

Lawyer: Official blocks Willowbrook changes

By ROBERT MIRALDI

An attorney for parents with children at Willowbrook Developmental Center said yesterday in federal court that at least one top state official has intentionally blocked implementation of federally-mandated changes at the Staten Island center for the retarded.

The attorney, Bruce Ennis of the New York Civil Liberties Union, said he intended to introduce such evidence at a contempt trial scheduled to begin next week in U.S. District Court, Brooklyn, before Judge John R. Bartels.

Ennis' contention that a state official had consciously attempted to block implementation of the so-called Willowbrook Consent Decree is the first time such a charge has been made since the signing of the precedent-setting agreement in April 1975.

Most of the changes outlined by the Willowbrook Decree were to be implemented at the 2,595-bed center by April and May of this year. They were not, and attorneys for the parents have charged three top state mental hygiene officials with contempt of court.

Slated to go on trial beginning next Tuesday are Department of Mental Hygiene Commissioner Dr. Lawrence C. Kolb, Deputy Commissioner Thomas A. Coughlin and Regional Director Dr. Alvin M. Mesnikoff.

At an all-day hearing yesterday in the court there was much haggling over whether the trial could possibly begin Tuesday. Attorney Taylor R. Briggs of Manhattan, who will defend Dr. Mesnikoff and Coughlin, asked for a postponement so that he could prepare for the case.

Judge Bartels was expected to rule today on whether to postpone the trial. The judge's crowded calendar makes it likely that the trial will not be postponed much past Jan. 2, however.

Briggs, making his first appearance in court yesterday, said he had just been retained by the defendants Monday. Briggs said he expected a two-week trial.

Attorneys Ennis and Christopher A. Hansen, both representing parents, yesterday morning gave Briggs a list of 20 probable witnesses, including the name of Dr. James Clements, chairman of the Willowbrook Review Panel, whose testimony is expected to be critical.

"We are quite serious about seeking imprisonment," Ennis said in court. Judge Bartels said that he, too, was "very serious" but that he would be "very lenient on the imprisonment."

"There are other ways," Bartels said

about punishment, however.

At one point Judge Bartels admonished the Department of Mental Hygiene officials: "I want to see this job done. I may be wrong, but I'm going to take strong measures to see it is done. I don't think the state has done as much as it could."

Bartels promised to visit Willowbrook soon to see what progress has been made at the controversial center. "I will go incognito," he said. "You know what happens for inspection in the army...they spruce up the place."

After Ennis' statement about intentional blocking of the Willowbrook Decree, Bartels, shaking his head, responded: "It's difficult to understand. Everyone is anxious to help these people (at Willowbrook). Why? Why isn't it done? It's done in other states."

Among the witnesses Ennis is expected to call are two Willowbrook employees whose names attorneys have requested be kept confidential because the employees fear retaliation by other Willowbrook employees.

It also surfaced in court yesterday that the U.S. Justice Department is contemplating a separate court action against state officials for possible violation of federal civil rights laws in relation to Willowbrook residents.

U. S. attorney Jose Rivera was given permission by Judge Bartels for a federal expert to tour Willowbrook and view progress there. Rivera said he might call a witness at next week's contempt trial.

Despite Judge Bartels' assertion that "we are not here to argue over technical matters," yesterday's hearing dealt mostly with the technical.

The judge ruled that if the state Department of Mental Hygiene wishes to object to recommendations of the Willowbrook Review Panel it now has the obligation to prove to the court why the

recommendation should not be carried out.

The "burden should shift to the state," Bartels said, ruling in the panel's favor.

State Attorney William Carnahan had contended that if the burden of proof shifted to the state "the Review Panel would be in effect the manager of the Department of Mental Hygiene."

Other testimony dealt with Willowbrook's medical and psychiatric services, possible changes in the state's managerial structure, and 600 former residents of Willowbrook who, the Review Panel contends, are being denied the benefits of the Willowbrook Consent Decree.

The hearing will continue today and Judge Bartels is expected to reserve decision on a number of issues.