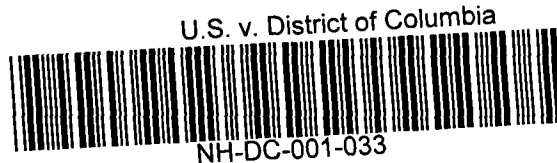


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August 11, 1996



The Honorable Thomas F. Hogan
U.S. District Court for the District of Columbia
333 Constitution Ave, NW, 4th Floor
Washington, DC 20001

Re: The United States of America v. The District of Columbia, et al., Civ. No. 95-948, TFH,
D.C. Village Nursing Home (DCV), Court Order, July 6, 1995;
November 7, Order Modifying Stipulated Order of July 6, 1995;
Court Order, December 22, 1996;
Court Order, February 23, 1996

Dear Judge Hogan:

I have obtained a copy of the defendants' pleading submitted to the Court on August 9, 1996, subsequent to the statement in Court on August 7. I am writing you, Judge Hogan, to inform you that the defendants' position of terminating monitoring duties September 1 is unreasonable. It is unreasonable because discharge of the residents of DCV is not "satisfactorily and successfully completed" (Court Order, November 7, 1995), and will not be so until I can assure the Court that all placement(s) are "appropriate and adequate to meet each person's individualized needs" (Court Order, February 23, 1996).

I cannot assure the Court that this is true until I have visited the well over two hundred thirty residents from DCV. Simply because the residents are no longer at DCV does not assume that the District of Columbia has discharged its legal obligations, for which they have so often been in contempt of in this case, to ensure individualized needs are met in a setting adequate and appropriate for the resident.

The defendants' position is unreasonable for the following reasons:

- (1) the Court Orders of November 7, December 22, and February 23, specify continuing monitoring until the residents individualized needs are met and that placement is appropriate and adequate to meet each resident's individualized needs;
- (2) summer scheduling difficulties relating to vacations and leaves of key facility staff in the residents' new homes and who have requested meeting with the monitor;
- (3) time required to complete my Final Report to the Court.

The July 6, 1995, Court Order appointed the Court Monitor to advise and oversee the defendants' compliance with the Order. I was appointed August 1, shortly thereafter, the District of Columbia announced closure of D.C. Village Nursing Home (DCV).

Appropriately and humanely for the best interests of the residents of DCV in order to protect the residents' rights, the Court expanded the duties of the monitor to oversee the outplacement process which resulted in the November 7 Court Order. (It is of note that at that time the defendants objected to the expansion of the monitor's duties.) Monitoring duties were further expanded with the December 22, 1995, and February 23, 1996, Court Orders.

I have serious concerns about the adjustment and, therefore, the adequacy of placement of all of the residents and cannot determine if adequate and appropriate services are being provided as outlined in discharge packets, and as might be expected from the trauma of transfer, until I see each and every resident. This is a unique opportunity to ensure that the Court Orders are fully met by monitoring the adaptation, adjustment and determining whether DCV residents individual needs as reflected in care plans, assessments, and that needed specialized services are taking place. The February 23, 1996, Court Order states that "nothing in this order shall be construed to limit the authority and responsibilities of the Monitor...as set forth in the...Court's orders."

It is important to remember that the trauma of transfer is greater for DCV residents than for the general population of nursing home residents in this country. This is so because the residents had no control nor choice in the decision to close the place where they resided, the overwhelming majority of whom had lived at DCV for many, many years, some for decades. In fact, several of the most medically fragile did not survive the trauma of transfer, the literature documents this phenomenon.

My concerns relate to the residents with mental retardation, residents with mental illness, residents discharged into the community after years of institutionalized living, and residents now residing in other nursing homes. Judge Hogan, I want you to know I do expect to find the residents healthier and happier, but I cannot assure the Court that the defendants have successfully discharged their duties until I visit the residents, the new staff as caregivers of the residents, and the new settings in which the residents of DCV live. The following are some examples relating to my concerns for the DCV residents.

