaloosa and the Searcy Hospital in Mount Vernon were not much better. At Searcy, only one registered nurse attended to 2,500 patients and she was not even permitted on the male wards.

When the Bryce layoffs were announced,
(Continued on Page 2)

The original lawsuit, styled as Wyatt vs. Stickney, was filed on October 23, 1970, on behalf of Ricky Wyatt, (left) a resident at Bryce Hospital in Tuscaloosa, Alabama.



staff from the University of Alabama Department of Psychology spearheaded a movement to file a lawsuit for reinstatement of the laid-off employees. Their strategy was to go into federal court and argue that if staff members were fired, then treatment at the institutions would be inadequate for the patients. A lawsuit was filed in federal court in Montgomery and assigned to Judge Frank M. Johnson.

Judge Johnson held that the Department of Mental Health and Mental Retardation (DMH/MR) had the authority to make such hiring and firing decisions; no federal court case could be brought over that issue. However, Judge Johnson did believe a federal question existed regarding the minimum standards required for treatment of people who were involuntarily committed to a state institution.

Institutions as Dumping Grounds

Up until the transformations in care and treatment that resulted from Wyatt, the state's mental health and mental retardation centers were often used as dumping grounds for people that were considered problems for their families or society.

Ira DeMent, a former U.S. Attorney who worked on Wyatt and who now serves as a judge on the U.S. District Court in Alabama, offered these comments at the time regarding conditions at the state's institutions: "Anybody who was unwanted was put in Bryce. They had a geriatric ward where people like your and my parents and grandparents were just warehoused because their children did not care to take care of them in the outside world, and probate judges would admit them and commit them to Bryce on a phone call, on a letter from a physician saying that they could not take care of themselves. They were not mentally ill. Bryce had become a mere dumping ground for socially undesirables, for severely mentally ill, profoundly mentally ill people, and for geriatrics."

Continued DeMent, "There was one ward with nothing on it but old people. Beds were touching one another and they were simply warehoused. There was a cemetery in the back, but no records. Someone would die — they would merely dump them in an unmarked grave and that was the end of it and no accountability,



supervision, no investigation to determine the cause of death — nothing."

Ricky Wyatt

Fifteen-year-old Ricky Wyatt was the nephew of one of the laid-off employees at Bryce, Mrs. W.C. Rawlins. Ricky had been labeled as a juvenile delinquent and was placed in Bryce in 1969 because he had been misbehaving in a children's group home in Selma. The court that committed Ricky hoped Bryce would be able to make him behave. He did not have a mental illness.

After Judge Johnson determined the employees could not bring a Federal suit limited only to the matter of staff layoffs, Mrs. Rawlins, who was Ricky's guardian, allowed herself and Ricky to represent the patients in the lawsuit. Adding Ricky as a plaintiff allowed the attorneys to allege that patient treatment suffered as a result of the staff layoffs.

Among other things, Ricky stated in his testimony that he slept on wet floors and was locked in a cell-like room with the only light coming from slats in the door. His aunt spoke about how he was very heavily medicated so he would not act up. Though he was threatened with shock therapy, Ricky never received it because his aunt would not consent to this treatment.

The Theories of the Time

From a broader perspective, it could be said that the lawsuit has its roots in two developments in the care of people with mental illness. The first development involved the research and writing of attorney-physician Morton Birnbaum who published a groundbreaking article in 1960 entitled "The Right to Treatment." In this article, Birnbaum advanced a revolutionary idea that each person in a mental institution had a legal right to treatment that would give the person "a realistic opportunity to be cured or improve his mental condition." Birnbaum wrote that if the person did not receive the appropriate treatment, he should be allowed "to obtain his release at will in spite of the existence or severity of his mental illness." This theory was not used as a way to achieve de-institutionalization, but rather as an enforcement mechanism — a tool — to force improvements in the treatment of people with mental illness residing in hospitals.

The second development was the rise of a mental health bar, whose goal was to abolish or, if that was not possible, severely limit involuntary commitment of people with mental illness to institutions. (Continued on Page 3)

Photos : Provided by The Alabama Department of Mental Health and Mental Retardation. Top: Bryce Hospital exterior, Tuscaloosa, AL., Photo 2 and 3 -Interior photos at Bryce in early years. Bottom photo: Current living conditions in a community placement.

Wyatt's Goals

When the attorneys presented all the issues before the court, their goals were to (1) establish a constitutional right to treatment on behalf of people with mental illness, (2) establish a constitutional right to habilitation on behalf of people with mental retardation, and (3) set minimum standards regarding safety, education, training, medication, nutrition, physical accommodations, staff/patient ratios, individualized treatment and aftercare.

Living Conditions in State Institutions

As revealed through the Wyatt lawyers' research, conditions at the state institutions were abysmal. Jack Drake, one of the plaintiffs' attorneys, has discussed the conditions at Partlow. "I remember one of the things I did before the hearing was to review the accidental deaths of people who died at Partlow for a two-year-period and the extreme examples were residents who would get up in the middle of the night — go to one ward, maybe leave the door open and go into another ward, get into an unlocked medicine cabinet and eat the contents of 40 bottles and die."

Mr. Drake investigated a gruesome incident in which a boy with profound mental retardation had a garden hose inserted in his rectum, filling it with water and rupturing his spleen and killing him. Other examples of atrocious incidents presented to the court included a resident who was scalded to death as well as a resident who was restrained in a strait jacket for nine years to prevent hand and finger sucking.

