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Trial of mental health aides postponed a second time

By ROBERT MIRALDI

The trial of three high-level state mental health officials, charged with contempt of a federal court, has been postponed for a second time until Feb. 7, it was reported yesterday.

Originally, the commissioner of the state's Department of Mental Hygiene, Dr. Lawrence C. Kolb, and two aides, Deputy Commissioner Thomas A. Coughlin and Regional Director Dr. Alvin M. Mesnikoff, were to go on trial this week.

However, late last week, U.S. District Court Judge John R. Bartels granted a postponement until Jan. 3. Attorneys for parents with children at Willowbrook Developmental Center and attorneys for the defendants refused to comment on the reason for the postponement.

Yesterday, Taylor R. Briggs of Manhattan, an attorney who is representing Dr. Mesnikoff and Coughlin, said that both parties in the case had now asked Bartels to put off the trial until Feb. 7.

Asked if the request meant that a trial of the three officials would never take place, Briggs said: "I wouldn't say that at all."

Observers said last week after the initial postponement it was odd that Bartels had granted a delay since in previous court hearings he had refused such requests. A pre-trial conference among the parties and the judge was held last Friday, however, and rumors have abounded that the state made major concessions to parents' attorneys.

The trial and contempt charges stem from an agreement reached in April 1975 between parents' groups and the state Department of Mental Hygiene, which promised to make radical changes at Willowbrook, where 2,595 retarded persons reside.

The deadlines for the changes were April and May, however, and the majority of the changes were not made. It was then that parents' attorneys charged state officials with contempt and sought jail sentences and fines.

The trial was to begin last week; but when it was postponed unexpectedly, observers speculated that the state officials had made concessions — like promising a separate state division to administer to the needs of the retarded and appointing a special administrator to expedite progress at Willowbrook.

Attorneys in the case refused to comment on the speculation, saying they

were bound by an agreement with the judge not to discuss the case. Other sources indicated that attorneys for the parents had indicated that they were pleased with the new developments in the case.

The attorneys have said they did not want a trial, but they felt it was the only way to force changes at Willowbrook. The attorneys said that just the threat of a contempt trial has brought speedier changes at the center.

Observers also have called it odd that records of the pre-trial conference were sealed by Judge Bartels and that both sides refused to discuss the latest developments.

First off, observers said, the public has an interest in the case, which concerns not only the 2,595 Willowbrook

residents but also the thousands of other residents in state centers who will eventually be given the benefits of the Willowbrook agreement.

Secondly, the public's financial interest at Willowbrook is massive. The center's budget is almost \$60 million. The Willowbrook agreement is costing millions to implement. And the contempt trial proceedings are costing the taxpayer thousands of dollars.

Attorney Briggs, for example, has been retained by the state for a \$150-an-hour fee, a fairly steep Wall Street attorney's fee, observers have pointed out. The state attorney general's office is defending Commissioner Kolb, but because of possible conflicts at the trial, Briggs was retained for Dr. Mesnikoff and Coughlin.