

1990 WL 201488

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United States District Court, District of Columbia.

Joy EVANS, et al., Plaintiffs,
and
United States of America, Plaintiff–Intervenor
v.
Marion BARRY, et al., Defendants.

Civ. A. No. 76–293. | Nov. 28, 1990.

Opinion

ORDER

JOHN H. PRATT, District Judge.

*1 We have considered Plaintiffs' and Plaintiff–Intervenor's Petition for Immediate Enforcement of Permanent Injunction, Defendants' Opposition thereto, and Plaintiffs' Reply to Defendants' Opposition. Plaintiffs and plaintiff-intervenor seek to set aside the transfers, without prior notice, of five members of plaintiffs' class from Forest Haven to D.C. Village, a nursing facility. Plaintiffs charge that defendants are in violation of specific provisions of Consent Orders entered by this Court in 1978, 1981, and 1983. More specifically, plaintiffs allege that nursing home placements, such as D.C. Village, are not the most integrated and least restrictive community settings for mentally retarded residents.

Defendants strenuously oppose plaintiffs' position. They point out that these placements do not violate any of this Court's previous Orders and emphasize that the medical needs of the five individuals require their placement in a nursing facility such as D.C. Village. Four of these residents are non-ambulatory (as are most of those remaining at Forest Haven) and range in age from 65 to 84 years. Their serious medical needs make the treatment of these needs the proper focus of their habilitation. We agree. For the details of these medical conditions, one has only to examine the affidavit of Reginald F. Wells, Ph.D., pp. 5–8.¹ Dr. Wells has pointed out that each of the five residents underwent no less than five screening and evaluation levels prior to, and following, his or her placement at the nursing home, *ibid.*, pp. 2–4.

The objections of plaintiffs to this placement are unrealistic and, in our judgment, completely without merit. Accordingly, it is by the Court this 27th day of November, 1990

ORDERED that Plaintiffs' Petition for Immediate Enforcement of Permanent Injunction is denied.

¹ Dr. Wells was Superintendent of Forest Haven from 1984 to 1986 and is presently the Acting Administrator for the Mental Retardation and Developmental Disabilities Administration, Commission on Social Services, Department of Human Services of the Government of the District of Columbia.