At the time the case was filed, Alabama was 50th out of the 50 states for expenditures for the care of people with mental illness or mental retardation in public institutions. Alabama allotted 50 cents per day per patient in funding the physical plant, clothing and food budgets for these facilities. Attorney DeMent recalled that one of his first discoveries was a total absence of any fire safety equipment or plans in case of a fire. Although fire hydrants had been placed on the Bryce campus in 1923, they were not compatible with the hose couplings used by the Tuscaloosa Fire Department in 1970. Even more amazing was the fact that the Partlow switchboard shut down at 5:00 PM, leaving no way for the fire department to be contacted after hours.

The Decision

On March 12, 1971, Judge Johnson ruled that "there can be no legal (or moral) justification for the State of Alabama's failing to afford treatment—and adequate treatment from a medical

standpoint—to the several thousand patients who have been civilly committed to Bryce for treatment purposes. To deprive any citizen of his or her liberty upon the altruistic theory that the confinement is for humane therapeutic reasons and then fail to provide adequate treatment violates the very fundamentals of due process."

Judge Johnson gave Bryce six months to set standards and implement fully a treatment program that would give each patient a realistic opportunity to have his mental health improved.

On August 22, 1971, the plaintiffs requested the plaintiff class be enlarged by adding patients who were involuntarily committed at Searcy and Partlow, alleging that conditions at these facilities were no better than at Bryce.

On December 10, 1971, Judge Johnson ruled that even though Bryce had been given six months (at its request) to formulate proper treatment standards, it failed to formulate these standards. At the end of the six-month period, all the experts testified that the treatment program at Bryce was wholly inadequate. Judge Johnson ordered all the parties to develop and produce minimum

medical and constitutional standards for the operation of Bryce, Searcy and Partlow.

On January 17, 1972, the parties met in Atlanta, Georgia, to develop proper standards of care for the state institutions. The parties prepared two agreements.

One agreement stipulated the standards necessary to define what would constitute minimally adequate mental treatment at a state psychiatric institution. The other agreement covered the standards to be imposed at Partlow. These agreements were filed with the district

court. The court held a hearing on the Bryce and Searcy agreement on February 3 and 4, 1972.

The Partlow hearing was conducted February 28 through March 2, 1972. At the end of the Partlow hearing, the court entered an emergency order requiring the defendants to take immediate actions at Partlow. These actions included the installation of an emergency light system and procedures for emergency evacuation, employing 300 additional resident care workers as well as revision of sanitation measures in the kitchen. The Judge ruled, "The evidence... has vividly and indisputably portrayed Partlow State School and Hospital as a warehousing institution which, because of its atmosphere of psychological and physical deprivation, is wholly incapable of furnishing [habilitation] to the mentally retarded and is conducive only to the deterioration and the debilitation of the residents."

With this ruling, and the agreements submitted to the court, minimum standards were created for care of people with mental illness and mental retardation who reside in institutional care.



DMH/MR Commissioner Kathy Sawyer, (left) and Governor Bob Riley (right) with Mr. Ricky Wyatt (center).

Angie Allen ADAP Athlete

By Lydia Akin
Senior Case Advocate, ADAP

When we turn 40, most of us start slowing down. Not Angie Allen, case advocate for ADAP.

Angie joined the recently formed University of Alabama Women's Wheelchair Basketball Team. Coached by Margaret

and has an aggressive back pick. She complements a team of 12 players that includes both graduate and undergraduate students at UA as well as several high school students from around the state.

While a newcomer to wheelchair basketball, athletic competition is nothing new to Angie. Earlier in her life, she played volleyball, rode horses and played collegiate softball. Even after being struck by a truck, which caused paralysis from the waist down, her athletic zeal did not end. She was introduced to the world of wheelchair road racing and won the first eight-kilometer road race she participated in. She went on to compete in about 18 races a year throughout the United States and even as far as away as Japan. She stopped competing in 1998 after winning many marathons and half-marathons.

So, while the rest of us are relaxing in the air conditioning, Angie will be spending her summer doing conditioning — lifting weights, hand cycling and

performing exercises to get ready for her second season.

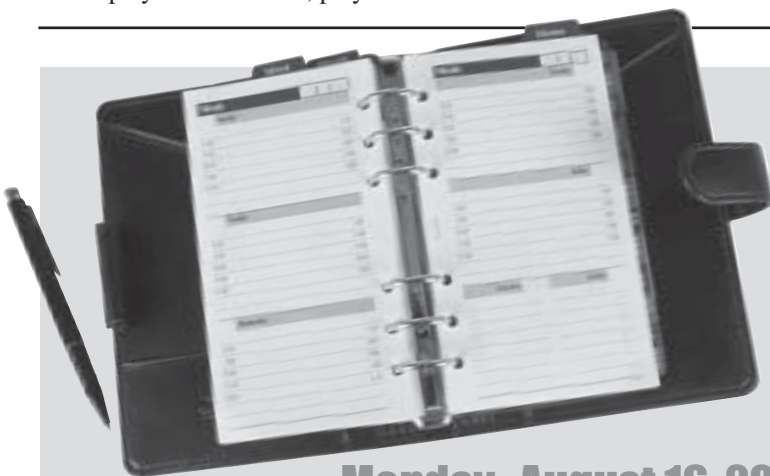
For more information on the University of Alabama's Wheelchair Basketball Team visit their website at www.bama.ua.edu/~uads/bball.htm.



The University of Alabama Women's Wheelchair Basketball Team

Team members are: Margaret Stran, Angie Allen, Jessica Staley, Casandra Rightmyer, Erica Moyers, Dana Myer, Dana Fink, Maggie Frederick and Meredith Jett.

