

September 9, 2009

ABOUT NEW YORK

## A Cycle of Promises Not Kept

By [JIM DWYER](#)

For much of her life, a woman identified in court papers only as S. K. took care of other people. She raised four children on Long Island; when her husband died, she moved to Astoria and worked as a nurse's aide and gave medications. Through all this, she struggled with depression. She lived in Georgia with a daughter for a few years, holding down a job in a deli, and then came back to New York and stayed with a sister. During an episode of severe depression, she checked into a hospital.

When the time came for S. K. to go home, her sister could not cope with her illness and would not take her back.

Although S. K. was able to care for herself, manage her money and live alone, she wound up in an adult home — privately run facilities that have as many as 400 people under one roof. For nearly 40 years, adult homes have been the subject of scandal, outrage, investigations and promises of reform, much like the state hospitals they were supposed to replace. By now, the largest adult homes have more residents than psychiatric hospitals.

Like many mentally ill people, S. K. was not sent to the adult home for any reason other than to stash her somewhere, off the street.

On Tuesday, a federal judge said the state had to do better. In a 210-page opinion, Judge Nicholas G. Garaufis of the United States District Court in Brooklyn ruled that New York State had been illegally discriminating against mentally ill people who were capable of leading largely independent lives by warehousing them in adult homes.

They “are placed in Adult Homes by ‘luck of the draw for the most part,’ rather than any clinical determination that it is an appropriate setting,” Judge Garaufis wrote, citing the testimony of Linda Rosenberg, a former senior deputy commissioner in the state’s Office of Mental Health.

There is no dispute, the judge noted, that thousands of people who, with assistance, could be leading productive lives have instead been kept in adult homes, a violation of the [Americans with Disabilities Act](#).

The judge’s decision — in a case brought by a nonprofit organization, [Disability Advocates](#) — seeks to bring an end to a cycle of official investigations and unkept promises of reform. This legal case arises from the last spasm of interest in adult homes.

In 2002, [articles](#) in The New York Times by Clifford J. Levy reported on the chaotic squalor of the adult home system. During one hot summer, residents were dying of heat stroke in rooms that had no air-conditioning or fans, and often were not discovered until the odors became disturbing.

Gov. [George E. Pataki](#) responded by creating a task force of mental health experts to study the system and make recommendations.

The group “proposed that 6,000 of the 12,000 individuals with mental illness living in adult homes be helped to move to more integrated settings, and proposed a timeline to move them to supported housing by March 2009,” Judge Garaufis said.

AS the years went by, though, the state set up only about 60 units of housing. It provided air-conditioners. And it sent out more inspectors to make unannounced visits.

“They increased enforcement and tried to improve oversight of the homes,” said Anne S. Raish, a lawyer with the firm of Paul, Weiss, Rifkind, Wharton & Garrison who has worked on the lawsuit on behalf of Disability Advocates. “Those things didn’t do anything to bring them into compliance with the Americans with Disabilities Act.”

Over the years, the steam went out of the reform efforts, Judge Garaufis noted. By 2008, he wrote, the state “facilitated” the placement of more people in adult homes.

New York has wrestled for more than a century with the challenges of caring for the mentally ill. Nearly 40 years ago, when the state’s psychiatric wards were exposed as little better than squalid dungeons, a public consensus emerged that such places were unfit for animals. The release to the streets of mentally ill people, with no support or therapeutic care, created a wave of despair. Thousands of others, however, were sent to adult homes that, Judge Garaufis noted, were in some ways more restrictive than the hospitals they were replacing.

As Cliff Zucker, the executive director of Disability Advocates, noted Tuesday, litigation is expensive and drags on. The lawsuit brought by his group cost millions of dollars in legal services, much of it donated by Paul, Weiss and public interest law firms “The alternative in this case was nothing,” Mr. Zucker said.

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