

Willowbrook Review Panel loses suit and maybe life

By ANEMONA HARTOCOLLIS

After nearly five years of winning showdowns against the state, the Willowbrook Review Panel yesterday lost its day in court and may, as a result, have lost its life as a monitoring unit.

A judicial panel sitting in the U.S. Court of Appeals for the 2nd Circuit, after deliberating since April, ruled that no federal judge could force the state of New York to fund the continued activities of the review panel.

On April 10, Judge John R. Bartels of Brooklyn Federal Court sought to do just that, threatening to hold Gov. Carey and Comptroller Edward V. Regan in contempt of court if review panel bills were not honored within five days.

Bartels, in whose chambers the review panel had long found a sympathetic

ic ear, took a broad drubbing yesterday, as the appeals court questioned the propriety of his constant entanglement in the fates of mentally retarded persons associated with the Staten Island Developmental Center.

The seven-member review panel was formed in 1975 to monitor state care for 5,200 sometime residents of the Staten Island Developmental Center in Willowbrook. At the time, Gov. Carey pledged in federal court to use all "lawful authority" to subsidize the monitoring body.

In two separate but concurring opinions, the three-judge appeals court panel said yesterday that for the governor and the comptroller to obey Bartels would mean for them to flaunt the laws and Constitution of New York. The only legal way for the state's executives to

allocate public money, the appeals court ruled, is in coordination with the Legislature.

Gov. Carey had earmarked \$342,300 for the review panel in his proposed 1980-81 budget, but the Legislature subsequently deleted the appropriation from the state's spending plan.

Judge Bartels' contempt order, which the appeals court had stayed pending its decision, was thus reversed.

The court's main opinion, written by Judge J. Edward Lumbard and joined by Judge Ellsworth A. Van Graafeiland, also implied that Bartels had reached too far in ministering to the welfare of current and former residents of the state-run developmental center in Willowbrook.

"Nothing in this opinion," Lumbard (Continued on Page 2)