Stran and her husband Brent Hardin, the club team had a fifteen game schedule that took them all over the United States in its first season. Angie, though a novice at wheelchair basketball and the oldest player on the team, played a mean man-to-man defense



MARK THIS DATE!

Public Forum

Services for Persons with Developmental Disabilities & System Change Needs

Monday, August 16, 2004 • 4 PM to 6 PM

**University of North Alabama • Troy State University
Civitan International Research Center, UAB**

Do you or a family member have a developmental disability? Do you work with persons with developmental disabilities? If so, join the Alabama Disabilities Advocacy Program (ADAP), Alabama Council on Developmental Disabilities and the Civitan Center at a statewide forum to share your thoughts on service and advocacy needs of persons with developmental disabilities.

For more information about the forum or to arrange for accommodations, contact ADAP at 1-800-826-1675 or the ACDD at 1-877-774-9520. All requests for accommodations must be received by August 2, 2004.

“Folks in the mental institution have a “right” to adequate treatment”

By Paul Davis
Opelika-Auburn News

I had planned to let you meet my dear friend Eugene Ward months down the road, perhaps at Auburn University’s Pebble Hill where writers are invited to read a few pages from their books.

I had planned to have Eugene join me on that special day that I had envisioned in my mind for some time.

That won’t happen now. Eugene is dead.

Perhaps it wasn’t meant to be. Maybe that book will never be completed, maybe it will. It has a simple title: “Eugene”.

He was found dead in his Mobile apartment last week. He appeared to be kneeling in front of his sofa, his head on a cushion. He was a praying man.

Half his life was spent in Tuscaloosa’s Partlow State School for the retarded. Half was spent in Mobile, working for a company that shipped plants across the country.

The state listed him at one time as a “serious homosexual.” We laughed about that sometimes. What is a “serious” homosexual?

I think the state was seriously wrong on both of its diagnoses. Eugene was slow, having never had access to a formal education — in fact education in any form provided by the state.

As a child, I lived only six blocks from the hellhole known as Partlow. I often went there and visited with those lonely souls. I’d play softball for hours.

As boyhood moved into manhood at lightning speed, I found Partlow to be an even greater part of my life when I began my work as a newspaper reporter. Hospitals became my beat. Tuscaloosa at that time had one-third of all the hospital beds in Alabama, between 8,000 and 10,000 beds.

In addition to Partlow, there was Bryce Hospital for the mentally ill, Hale Memorial Hospital for tubercular patients, a large Veterans Administration Hospital and Druid Hospital, for the general

population of West Alabama. Back then, maybe 35 years ago, Alabama was facing its annual financial crisis and the professional staff at the state hospitals was again being slashed. (The budget for the hospitals is again being cut this year.)

A general practitioner, an MD, ran Partlow. Bryce had one psychiatrist for more than 5,000 patients. But he was the administrator and had only limited time to see patients.

I had an attorney friend in Destin, Fla., George Dean, who visited with me often, stayed in my home, worked out of my office. He drank entirely too much whisky and practiced too little law to make a living.

We talked with some of the psychologists at Bryce as the layoffs approached and came up with the simple notion that the folks in the mental hospitals had a “right” to adequate treatment.

That was a rather strange notion at the time. I don’t think we had even given that lofty status to public education or defined it as an essential function of state government.

We deduced this: If the State of Alabama was, according to its laws, going to take people and “involuntarily” commit them to a state facility to “make them better” then the state had an obligation to provide the facilities, staff, and medications to make them better. We didn’t seek to make the rules; we simply wanted the state to be ordered to follow its own rules.

And we won. After months and months of court action Frank Johnson, district judge for the Middle District Court of Alabama, laid down harsh rules for Alabama and those rules became the guidelines for the nation. They are still the law.

Usher in Eugene Ward. At our request, Judge Johnson appointed Ward to a Human Rights Committee at Partlow. I joined him on that five-member panel as an officer of the federal court to see that the judges strong orders were carried out.

Eugene was free. He had the run of the campus. It wasn’t many weeks before he was in trouble. Guards caught him standing on a garbage can peeping in the girls’ shower room.

Back to court. Eugene wasn’t fit to serve on the committee, his captors told Judge Johnson.

I almost got myself cited for contempt of

court when I told the judge that Eugene was making excellent progress, in light of the states admission diagnosis.

Instead of liking boys, Eugene was a convert to girls, to the heterosexual side of things. I told Judge Johnson that when the hormones started rumbling around in Eugene’s 14-year-old body, that there was no one else around him except 100 or so boys. He knew nothing about girls. Once he compared the two, he never looked back. The girls were just great. Judge Johnson came as close to a smile as his serious demeanor would allow. Eugene stayed on the committee.

But not for long. He was among the first to leave Partlow, going to a group home in Mobile and then a private apartment. There he lived his life his way. No trouble with the law.

He cooked his meals, washed his clothes, and those of his neighbor a female — who didn’t have a washer. He went to work every day, goofed off on Saturday and always carried his Bible with him to Sunday School and church. About twice a month, he even got to eat lunch with his pastor.

I’ll miss his regular, always collect, phone calls, his analysis on the political scene, his concern for the morals of today’s young people and those with serious mental and physical disabilities.

I may not ever get to read the book about his life but I had the pleasure of watching him live it, free from an institution, smelling the roses, kissing a girl, getting a paycheck, watching TV as late as he wished, getting on his knees to pray, and showing the rest of us how you make the most of what you have.

