

Olmstead v. L.C. Zimring

Progress toward the most integrated setting

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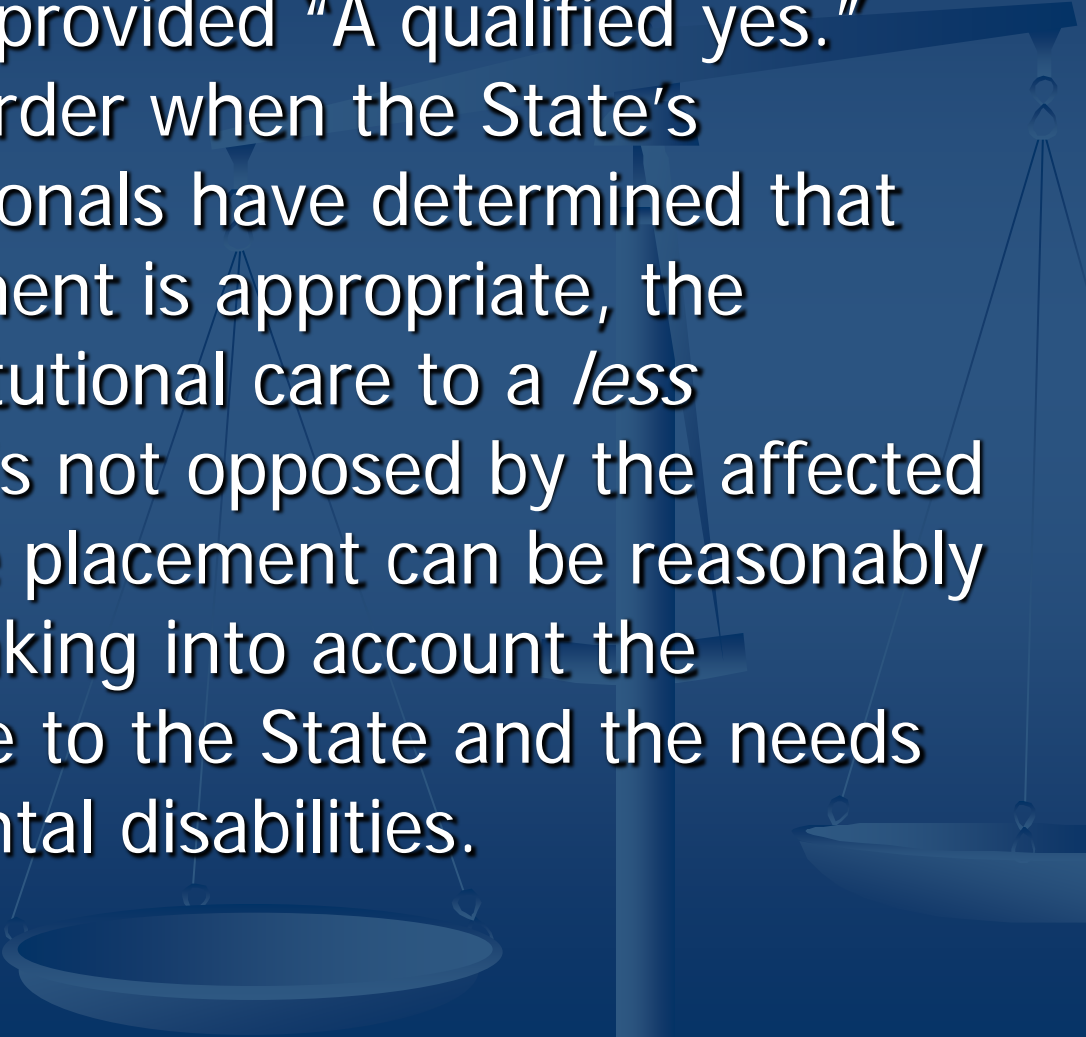


The legal issue

Olmstead confronted the question whether the proscription of discrimination may require placement of persons with mental disabilities in community settings rather than in institutions.

Holding

The *Olmstead* court provided "A qualified yes."
Such action is in order when the State's treatment professionals have determined that community placement is appropriate, the transfer from institutional care to a *less restrictive setting* is not opposed by the affected individual, and the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.



ADA Statute 42 U.S.C. §12132

“Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”



ADA Title II Public Services Regulations

Integration Regulation

“ A public entity shall administer services, programs, and activities in the *most integrated setting* appropriate to the needs of qualified individuals with disabilities.”

- 28 CFR § 35.130(d) (1998).



ADA Title II Public Services Regulations

Most integrated setting defined

“a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”

- 28 CFR pt. 35, App. A, p. 450 (1998).



Advocacy Group Formulations of Duty

- Protection and Advocacy Authority
- National Alliance on Mental Illness
- Voice of the Retarded (Intellectual Disabilities)
- Association for Retarded Citizens

Recent developments on guardianship challenge

- January 2009 VOR memorandum
- April 2009 ABA letter

Olmstead Enforcement Results

April 2000 through May 31, 2009