Although required to be outplaced in October, 1995, according to the July 6, 1995, Court Order, the residents with mental retardation were outplaced late after many findings of contempt. One resident Mr. P.L. was one of the last to be discharged before closure of DCV. Mr. P.L. has been profiled in many of my other letters to the Court. He is residing in a facility which is geographically the farthest away from the District, he also has no family. He has specialized caregiving needs, such as, feeding, suctioning, and positioning which have to be adhered to constantly to prevent choking and death. Mr. P.L., a young man, is also in need of day programming. At this moment it is unclear what provisions there are for day programming to

provide him with the stimulation required. The speciality consult team for residents with mental retardation visits and works with staff, however, their contract is due to expire September 30, 1996. It is imperative that according to the Court Order of December 22 the "receiving facility staff is stabilized and their competency is demonstrated." This is not known yet and cannot be until I can assure the Court.

The monitoring of the continued adequacy of placement of Ms. A.R. and Mr. K.F. is required. They reside in a group home that had not previously had residents which exhibited their unique characteristics, maple syrup disease and pica behavior (a tendency to grab and ingest any objects in site), and autistic behavior, respectively. In addition, the adequacy of their off-site day treatment program needs to be monitored.

The adjustment and adequacy of the group home for the remaining residents with mental retardation and the District of Columbia's status in planning for and providing day programming services, especially for Ms. S.A. and Ms. S.P. as profiled in previous submissions to the Court, needs to be monitored, as well as the adequacy of case management services. In addition, as identified for Mr. P.L. above, speciality consultation team services need to be maintained until "facility staff is stabilized and their competency demonstrated" (Court Order, December 22).

Mr. M.J. has taken to wandering out of his new nursing home and has been seen several blocks away on a corner drinking with a group of men. While at DCV, Mr. M.J. was retiring and rarely left the unit. The facility administrator and the director of social services is anxious for me to visit them to discuss Mr. M.J.'s identifiable adjustment difficulties. Mr. M.J. walks slowly with a limp and with the assistance of a cane and is a potential target for criminal preying behavior. Mr. M.J. has asked that his burial fund be withdrawn, he is in his early forties. Mr. M.J.'s discharge packet recommended vocational rehabilitation services and to be followed by the specialty consultation team for residents with mental illness. The administrator has told me that he is having difficulty getting the specialty consult team to see Mr. M.J. and asked for my help. This DCV resident's outplacement is not "satisfactorily and successfully completed" (Court Order, November 7) until I can determine that his placement is "appropriate and adequate to meet (his) individualized needs" (Court Order, December 22). Because of vacation schedules a death in the family of key staff, this facility is unable to meet with me until the end of August.

The last residents to leave DCV were the most difficult to outplace. No facility in the District would accept Mr. J.B. and Mr. H.B. They were outplaced to a nursing home beyond a 50 mile radius of DCV. Mr. J.B. consistently demonstrated acting out and psychotic behavior at DCV. His outplacement discharge plan identified interventions to care for him. The new facility has a psychiatric team which is not the specialty consult team identified in the Court Order of December 22. With these residents outplaced last, time is needed to determine the adjustment of the residents, whether their individualized needs are met and whether this nursing home is appropriate and adequate (Court Orders, December 22, 1995, and February 23, 1996) especially for Mr. J.B.'s unique needs. Only then can it be said that their outplacement has been "successfully and satisfactorily completed" (Court Order, November 7, 1995).

Mr. E.J. was discharged from St. Elizabeth's Hospital to DCV and is now residing in a group home for residents with mental illness. It is unclear at this time, whether the defendants are providing adequate and appropriate services required for Mr. E.J. as identified at time of discharge, for example, counselling, day programs, case management, nutritional services, vocational rehabilitation, safety provisions in the community to prevent wandering and destructive behavior exhibited at DCV.

Mr. C.F. is without the primary medical doctor identified for him by the defendant at the time of discharge from DCV. When Mr. C.F. first visited the medical doctor in the community identified for him, he was informed by the medical doctor that he would not see him because the medical director at DCV had not forwarded information to the community medical doctor as the medical director at DCV indicated she would. Upon his second visit to the community medical doctor, Mr. C.F. was told by the community medical doctor that he would not accept Mr. C.F. as a client and that he had informed the medical director at DCV of this weeks before. Another resident also discharged into the community was assigned the same medical doctor by the defendants at time of discharge from DCV. This resident, Mr. M.W., is primarily wheelchair bound. Both these residents have complex medical conditions. Discharge is not "satisfactorily and successfully completed" (Court Order, November 7) until the discharge is "appropriate and adequate to meet (their) individualized needs" (Court Orders December 22 and February 23, 1996). In a previous letter to the Court, I profiled how another resident discharged into the community, Mr. C.W., if not for the intervention of the Court, would have been discharged by the defendants without provisions for medical follow-up. All these residents have complex health problems, and as institutionalized for years, humanely should not be expected to fend for themselves in a maze of health care providers that even the able-bodied find daunting.

