

Former resident of state school awarded \$1.5M

Was misdiagnosed as retarded

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ASSOCIATED PRESS

SYRACUSE, N.Y. — Joseph McNulty, the former Willowbrook State School resident once misdiagnosed as mentally retarded, was awarded \$1.5 million in damages by a state court, which decided yesterday that the state was negligent in caring for him.

The 26-year-old was born deaf. When he was 4, he was diagnosed an inebile after being transferred in 1966 from a Brooklyn orphanage to the state facility, which later became the Staten Island Developmental Center. The center closed in September.

In a 159-page decision, state Court of Claims Judge Jerome Hanafin awarded the money to McNulty based on his claim that he was the victim of medical malpractice and negligence while in the state's care.

Hanafin faulted the state for negligently admitting McNulty to Willowbrook in 1976 and for overmedicating him during his time in state care.

Hanafin said the state failed to "mobilize available resources to harness Joseph's eagerness to learn and enable him to reach his highest potential."

"Obviously, we are elated that someone other than us is taking the position that Joe McNulty is not mentally retarded," said Syracuse attorney Joseph Davoli at a news conference.

McNulty was present and visibly happy, but his guardians, Deena Butcher and Daniel Geller, said he had not been told about the judgment. McNulty is unable to talk and is just learning American Sign Language, they said.

"We didn't mention the court case because he wouldn't understand. We told him he's a good worker, and we're having a party to celebrate that," said Butcher.

It was Butcher and her husband, Geller, who found McNulty living at Sunmount Development Center in Tupper Lake, N.Y., in 1976 and discovered that he wasn't mentally retarded.

It was the first light in McNulty's dark life.

McNulty was isolated, drugged, abused and sexually molested — all because the state misdiagnosed his deafness as mental retardation and failed to give him the education he needed, Davoli said.

McNulty was conceived by his deaf mother when she was raped. He was given up for adoption at birth and when that didn't happen he was sent to Willowbrook.

"There was only one reason why he was institutionalized. Because he was a biracial baby and back then nobody would adopt him," said Davoli.

According to the lawsuit, McNulty was given massive doses of tranquilizers and put into solitary confinement. When the state shut down Willowbrook in 1973, McNulty was turned over to a family care setting in Jefferson County, where he was sexually and physically molested, the lawsuit claims.

Geller and Butcher took him into their own home in 1978 and began the battle against the state, an effort that has been reported by the national media and involved 4½ years of court fights.

"He's like he is today simply by the virtue of what they (the state) have done to him, not by the actions of nature," Butcher said.

McNulty is currently living in a state-supervised apartment and involved in a county training program to become a kitchen helper.

Davoli said the money would be used for developmental and educational expenses for McNulty, but he added that it wouldn't cover much.

"Of course, \$1.5 million is really only a drop in the bucket compared to what Joe needs to take him out of the dark well he is in," he said. McNulty had been seeking \$10 million in damages.

"But, he'll survive. He survived Willowbrook. This is like a walk through the tulips now. This is a young man of tremendous potential," Davoli said.

Nathan Riley, a spokesman for Attorney General Robert Abrams, said the attorney general's office was reviewing the decision.

Geller is hoping the state will see how unfair it has treated McNulty and let the decision stand unchallenged.

"It's time they demonstrated some humanity to Joe McNulty and settle this suit so he can get on with his life. Appealing puts it behind the 8-ball again," he said.

McNulty, who now lives in Syracuse, has two other lawsuits pending. One is in state court and is against the individual doctors who treated him. The other is a civil rights action in federal court.