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Judge Extends Mandate to Aid Mentally Ill City Inmates

Brendan Pierson, New York Law Journal

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A Manhattan state judge has extended a 2003 settlement requiring New York City for two more years to help mentally ill inmates of city jails re-enter society.

Acting Supreme Court Justice Geoffrey Wright ([See Profile](#)) ruled Friday that the city has failed to comply fully with the settlement, which came out of a 1999 lawsuit filed by the non-profit Urban Justice Center on behalf of a class of mentally ill inmates.

The suit, [Brad H. v. City of New York](#), 117882/99, alleged that the city released inmates with psychiatric disabilities from its jails with only \$1.50 and two subway tokens, with no medication, referrals or other plans for their continued treatment.

The suit was brought in the name of Brad H., a 44-year-old man who suffered from paranoid schizophrenia and alcoholism. From age 9 through 18, he lived in a psychiatric hospital and was incarcerated in city jails about 26 times, but he never received a discharge plan. A class was certified in 2000.

About 40 percent of the roughly 12,000 inmates in the nation's second-largest jail system have a mental health diagnosis, and a third of those suffer from serious mental illnesses such as schizophrenia and bipolar disorder.

In New York City, about 6,000 inmates with mental disorders—roughly 500 per month—are released into the community each year, according to the plaintiffs.

In 2003, the city entered into a settlement in which it agreed to provide more assistance for those inmates. It agreed to produce a discharge plan for each inmate, and to help the inmates get continued treatment, needed medications, housing and welfare benefits. The city and the plaintiffs each appointed a monitor to oversee compliance. The settlement contained a five-year sunset provision, and the parties subsequently agreed to extend that period by another year.

In May 2009, the plaintiffs moved to extend the settlement for another two years, saying that

the city had failed to comply. The city opposed that motion, arguing that the settlement had already expired. The dispute hinged on when the sunset provision started running, with the city arguing that it started with the appointment of the monitors and the plaintiffs arguing that it started in June 2003, then the city was first required to be in full compliance.

Justice Marilyn Shafer granted the extension ([NYLJ, July 22, 2009](#)). In August 2010, the Appellate Division, First Department, reversed ([NYLJ, Aug. 11, 2010](#)). The Court of Appeals reversed again almost a year later, finding that the plaintiffs' request was timely and sending it back to the lower court ([NYLJ, June 29, 2011](#)).

In Friday's order, Wright agreed with the plaintiffs that the city had not fully complied with the settlement and extended through 2016.

"The city agreed and entered into a binding stipulation with the class members which by their own admission it has been less than fully successful at satisfying the terms and conditions set forth in the settlement," the judge wrote. "Despite presumed best efforts by the city, some assistance/guidance is in order at this juncture."

In addition to ruling that the city will be bound by the settlement for another two years, Wright ordered the city to fill all open clinical and non-clinical jobs needed to carry out the plan. He also ruled that the city must better coordinate clinical staff who treat inmates and other staff members who plan an inmate's discharge.

The plaintiffs are represented by Heather Barr, Ray Brescia, Doug Lasdon and Jennifer Parish of the Urban Justice Center; John Gresham, Roberta Mueller and Veronica Jung of New York Lawyers for the Public Interest; and a pro bono team at Debevoise & Plimpton led by partner Christopher Tahbaz and including associates Julie Calderon Rizzo, Joshua Weigensberg, Cari Wint, Charles Baxter and Amanda Bloch Kernan.

"We are pleased that the court recognizes the dire need for these critical services and the importance of the city complying with its obligation to help people with mental illness released from jail," Parish said.

The city is represented by Assistant Corporation Counsel Jeffrey Dantowitz.

A spokeswoman for Mayor Bill de Blasio said that city officials were concerned about the needs of mentally ill people and were considering all options as they reviewed the court's decision.

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