He had been discarded by his family, woefully neglected by the state but never forgotten by those who loved him. He returned that love ten-fold.

We walked the Partlow campus together quite often. We would go on the wards at feeding time and watch as the five-gallon milk can was brought in and the loaves of stale bread were dumped into the milk. Supper was being prepared. That soppy bread was dipped out and poured into stainless steel trays. Sort of like slopping the hogs. And there was always that stench, like a hen house. Folks with their arms tied to chairs simply soiled themselves and waited until nighttime to be
(Continued on Page 10)

Reprint from The New York Times Magazine,
May 30, 2004

The Way We Live Now Stairway to Justice

By Harriet McBryde Johnson



Harriet McBryde Johnson

Monday, May 17, was an interesting day for civil rights. As the first same-sex marriages were performed in Massachusetts and people everywhere observed the 50th anniversary of *Brown v. Board of Education*, the

U.S. Supreme Court delivered another important civil rights victory in *Tennessee v. Lane*. However, unlike *Brown*, the new ruling was a squeaker — 5 to 4 — and its terms conspicuously grudging and circumscribed. People with disabilities count it as a victory when rights simply aren't rolled back as far as they might have been.

The legal question in *Lane* was whether Congress had authority under the equal protection clause to enact Title II of the Americans With Disabilities Act and ban discrimination based on disability by state governments. To make this mandate real, governments must make their programs accessible by removing architectural barriers or by other reasonable modifications, like relocating services to other facilities.

The facts in *Lane* involved access to courthouses. One paraplegic plaintiff had to leave his chair and crawl up two flights of stairs to get to his own hearing; after the court recessed for lunch without reaching his case, he declined to make the climb again or to be carried up the stairs, and was arrested and jailed for failure to appear. The second plaintiff, a court reporter who uses a wheelchair, can't work in a number of courtrooms because of architectural barriers.

As a lawyer in a power wheelchair, I

cannot take access for granted. I cannot even assume others have a basic comprehension of how I move around in the world. Because I cannot walk, crawl or safely be carried, even one step keeps me out as surely as would a sign saying "No cripples allowed." People often offer to carry me, as if the offer itself discharges any duty to remove the unnecessary barriers in my way. When I decline to be carried, I am made to feel ungracious. Beyond that, I am rendered unable to do for myself and my community.

In light of such compelling facts, it seems hard to imagine how anyone could deny the plaintiffs a day in court. The issue should be what to do about the problem, not whether these plaintiffs have a right to be heard under the Americans With Disabilities Act. However, in 2001 the Supreme Court ruled that states may not be sued under the A.D.A. for money damages for employment discrimination — regardless of the facts. That ruling raised the question of whether victims of disability discrimination may invoke the law when the aim is not to get money but to require states to provide access. In *Lane*, the court ruled yes, but only because another federal constitutional right — access to the courts — was at stake.

Associate Justice John Paul Stevens wrote for the majority: "Congress enacted Title II against a backdrop of pervasive unequal treatment in the administration of state services and programs, including systematic deprivations of fundamental rights." The court noted a history of discrimination in such areas as voting, jury service, institutional conditions, public education, unreasonable zoning decisions and "a pattern of unconstitutional treatment in the administration of justice." In a concurring opinion, Associate Justice David H. Souter pointed out that the history is even worse: courts themselves have promoted invidious discrimination. He wrote, "In sustaining the application of Title II today, the court takes a welcome step away from the judiciary's prior endorsement of blunt instruments imposing legal handicaps."

It is a step, and a welcome one. When a state's refusal to accommodate interferes with some fundamental right, the A.D.A. provides a vehicle to deal with it. A contrary decision would have been devastating. Had Title II been overruled,

for example, the disability rights movement would have lost a key tool in its quest for a world in which states no longer require institutional confinement as a condition for receiving long-term care.

But what if the issue is not freedom from lockup or access to a courthouse, polling place or public school? What if it's about access to a state-run museum exhibit or concert? In such a case, the current court might not allow an A.D.A. suit against a state, no matter how simple the remedy or how unreasonable the conduct.

The Supreme Court majority apparently sees no equal protection violation in the states' routine exclusion of people with disabilities from services that other people take for granted. Three of the dissenters would go so far as to deny that inaccessibility precludes access. Apparently expecting people with disabilities to be carried up stairs, Chief Justice William H. Rehnquist, joined by Associate Justices Clarence Thomas and Anthony M. Kennedy, wrote, "We have never held that a person has a constitutional right to make his way into a courtroom without any external assistance."

Statements like that illustrate the continuing gulf between the reality of disabled lives and others' understanding, a gulf that is the natural consequence of the years of isolation and exclusion that the A.D.A. targets. While I rejoice that Charleston's state and federal courthouses have now been made accessible, other places remain inaccessible. For many decades, long flights of stairs made statements about the grandeur and power of the law. They reflected prevailing assumptions about the abilities of the people who would be participating in public life. By design, they were humbling, even disempowering. Ramps, elevators and appropriate use of government spaces have the opposite effect. For people with disabilities, it is impossible to conceptualize equal protection of the law without them.

Harriet McBryde Johnson, a lawyer in solo practice in Charleston, S.C., writes frequently for the New York Times Magazine about disability rights. Ms. Johnson was the keynote speaker at the Disability Law Symposium held at The University of Alabama School of Law in November 2003.

