
**IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

ILLINOIS LEAGUE OF ADVOCATES
FOR THE DEVELOPMENTALLY
DISABLED, et al.,

Plaintiffs-[Appellants](#),

vs.

ILLINOIS DEPARTMENT OF HUMAN
SERVICES, et al.,

Defendants- [Appellees](#).

Appeal From the Northern District of
Illinois
Eastern Division

District Court No. 13 C 1300

Honorable Judge Marvin E. Aspen
Presiding

DOCKETING STATEMENT

All Plaintiffs-Appellants, the Illinois Advocates for the Developmentally Disabled, et al, hereafter ILADD) file this docketing statement pursuant to Circuit Rule 3(c):

1. An order denying ILADD's Motion for Preliminary Injunction was entered in this matter by the Hon. Marvin E. Aspen on July 21, 2014 (Dkt. 400).
2. ILADD filed a Notice of Appeal on August 20, 2014.
3. The District Court had subject matter jurisdiction over this matter pursuant to 28 U.S.C. §1331, as the case arose under several federal statutes: the Americans With Disabilities

Act, (“ADA”), the Medicaid provisions of the Social Security Act (Medicaid) and 42 USC 1983 for deprivation of Plaintiffs’ Civil Rights resulting from the deprivation of an entitlement.

4. This Court has jurisdiction pursuant to 28 U.S.C. §1292(a)(1), as this is an appeal from an order denying a motion for a preliminary injunction. 28 U.S.C. §1291(a)(1); The Plaintiffs’ Motion for Preliminary Injunction asserted that the Defendants’ process and plan to close State Operated Developmental Centers in Illinois in general and the Murray Developmental Center in particular was being used to coerce Plaintiffs’ wards into community placement options where they would lose the services to which they were entitled for the care and treatment of their conditions of developmental disabilities all against their choice as required by 42 USC 1396 (n) (2) (C) (2) and that such deprivation of services and choice was a unlawful denial of an entitlement all in violation of 42 USC 1983. Plaintiffs’ motion also asserted that the States’ plan and operation of the plan recategorized and recast Plaintiffs’ severity of disability and thereby deprived Plaintiffs’ wards of services under the Americans With Disabilities Act forcing them to accommodate their disability to the states’ desired outcome for the provision of services. Said action by Defendants amounted to intra-class discrimination between persons having different severities of developmental disability by depriving Plaintiffs’ (the most severely developmentally disabled) of necessary services so that the funds used for their services could be used to provide services for less severely developmentally disabled persons. Plaintiffs’ Motion asserted that unless the court granted the Preliminary Injunction (extending the Temporary Restraining Order which had been in place since June 12, 2013) that Plaintiffs’ wards would suffer ~~irreparably~~irreparable and grievous harm as a result of loss of their required services and the guardians right to a clear choice encompassing all available options. Plaintiffs’ Motion asserted as well that the balance of the equities and the harm weighed in favor of Plaintiffs and against

Defendants and that they had a likelihood of success on the merits based on recent decisions of this Circuit on the federal statutes at issues and the language of the Affordable Care Act, [Section 42 U.S.C. § 1396d\(a\) and as interpreted by Leonard v. Mackereth, CIV.A. 11-7418, 2014 WL 512456 \(E.D. Pa. Feb. 10, 2014\)](#). In particular Plaintiffs also believe that their position is supported by and could be based on this Court's decision in *Amundson ex rel. Amundson v. Wisconsin Dept. of Health Services* 721 F.3d 871 (7th Cir., 2013) which for the first time in this Circuit established the concept of intra-class discrimination with respect to different levels of severity for categories of persons with developmental disabilities.

Dated: August 25, 2014

Respectfully submitted,

**ILLINOIS LEAGUE OF
ADVOCATES FOR THE
DEVELOPMENTALLY DISABLED,
et al**



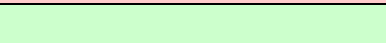
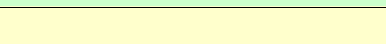

By: /s/Judith S. Sherwin
One of its Attorneys

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