

# Judge sets Nov. 16 Deadline in Willowbrook fight

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Trying to hasten the resolution of a dispute over the care of more than 4,800 mentally retarded patients from Willowbrook, a federal judge yesterday set Nov. 16 as a trial date in the case.

Lawyers for New York State and two public interest groups had reached a draft settlement in the dispute last month. But parents of the retarded patients, whose care in state facilities has been a subject of litigation since 1972, rejected the settlement last week, forcing the negotiations to start anew.

Judge John R. Bartels, sitting in Brooklyn Federal Court, warned yesterday that if the two sides did not finally agree on a settlement by Nov. 16, he would refuse any further requests for adjournment and bring the dispute to trial.

Bartels decided to set the trial date at the request of the New York Civil Liberties Union and the Legal Aid Society, the two public interest groups representing the retarded patients. All of

the patients are present or former residents of the state-run Staten Island Developmental Center, commonly called Willowbrook.

The prospect for a settlement appeared uncertain yesterday, although both sides said they were making every effort to avoid going to court.

"We are certainly willing to talk, but we are not as optimistic as we were," said Samuel J. Kawola, deputy commissioner of program operations in the state Office of Mental Retardation and Developmental Disabilities.

Kawola complained that the original settlement had been "practically gutted" by the Civil Liberties Union at the request of parents and advocate groups of the retarded. "It's like starting from ground zero, from scratch," he said.

Chris Hansen, a Civil Liberties Union attorney and chief negotiator for the patients, said he "could not really characterize whether we're making progress or not."

But he said the Civil Liberties Union was willing to go to trial

because it believed an "emergency" existed at the Staten Island Developmental Center, where 850 patients still live.

"I would venture to say that if you and I walked out there right now, we would find wards where several, even a substantial number of people, are left naked. I would venture to say that we would find the place is filthy because urine and feces are not cleaned up."

Hansen said conditions at the institution had deteriorated steadily since the state Legislature refused to continue funding the Willowbrook Review Panel, a seven-member group of experts appointed in federal court in 1975 to monitor state care of Willowbrook patients.

The draft settlement would have restored a single monitor, to be funded by the state as a cost of litigation rather than through specific legislative appropriation.

Kawola however, said Hansen's allegations of inhumane conditions at Willowbrook were "just not true." He said the institution was constantly super-

vised by auditors from his department, as well as inspectors from the state Commission on Quality of Care for the Mentally Disabled.

"On occasion, in any large population like that you do have strippers, you do have clients who are declodding themselves," Kawola added. "In a fragile human service system, a small percentage of incidents will happen. But we pursue any alleged abuse aggressively."

The original lawsuit against the state brought by parents and advocates of Willowbrook patients charged that the Willowbrook institution was overcrowded and understaffed, leading to abuses of the patients' constitutional rights. The suit was settled in 1975, when the state signed a court consent decree agreeing to move Willowbrook patients into small group homes in the community.

But the state missed an April 1981 deadline, by which it had promised to reduce the Staten Island Developmental Center population to 250.

Under the abortive draft set-

tlement, the plaintiffs lawyers had agreed to let the state enlarge the site of community-based facilities for the retarded from 10 beds, the current maximum, to 24 beds.

The opposition was led by Murray B. Schneps, the parent of a former Willowbrook resident, and Michael Lottman, a member, like Schneps, of the now-dissolved Willowbrook Review Panel. Both Lottman and Schneps are lawyers, and they have joined in the latest negotiations with the state, although they were barred from the process until the draft settlement caused a controversy.

Kawola said yesterday that he was disturbed by the participation of Schneps. "Chris Hansen was a tough enough ideologue for us to deal with in the quest for some objectivity and a middle road toward some transitional placement," he said.

According to Kawola, Schneps has introduced a new area of disagreement into the negotiations. He said the state and Schneps had different views on the state's responsibility toward

former Willowbrook residents who are now living in the Hall D. Warner Center, an institution operated by United Cerebral Palsy Association of New York State.

Kawola said the state believes it is up to United Cerebral Palsy to move its population into the community, while Schneps considers those patients part of the state's obligation. Schneps argues that the state will not fulfill its commitments under the consent decree until it reduces both the Staten Island Developmental Center and the United Cerebral Palsy facility to a combined population of 250 retarded residents.

"All of a sudden out of the clear blue sky, Murray Schneps is interpreting the discussions we've had for months, while he was never there," Kawola said.

Of the 4,800 patients who once lived in Willowbrook, fewer than half have been transferred to community residences while the rest have gone to other state institutions or the care of private agencies that operate institu-