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Bottom-up reform

R.C. paves way for reform of state's child welfare system

By Michelle Rupe Eubanks
Staff Writer



James Tucker

James Tucker was a young lawyer living in Florida. He graduated from law school at Emory University and knew early on he wanted to practice civil rights law, especially as it involved children. He

got a call telling him about a case, a potentially revolutionary case, that might be good enough to tempt him back home to Alabama.

The case had the potential to have far-reaching implications for the state's sagging child-welfare system.

"I went to law school with the purpose of being a civil rights lawyer," he said. "I'm from Alabama, so I let the folks here know I was interested in coming back to the state if an interesting project came along." The "project" was an 8-year-old boy known as R.C. who was taken from his home, institutionalized and virtually forgotten by the system.

His case prompted a class-action lawsuit. That lawsuit and Tucker have helped revolutionize child welfare in Alabama and other parts of the country. R.C.'s parents divorced in 1987 when he was 8.

Originally, he was sent to live with his mother, but after state Department of Human Resources workers were called to investigate allegations that she was abusive, his father was granted custody.

R.C. had trouble coping with his parents' divorce, and he often acted out in school. According to a book about the case, "Making Child Welfare Work: How the R.C. Lawsuit Forged New Partnerships to Protect Children and Sustain Families," "DHR offered Mr. C no help in finding treatment for his son. Not long after, DHR was called in once again after it received a report that Mr. C's utilities had been shut off. DHR removed R.C. from his father's home and made him

a ward of the state, where he languished for the next year."

Mr. C. contacted the American Civil Liberties Union. ACLU attorneys learned there were thousands of children like R.C. in the welfare system across the state. These children had been removed from their homes, often taken hundreds of miles from their families and virtually forgotten.

Mr. C's request for help in getting his son back "crystallized the issues attorneys and advocates were discussing as they considered a legal challenge to the unwarranted institutionalization of children," said Ira Burnim, author of "Making Child Welfare Work" and the lead plaintiffs' attorney in the case.

He said Mr. C's request also questioned "the lack of commitment by the child welfare system to restoring or preserving families, and the system's overall neglect of children in its care."

The R.C. v. Hornsby case, as it was eventually called, never went to trial. Instead, attorneys for both sides worked together from the moment the case was settled in 1991 to implement reform on a county-by-county basis in Alabama, working from the bottom up, case by case, family by family, child by child.

"I do think there was a point early on when both sides generally desired the same thing, even if we had different objectives about how that goal would be achieved," Tucker said. "The state and we agreed that child welfare practice was important."

Even now, 13 years after the case was settled, state DHR officials say there is still work to be done in converting services in all 67 Alabama counties to be more family oriented and to make sure all avenues have been exhausted before a child is removed from the home. Page Walley, the state DHR commissioner who took over in January, said the lawsuit has revolutionized the system.

"If not for the settlement," he said via telephone from his office in Montgomery, "Alabama would not have had a gun to its head to do what's right on the part of needy and unstable families."

Doing what's right has meant implementing individualized services, crafted from assessments with social workers and other community and family members at the local level. The system attempts to keep a child in the home with the birth

parents.

These services have "required an investment of money and resources that have made for healthier and more stable families," Walley said. "We've dramatically developed a firm foundation for Alabama's future for keeping a child in the home."

When the child cannot remain in the home, however, the next step is not a state-run facility or even a foster home. As often as possible, the child is placed with another family member to maintain stability in the child's life.

Carolyn Lapsley, director of the state's R.C. compliance office since 2000, has seen how a unified effort to reform the system statewide and from the bottom up has radically improved the results.

"One of the hallmarks of the reform is the individualized service plan, which includes a team meeting with the family and child as well as other professionals who bring necessary skills the social worker is not expected to have, like medical or mental health training," she said. "This team would identify the conditions in the family that have brought the family to the attention of the agency."

This meeting, she added, gives the team a point from which to make a plan to effect a change in the family dynamic.

Even with the fundamental changes made to the child welfare system in Alabama as a result of the R.C. lawsuit, the social work profession has not been without its ups and downs.

Plagued by a lack of money, social workers across the country often work for years without a raise. A lack of trained social workers also caused state offices to recruit people in other professions to do the job.

Reports of child abuse and neglect were on the rise as the caseloads piled up. Although Alabama has made changes, the outlook in many states remains bleak.

Laurie Barnard is all too familiar with the problems as well as the stereotypes associated with her chosen profession. She is the executive director of the Alabama chapter of the National Association of Social Workers.

"When I decided to get into this, I took undergraduate classes in psychology," she said. "My family freaked out about the change. My mom said I'd be taking
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R.C. paves way for reform of state's child welfare system

(continued from Page 7)

children out of homes.”

Barnard said she still struggles against the stereotypes.

“I’ve been doing this since 1990, and my family is still saying things,” she said.

She said the profession in Alabama has gotten its most positive boost since the R.C. settlement.

“Prior to the lawsuit, what was happening all over the country was that states were not hiring social workers to do a social worker’s job,” she said. “No one was choosing to go into it unless they felt a calling, so employers were looking for a cheaper alternative and filling the positions with whomever they could get.”

A lack of classroom training to deal with a report of child abuse or neglect could lead, in the worst- case scenario, to a child’s death.

“The media often shows the social workers not doing their job,” Barnard said, “but I’ve never heard it reported the number of cases a social worker has. The nature of child protective services is to investigate a case no more than five days after it’s reported. A social worker may have 150 other cases, but then have to drop everything to do the one. Most social workers are doing the best they can.”

Barnard believes that, without the R.C. lawsuit, the child welfare system in Alabama would still be troubled.

