

Court rule on treatment for retarded may not be final

By STAN BENJAMIN

WASHINGTON (AP) — A Supreme Court ruling that the mentally retarded are not guaranteed treatment in neighborhood settings is a major setback for groups pressing for greater rights for institutionalized mental patients, but it may not be permanent.

The justices voted 6-3 Monday to overturn lower court rulings that had used a 1975 federal law designed to prohibit so-called "warehousing" of the retarded as a basis for finding that mental patients had a "right to treatment" in settings "the least restrictive to personal liberty."

The court's decision overturned rulings that would have required the transfer of 1,200 patients at the Pennhurst State School and Hospital in Pennsylvania.

The justices said they agreed that "conditions at Pennhurst are not only dangerous, with the residents often physically abused or drugged by staff members, but inadequate for the 'habilitation' of the retarded."

But they said Section 6010 of the Disabled Assistance and Bill of Rights Act does not directly require the state to pay for better treatment for the patients at Pennhurst.

Writing for the court, Justice William H. Rehnquist said, "We are persuaded that Section 6010 ... does no more than express a congressional preference for certain kinds of treatment."

The court noted that Congress did not provide for enforcement of the section, such as threatening to withdraw federal aid to state mental health programs that did not meet

the section's standards.

But the decision was not necessarily a final word on mental patients' rights to treatment. The court left unanswered whether the Constitution or other federal laws give mental patients a right to least-restrictive treatment.

The lawsuit was filed on behalf of Terry Lee Halderman and the other patients at Pennhurst.

Ms. Halderman's attorney, David Ferleger of Philadelphia, said "the saddest part of the decision is that it puts off for at least another year the resolution of what to do with these antiquated institutions."

In other actions Monday, the court said the city of Memphis, Tenn., did not discriminate against the city's black residents by closing a street that linked black and white neighborhoods.

The court, in a 6-3 decision, said the city closed West Drive to through-traffic at the request of residents of the predominantly white Hein Park neighborhood for legitimate reasons: To reduce the danger and annoyance of heavy traffic.

The decision, however, drew a sharp dissent from the court's only black member, Justice Thurgood Marshall, who wrote that such reasons have too often been "little more than code phrases for racial discrimination."

At the same time, the court refused to block temporarily a racial desegregation plan for St. Louis schools that might include pupil exchanges with schools in surrounding suburbs.

Missouri officials had asked the justices to stay a lower court ruling

that required preparation of a voluntary pupil plan until it could file a formal appeal to the Supreme Court.

The high court, meanwhile, refused to kill a federal government lawsuit aimed at desegregating two elementary schools in Ocala, Fla.

Rejecting an appeal from Marion County school officials, the justices upheld an appeals court decision

which ordered a trial of the government's suit seeking "specific performance" of desegregation promises made by the school district when it sought federal funds.

The court also agreed to decide whether Richmond, Va., civil rights investigators who pretended to be apartment-hunters can sue a landlord for alleged racial discrimination.