

Rape victim's parents file negligence suit

The parents of a now 9-year-old Staten Island girl who was raped two years ago in Silver Lake Park by a former resident of the Staten Island Developmental Center, Willowbrook, filed a \$5-million claim against the state yesterday in the Court of Appeals in Albany.

The claim charges the center and other respondents with negligence in permitting the child's attacker to go unsupervised and unrestrained in a community re-

lease program "notwithstanding his previously documented violent and animalistic behavior and history" while a resident at the center.

The claim, filed on behalf of the parents through the law firm of Behrins and Napolitano, also charged that the respondents failed to protect the public through their "grossly inadequate supervision" of the rapist, a man the claim said had a history of violence, criminal behavior and "deviate sexual propensities."

The rapist, James Rich, 19, pleaded guilty in a criminal case, and was sentenced in November 1977 to a state prison term of two to six years.

The girl, who underwent surgery after the attack, suffers and will continue to suffer from psychiatric symptoms, and will require extensive psychotherapy, the claim said.

The attack took place April 3, 1977 as the girl was riding her bicycle in the park with a girlfriend. She

left her friend, and Rich admitted he knocked her from the bicycle and hit her in the face before attacking her.

At the time, the girl and her parents resided in Silver Lake. The family now resides in Stapleton.

Center authorities had described Rich as a borderline, moderately retarded resident who had the "intellectual ability" to live in the community. Under the community release program in which he was placed, he was permitted to come and go as he pleased from the center.

The claim, in addition to negligence and carelessness charges violation of the girl's civil rights and violation of the Mental Hygiene Law.

In addition to the center and the state, the claim is directed against Commissioner Lawrence Kolb of the Mental Hygiene Department.

Among the allegations in the claim is the contention that the state failed to properly evaluate Rich before placing him in the program.

The claim said the state had the dual responsibility of rehabilitating and treating Rich. In addition, the state had the further responsibility of isolating Rich

"until such time as he was able to be among the public without any danger to himself or the public," the claim said.

The claim maintained that the state should have foreseen the consequences of its actions in allowing Rich to freely move about based on its past history of him.

At Willowbrook and other institutions, the claim said Rich had a history of sexual and other assaults, kidnaping, restraining others against their will and robbery.

The claim also charged the respondents with medical malpractice in their care and treatment of Rich. It was alleged that Rich failed to receive "appropriate" psychiatric test and treatment to determine if he was fit or prepared for the release program.

The parents in their suit accused the Staten Island Developmental Center of "grossly inadequate supervision" of the rapist, a man the suit said had a history of violence, criminal behavior and "deviate sexual propensities."