“Social workers often speak for the lower classes, so we don’t get any recognition,” she said. “It’s serious work we’re doing, and the lawsuit has helped improve wages and training possibilities.”

Even the issue of adequate funding has been addressed in the lawsuit, but the worry over future dollars persists.

“We’ve been fortunate with the ability to fund this reform,” Lapsley said.

“We’ve had an increase in state and federal dollars. But we’re always concerned about the long-term ability to fund at a level that’s needed to sustain the efforts.”

Walley is working to get all of the state’s 67 counties to convert to the lawsuit’s resolutions in the first half of this year, so all of the state’s children can begin reaping rewards of the landmark lawsuit.

“I want this to be a true conversion with change,” he said. Colbert and Lauderdale

counties have come into full conversion. Franklin County, however, awaits a federal monitor’s decision.

Tucker believes the six-month timeframe may be a bit ambitious, especially in light of problems that persist in Cullman County and parts of Jefferson County.

“There are children with challenging issues in the class who are still not being treated in a way they’re entitled to be treated,” he said. “The second big issue would be the status of Jefferson County. There’s still some serious implications for the city of Birmingham to get its act in gear. The case will not go away until we get some of those issues addressed.”

Because of the success the state has had, Alabama has become a model for child welfare reform across the country. Missouri is one state that has looked closely at Alabama’s progress after a recent child’s death there.

Tucker believes what Alabama has done could be achieved elsewhere.

“In order to support this kind of reform, it needs to be from the bottom up and from the top down,” he said. “It can’t be one or the other. It could serve as a model for reforming child welfare and other public services.”

Looking at the case records, the list of issues is miles long. A child referred to as K had vision and hearing problems that went unnoticed even though the state claimed to have exhausted every avenue for treatment for her. Shirley I’s experience in a foster home was harrowing and often abusive. The stories go on and on.

Tucker hopes his work and the work of the state and counsel on the R.C. lawsuit will put an end to those troubles and create a brighter future for Alabama.

“There’s a bigger issue here, and that’s that the public as a whole benefits,” he said. With a good system, the results will be productive members of society, not criminals and future abusive parents, Tucker said.

R.C. is a grown man now, in his early 20s, living in California with his dad. How he got there became the story that changed the face of the child welfare system in Alabama and the people that system served, the children.

James Tucker can be reached at ADAP e-mail:jtucker@law.ua.edu or by phone at 1-205-349-4928

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ADAP Intern receives Honorable Mention on the USA Today All-USA College Academic Team

By Lydia Akin
Senior Case Advocate

As part of The University of Alabama School of Law, ADAP is known for its training of law students through the School’s clinical law program.

However, ADAP also trains social work students in disability advocacy and this past year, one of our social work interns made us mighty proud!

Kristin Robinson, enrolled at UA in its Honors Program, not only graduated with a 4.0 grade point average in social work this past spring, she received an Honorable Mention on the USA Today All-USA College Academic Team. These achievements come on top of her being the recipient of the 2003 John Fraser Ramsey Award, one of UA’s four premier awards, honoring a student “with broad humanistic interests who has exerted a positive influence on his or her contemporaries.” She also received a McWane Foundation Research Fellowship in 2003 that allowed her to research social work burnout in the social care system.

Kristin’s internship at ADAP was a natural extension of her interest in children and families. In 2002, Kristin created Tuscaloosa Foster Friends, a volunteer organization that provides much needed respite for foster parents by teaming these families and children up with college-age volunteers. While parents work with Department of Human Resources administrators at monthly family support meetings, Kristin and her volunteers mentor the children through activities such as reading and playing with toys.

Other community work has included Big Brothers Big Sisters, the Head Start program, and the YMCA soccer program. Last summer, Kristin spent a week overseas serving as a counselor at a camp for underprivileged children in England.

Kristin will return to the University of Alabama this summer to begin the Master of Social Work Program. ADAP wishes her the best of luck in her new studies and hopes that she’ll continue her disability advocacy work!



A Community Placement Success Story

by Anil A. Mujumdar
Staff Attorney, ADAP

ADAP recently helped achieve a positive outcome for a consumer who had been institutionalized in various mental health facilities for the past 14 years.

Alice Turner was committed to inpatient psychiatric care in the early 1990s. At the time of her commitment, Ms. Turner had an untreated mental illness, was a victim of ongoing domestic violence and financially impoverished. She was living in substandard housing, often without electricity and running water. Because of her mental illness, her family and community ostracized her. She struggled to get others to see that she was more than just a person with a mental illness — she was a person with typical goals and dreams.

Throughout her commitment, Ms. Turner actively participated in her therapy and treatment. Lacking her family's encouragement, she formed her own network of support. She worked with her physicians to manage her medication regimen and readied herself to return to an independent life in the community. She developed life skills such as cooking, cleaning, financial planning, and communication to promote her independence. She started saving in anticipation of moving into her own apartment.

ADAP became involved with Ms. Turner at the recommendation of her treatment team who felt that she had received the maximum benefit possible from her inpatient therapy and who supported her move to a less restrictive community placement. Several months of planning

and work by ADAP, Ms. Turner and her treatment team paid off when the court approved Ms. Turner's transfer to an independent community placement. After a 14-year journey through various inpatient mental health settings, she now has an apartment that she has decorated and furnished. She continues to attend outpatient day treatment and has the freedom to socialize, shop and attend church as she chooses.