To date, the receiving nursing home for Ms. S.B. has been unable to coordinate her various medical appointments in the District and obtain follow-up information from them. Until this is done, outplacement is not "satisfactorily and successfully completed" (Court Order, November 7) and "appropriate and adequate to meet (her) individualized needs" (Court Orders, December 22 and February 23, 1996.) Ms. S.B., a quadriplegic, has numerous and complex medical needs which necessitate coordination and continuity of care which has not yet occurred.

Judge Hogan, these are just a few examples of some situations that have already come to light and which indicate that the defendants have not successfully complied with all of the Court Orders. Of the approximately 230 residents I anticipate there will be more. I also anticipate that it will take me limited time to assure the Court that defendants are in compliance with all of the Court Orders by ensuring that all the residents "individualized needs" are being met, that the outplacement is "appropriate and adequate" (Court Orders, December 22, 1995, and February 23, 1996), and then by informing the Court that the outplacement of the residents of DCV "has been satisfactorily and successfully completed" (Court Order, November 7, 1995).

To take the position of terminating monitoring duties before ensuring that all the residents "individualized needs" are being met and that the outplacement is "appropriate and adequate"

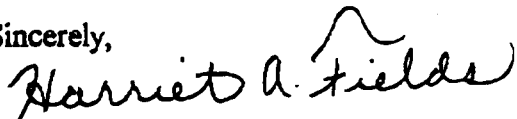
(Court Orders, December 22, 1995, and February 23, 1996) is callous and insensitive to the needs of the residents of DCV. It is important to be mindful, that it is the defendants who violated the civil rights of the residents of DCV, the District of Columbia's most vulnerable, infirmed, and poor. The Court Monitor was appointed as a result of this (Court Order, July 6, 1995). It is also the defendants who required a Court Order to ensure that the residents have water and cups for water and that the residents and staff have soap (Court Order, December 22). It is the defendants who required a Court Order to provide saline to treat Mr. C.F.'s decubitus ulcer and duoderm for Mr. J.B. decubitus ulcer, and required a Court Order to turn the residents so they would not remain incontinent and sitting in urine on their bedsore with a hole in their bodies to the bone with tissue oozing out as Mr. C.F. and Mr. J.B. had, and who are now deceased (Court Order, December 22). It is the defendants who allowed Mr. L.R., a young abled- minded man who is a quadriplegic, to be imprisoned in his bed for a month because they did not fix his wheelchair. And it is the defendants, whom the Court found on numerous occasions in contempt of all the Court Orders in this case.

Due to vacation schedules of many of the staff who are directly caring for the DCV residents and for management staff who have asked to meet with me in the residents new homes, many of the facilities are unable to meet with me until the end of August and one facility, not until mid September. This particular nursing home, has nearly 40 of the sickest DCV residents, this facility is preparing for its first Joint Commission accreditation visit at the end of September and originally asked me to visit in early October. At my urging the soonest appointment I could obtain was mid September. The majority of residents, approximately 90, are at a nursing home in Hyattsville, Maryland, just across the District line. Since the closure of DCV this facility is under new management. It has taken several weeks for their staff and management to get settled.

After my visits, I anticipate it will take a substantial amount of time to prepare my Final Report to the Court. I will submit my Final Report by the time of the last Status Hearing in this case.

My duty as Court Monitor is to assure the Court that transfer is complete. I am respectful of the Court's desire to put closure to this case in a timely fashion as is the desire of all the concerned parties. However, my duty and concern is to assure the Court that the residents of DCV individual needs are being met, that the placements are appropriate and adequate, and write and submit my Final Report to you. I know there are monitoring situations in the District which in my opinion are unconscionably prolonged with very little evidence of benefit to the clients. I assure you, Judge Hogan, I intend to be involved in this case not one day more than what is required to complete my duties to the Court for the best interests of the residents of DCV. It is a privilege to serve your Court.

Sincerely,



Harriet A. Fields, Ed.D., R.N.
Court Monitor

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NO. OF PAGES(INCLUDING COVER): 7

MESSAGE: