

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WILLIAM DIXON, et al.,

Plaintiffs,

v.

Civil Action No. 74-0285 (NHJ)

ANTHONY WILLIAMS, et al.,

Defendants.

FILED

MAR 28 2001

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

MEMORANDUM ORDER

The matter is before the Court pursuant to the March 6, 2000, Consent Order requiring the Transitional Receiver to develop and present to the Court for its consideration a cost-effective plan for the mental health system for the District of Columbia. An open hearing was held on March 15, 2001, to receive testimony from the parties and the public concerning the Plan. At the conclusion of the hearing, the Court requested proposed findings of fact and conclusions of law from the parties. Upon consideration of the parties' joint proposed findings of fact and conclusions of law, the testimony of witnesses in open court, and the entire record in this case, the Court hereby makes the following findings of fact and conclusions of law.

Findings of Fact

1. This action was brought in 1974 by a class of in-patients hospitalized at St. Elizabeth's Hospital pursuant to the Hospitalization of the Mentally Ill Act of 1964, ("Ervin Act"), D.C. Code § 21-501 et seq., whose treating psychiatrists determined that they could be treated as out-patients in alternative facilities in the community, if such facilities were available.

(N)

161

On December 23, 1975, the Court held that class members have a right under the Ervin Act to suitable treatment in the least restrictive environment as required by the needs of the individuals. The Court further ordered that the parties submit a plan to implement the Order of the Court. See Dixon v. Weinberger, 405 F.Supp. 971 (D.D.C. 1975).

2. Implementation Orders were entered in 1980, 1987, 1989, 1992, 1994, 1995, and 1996. Following a hearing on June 13, 1997, the Court found that the District of Columbia had not met its obligations under the orders and decrees of the Court and, thereby, granted plaintiffs' motion for the appointment of a receiver.

3. On March 6, 2000, the Court entered a Consent Order, which reflected the agreement of the parties as to the process and timetable for the return of the day-to-day operations of the mental health system to the District of Columbia government and the eventual termination of the Receivership. As provided in the March 6, 2000, Consent Order, the day-to-day operations of the mental health system would be returned to the District of Columbia government by January 1, 2001, at the earliest or April 1, 2001, at the latest.

4. Under the terms of the March 6, 2000, Consent Order, the Court appointed Mr. Dennis R. Jones as Transitional Receiver effective April 1, 2000. In accordance with paragraph three of the March 6, 2000, Consent Order, Mr. Jones began to develop a proposed plan designed to implement the orders and decrees in this case. During the plan development process, Mr. Jones consulted extensively with the parties and the public.

5. A proposed plan was submitted to the Court on February 9, 2001, by Mr. Jones. The Plan proposes the creation of a separate Department of Mental Health, whose director would serve on the cabinet of and report to the Mayor. Under the proposed Plan, this new department

would create mental health policy in the District of Columbia and assume licensing and certification functions for mental health services. Moreover, the new department would operate a hospital and core service agency independently of any authority functions.

6. In accordance with the March 6, 2000, Consent Order, the parties filed comments and objections to the Plan on March 5, 2001. The parties noted their general approval of the Plan but suggested proposed modifications and objected to certain aspects.

7. At the time of the filing of their comments on the proposed Plan, plaintiffs filed a motion seeking to extend the transition dates set forth in the March 6, 2000, Consent Order. Plaintiffs sought to have the April 1, 2001, date extended to June 1, 2001, and the October 1, 2001, date extended to December 1, 2001.

8. On or about March 14, 2001, the parties met with the Transitional Receiver in an attempt to resolve the outstanding issues with respect to the proposed Plan. The parties and the Transitional Receiver agreed to a process for establishing the date for the return of the day-to-day operations of the mental health system to the District of Columbia government. Under the terms of the agreement, the Transitional Receiver and the Director of the Department of Mental Health would collaborate and develop a transition schedule in consultation with the parties that shall then be submitted to the Court for approval. The transition schedule will address the date for the return of the day-to-day operations of the mental health system to the District of Columbia government, the Phase II and Phase III timetables set out in the revised Plan, and the date for terminating the Receivership. The parties and the Transitional Receiver also agreed to certain changes in the proposed Plan that would defer the submission of certain legal issues to the Court for resolution until such time as those issues actually need to be resolved.

9. On March 15, 2001, the Court held an open hearing on the Plan at which the parties and the public were provided an opportunity to comment. At the beginning of the hearing, the parties advised the Court that agreement had been reached on certain disputed issues in the Plan. As indicated at the hearing, the parties have prepared and submitted a written Stipulation setting forth these agreements. This Stipulation resolves all disputed issues with respect to the Plan.

10. Prior to the arguments of counsel for the parties, the Court heard testimony from twenty-one (21) members of the public representing patients, organizations, and various interests. In addition, Chief Judge Rufus King of the Superior Court of the District of Columbia was invited to address how the outstanding issues may impact the Superior Court. The Court reported on written comments received from the public, including the United States Attorney for the District of Columbia and, in addition, invited the public to submit additional written comments by noon on March 16, 2001. The public comments reflected general support for the Plan and the proposed structure of the new Department of Mental Health, although modifications to some aspects of the Plan were recommended by witnesses appearing before the Court.

Conclusions of Law

1. In accordance with the March 6, 2000, Consent Order, this Court is charged with resolving any contested issues and approving the proposed Plan. The Plan must meet all the requirements set forth in the March 6, 2000, Consent Order as well as other Orders and Decrees issued by the Court. Although the parties have submitted Stipulations resolving contested issues with the Plan, the Court must review a final version of the Plan before granting its approval.

2. The District of Columbia must implement the Plan once it is approved by the Court.

Accordingly, it is this 28th day of March, 2001,

ORDERED that the Transitional Receiver submit a Revised Plan reflecting the Stipulations no later than April 9, 2001.


NORMA HOLLOWAY JOHNSON
CHIEF JUDGE