Ms. Turner's success emphasizes the value of collaboration among attorneys, mental health professionals, courts and service providers in facilitating consumer-directed plans for independence and community living. Cooperation and dialogue were facilitated in this instance because destructive biases were set aside and Ms. Turner was evaluated according to her current clinical assessment. To the extent that Ms. Turner and others like her can be treated as people and not stigmatized as psychiatric cases or court cases, similar success stories are possible.

ADAP welcomes calls from consumers and referrals from service providers regarding independent community living placements for people with mental illness. If you think you have a situation similar to Ms. Turner's that warrants ADAP's attention, please call 205.348.4928 or 1.800.826.1675.

(The client's name has been changed to protect confidentiality.)

Inclusive Dance... What a Show!

By Lydia Akin
Senior Case Advocate

In a single performance, dance can interweave various forms of classical, jazz and contemporary movement. Given the natural diversity found in this art, it seems only fitting to have people with diverse abilities participate together.

Such was the case at the Southern Danceworks' Spring Repertory Concert entitled "Burn Rubber." The performance was part of a first-time collaboration between Southern Danceworks of Birmingham, Very Special Arts of Alabama, and Dancing Wheels, a Cleveland-based modern dance company that integrates professional stand-up and sit-down dancers — as the dancers who use wheelchairs prefer to be identified.

Four local amateur sit-down dancers and three professionals performed at the concert, which was held at the Virginia Samford Theater in Birmingham. Angie Allen and Margaret Stran of Tuscaloosa and Alice Faye Love and Robert D. McKenna from Birmingham were the local amateurs selected to perform with the professional troupe. These sit-down dancers were selected by audition by Mary Verdi Fletcher, the founding director of Dancing Wheels. Five days of rigorous rehearsals at the studios of the Alabama Ballet followed the selection process, with Dancing Wheels and Southern Danceworks putting the novice dancers through their paces. After this initial training, the dancers practiced for another month.

In his review, Michael Huebner of the Birmingham News wrote glowingly of the company's performance: "In the slow opening movement, fleet-footed Southern Danceworks regulars formed duos with their sit-down partners, pivoting the chairs on edge and moving fluidly with them across the stage. The sit-down dancers had no trouble keeping up, often moving more quickly than the company dancers. In a quick, joyous dance, the chairs became props for jumps and skyward moves."

Dancing Wheels also conducted training
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**For Your
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of ADAP's
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ADAP at:**

The University Alabama
Alabama Disabilities Advocacy Program
School of Law Clinical Programs
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Tuscaloosa, AL 35487-0395

V/TTY (205)348-4928
or instate clients call: 1-800-826-1675
Fax: (205)348-3909
e-mail: ADAP@law.ua.edu
website: <http://www.adap.net>

Inclusive Dance... What a Show!

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sessions for Southern Danceworks company members, instructing them how to teach "sit-down" dance to students studying dance and recreation therapy. Workshops were also available for individuals interested in learning the basics of partnering/integrated dance and creative movement invention. Because of this collaboration, Southern Danceworks can now expand its school and community outreach programs to include integrated dance for children and adults of all abilities.

Angie Allen, one of the sit-down dancers, works as a case advocate for ADAP and is a member of the University of Alabama's Women's Wheelchair Basketball Team. Margaret Stran is working on her Ph.D. in Physical Education Teacher Education at the University of Alabama, and also coaches and plays on the wheelchair basketball team.

For more information about Southern Danceworks go to: www.Southerndanceworks.org. For more information about Very Special Arts go to: www.vsarts.org.

"Folks in the mental institution have a "right" to adequate treatment"

(continued from Page 5)

hosed off.

One day, with Ira DeMent, the U.S. attorney for the Middle District of Alabama with us, we found a 15-year-old girl squatting outside in the sunshine in a straitjacket. She was miserable, with flies crawling all over her face and in her mouth and no hand free to shoo them away.

All of us grew angrier each day. People died almost every day at Bryce and Partlow. Old men nailed together pine boxes to be used as caskets.

The state had made "things" of human beings, making it easier to ignore their pain and suffering. I chronicled those deaths often, amazed at how often old men and women simply suffocated on those stifling hot wards.

The dead in those pine boxes would be taken out back where a backhoe would cut a hole six feet deep in minutes.

Hundreds of fathers and mothers, brothers and sisters were placed in those

graves without even a headstone bearing their name. The plan was simple. There would be no shame for the families involved. No names!

Simple, tiny cast-iron markers with a number were stuck at the head of each grave. That was easy, too, for the state. "Things" don't have names, only numbers.

The Germans practiced this, too at Auswitch and Dachau. Numbers attached to "things."

I got Gov. Lurleen Wallace to come and take the tour. She wept and she helped.

The state hospitals of today are much better places, thanks in large measure to Judge Johnson and caring people like Mental Health Commissioner Kathy Sawyer.

In an odd twist, I now serve on the State Mental Health Board.

Eugene might have been as proud of me as I have always been of him.

Reprint of Paul Davis' columnist for the Opelika-Auburn News from February 8, 2004. Paul wrote one of the first series of stories about the horrors of institutions in Tuscaloosa, and broke the news about the conditions there and essentially started Wyatt.

The Full Life Ahead Foundation

WEEKEND WORKSHOP RETREAT

**St. James Hotel
Selma, Alabama
Sept. 10 - Sept. 11, 2004**

Do you have a teenager who has a disability? Are you and he wondering about his life after high school? Where will he live? And what about a job?

Come to an interactive & informative WORKSHOP

Transition Training in the Black Belt: ADAP and the Full Life Ahead Foundation to Collaborate

(Continued from Page 1)

their families are faced with many options and decisions about the future. For students with disabilities and their families, these choices may be very complex and may require a great deal of planning. Unfortunately, many families of students with disabilities do not adequately plan for the transition services intended to prepare children to make the transition from the world of school to the world of adulthood.

FLA was founded in 2002 by Jan Cobb and Judy Barclay,

came out of the process committed to sharing their experiences and newly-earned knowledge with other families. Through its nationally recognized training and workbook, FLA helps families create hope, dreams and a plan that results in an independent life that the person with a disability has a choice in creating.

First FLA Black Belt program scheduled

The first weekend-long transition training to be conducted under the ACDD grant will be held at the historic St. James Hotel in Selma on September 11-12.

Following the successful interactive training format FLA has used in the past, participants will work on such things as dream building and self-determination, creating a support system for the individual with a disability, developing life plans, and work and interviewing skills. ADAP will build upon FLA's program by providing training on legal rights associated with the provision of transition services, IEP advocacy, and conflict resolution skills.

Registration is limited so contact FLA soon to reserve your spot. Except for a \$15 registration fee, there are no other fees to attend the training – food and lodging charges are covered. For more information about FLA or to register for the upcoming training in Selma, contact FLA Executive Director Lisa Manly at 1.866.700.2026 or via email at lisamanly@fulllifeahead.org.

two mothers of children with disabilities. Both ladies lived through this transition planning process with their daughters and

ADAP Services for Social Security Beneficiaries Who Want to Return to Work

(Continued from Page 1)

As with all federal programs, there are limitations to the services ADAP can provide. From working with this program, and through discussions with service providers throughout the state, it is clear that many people still have questions regarding what services ADAP can provide on behalf of people who receive social security payments and want to return to work.

ADAP Services

1. ADAP can investigate and review any complaint of improper or inadequate services provided to a person who receives social security payments (SSI or SSDI) by a service provider, employer, or other agency involved in the person's return to work effort. ADAP can act as a "watch-dog" over the existing and new vocational rehabilitation (VR) and employment systems available to serve individuals with disabilities, monitor the existing state and private VR systems, monitor the one-stop agencies and monitor the employment networks serving beneficiaries under the Ticket to Work program.

** Recently ADAP received numerous reports that improper information has been being disseminated regarding social security work incentive programs. If you believe you have been given incorrect information, or if you have relied to your detriment on information given to you from an agency, employer or service provider, you should contact ADAP.*

2. ADAP can give information and referral sources to SSI and SSDI beneficiaries about work incentives and employment, including information on the types of services, programs and assistance available to them in securing or regaining gainful employment.

** ADAP refers numerous cases to ALA-WIN (Alabama Work Incentives Network). This is a statewide program that helps Supplemental Security Income (SSI) recipients and Social Security*

Disability Insurance (SSDI) beneficiaries, between the ages of 14 and 64, understand their work options so that they may make more informed choices regarding employment. The ALA-WIN program provides information about federal, state and local work incentive programs and related issues. Specifically, ALA-WIN benefits planners have had extensive training to help beneficiaries:

- Understand how working will affect benefits
- Obtain personalized benefits planning
- Understand and plan for issues with medical benefits, Social Security, transition, Worker's Compensation, as well as many other issues.
- For more information about ALA-WIN call toll-free: 1-866-259-1745 (Voice)(TDD) or visit their website at www.alawin.org

3. ADAP can provide information and technical assistance on work incentives to individuals, attorneys, governmental agencies, employment networks and other service providers, as well as other advocacy organizations.

** Recently ADAP brought together the ALA-WIN benefits planners with Alabama's state work incentive coordinator. There are individuals in each social security office who are responsible for helping SSA beneficiaries who want to work.*

These individuals are called work incentive liaisons (WIL's). ADAP, ALA-WIN and Social Security's state work incentive coordinator plan to work together to ensure beneficiaries of social security are getting appropriate services and information regarding their desire to return to work.

4. ADAP can provide consultation to and legal representation on behalf of beneficiaries when necessary to protect a client's rights as long as the issues have a connection to employment. PABSS attorneys and advocates can help with: enforcement of ADA or Section 504 as related to employment, training, college programs, transportation, or anything else that stands as a barrier to employment. ADAP can provide legal representation and advocacy services for

people who have been denied funding for goods and services (including AT) through Medicaid, Medicare or private insurance companies if it relates to employment. There is one exception: ADAP cannot use program funds to pursue appeals or litigation against SSA.

** ADAP has helped numerous people who have been contacted regarding a continuing disability review, or who have been notified their benefits will end and who are currently working with VR services. ADAP has helped these individuals get the appropriate information to Social Security to allow the continuation of benefits.*

5. ADAP can advocate to identify and correct deficiencies in entities providing VR services, employment services, and other support services to beneficiaries with disabilities, including reporting to the program manager on identified deficiencies related to employment networks and other concerns related to the Ticket to Work and Self Sufficiency program.

** ADAP has successfully intervened in situations where conflicts have arisen between the VR counselor and the beneficiary to overcome barriers for the beneficiaries return to work program.*

For information regarding services provided by ADAP, or for requests for information and educational presentations on the PABSS program, contact Alethea Pittman, PABSS Program Coordinator, or Lauren Carr, Senior Staff Attorney at ADAP.

WEBSITE OF INTEREST

Assistance in understanding the impact of employment on Social Security Benefits, and work incentives for individuals who receive Social Security Disability Insurance and/or Supplemental Security Income.

www.alawin.org

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