

Steward v. Young
Summary of Court's Decision – June 17, 2025

I. Background

For decades, the State has unnecessarily institutionalized more than 4,000 Texans with IDD in segregated nursing facilities and denied them specialized disability services which are required by federal law. More than a decade ago, twelve individuals with IDD, together with two state-wide disability organizations, filed a class action case asking the federal court to halt these federal law violations. Shortly thereafter, the United States Department of Justice (DOJ) intervened to support the people with disabilities.

II. The Court's Decision

In his comprehensive **opinion**, Judge Garcia ruled in favor of the plaintiffs and DOJ on all claims. The judge meticulously reviewed the facts, relying in significant part on the testimony of the plaintiffs, their families, disability providers, organizational leaders, and national experts. The decision detailed the harm and deprivations suffered by plaintiffs due to the state's systemic failures and longstanding violations of federal laws, including the Nursing Home Reform Act, the Americans with Disabilities Act, Section 504 of the federal Rehabilitation Act, and the Medicaid Act.

A. Overview of the Law

The Court began its decision with an overview of the legal landscape that informs its opinion. It begins with the ADA, and its integration mandate, that demonstrates Congress' intent in enacting the ADA was to end both the discrimination and segregation of people with disabilities. It then notes that same principles have been in effect since the enactment of Section 504 of the Rehabilitation Act of 1973, and are reflected in the Developmentally Disabled Assistance and Bill of Rights Act of 1976. The Court reviews the 504 regulations promulgated in 1977 and the ADA regulations issued in 1991 that describe in detail what constitutes discrimination and segregation, and what programs are covered by these rules. It definitely states that integration is the goal of these statutes, and that the regulations include a mandate that all publicly-funded programs for people with disabilities must be provided in the most integrated setting appropriate to the needs of such individuals. These rules, read together with the rights of nursing residents set forth in the Nursing Home Reform Amendments of 1987 (NHRA) and regulations enacted thereunder, make clear that all people with IDD have a right to make an informed choice about where to live, including whether to enter, remain in, or leave a nursing facility. To do so in a meaningful way, they must be provided individualized information in a manner that they can understand, concrete opportunities and experiences of community living, and the accommodations and supports necessary to make an informed decision.

The Court next surveys the scope and obligations imposed by the Medicaid Act, including its reasonable promptness and freedom of choice provisions. It lists the various regulatory standards and clinical criteria that govern care in nursing facilities under the NHRA, including comprehensive assessments, person-centered planning, service provision, and

discharge planning. The Court then discusses in detail the obligations of public entities, and their agents private nursing facilities, to provide specialized services and active treatment, as required by the NHRA and its Pre-Admission Screening and Resident Review (PASRR) regulations, which it notes were enacted on the specific direction of Congress and thus are properly authorized and enforceable.

III. The Court's Factual Findings

A. The State's Long-Term Care Service System

1. The PASRR Program

Texas' PASRR program plainly did not comply with federal law for over two decades (1991-2011). Texas' PASRR "redesign", which began in 2013 and was completed by 2015, sought to finally bring it into compliance with the PASRR rules. But it has not done so.

2. The IDD System and Its Quality Service Reviews (QSRs)

There are two core components of the State's IDD system: HHSC and LIDDAs – and three relevant HHSC divisions: Medical Services, Regulatory, and Waivers. The Regulatory division performs the Quality Service Reviews (QSR) that were previously conducted by the parties' expert reviewer under the Interim Settlement Agreement from 2013-2015. The QSR is designed to measure compliance with federal law, specifically PASRR and the ADA. Its six outcomes, numerous outcome measures, and even more numerous indicators all were developed by the expert reviewer, approved by the parties, adopted by HHSC, and implemented from 2015-2017 by the expert in conjunction with HHSC staff. Thus, the QSR is the State's own information concerning compliance with both PASRR and the ADA, and is uniquely relevant and reliable evidence in assessing compliance. Significantly, QSR reports for 2015, 2016, and 2017 found that the State's performance on key outcomes significantly decreased over these three years.

B. The Client Reviews Provide Reliable and Generalizable Information About the Class

Based upon a reliable and generalizable sample of all people with IDD in Texas nursing facilities, four experts conducted a client review of 54 individuals which generated reliable, probative, and compelling evidence that almost no class members received a comprehensive assessment, adequate service planning, all needed specialized services, or active treatment. It also demonstrated that few individuals had made an informed choice to remain in a nursing facility, and virtually all were qualified to live in the community.

C. The State's PASRR Program, Even as Resigned, Does Not Comply with Federal Law, Does Not Identify and Provide Needed Specialized Services or Active Treatment, Causing Irreparable Harm.

The program review conducted by two experts, and the PASRR system review conducted by one of those experts, persuasively demonstrated that the PASRR program continues to violate federal law. First, Level I screens are not completed as required, resulting in harm to class members. Second, Level II evaluations are not completed as required, and do not accurately assess the need for specialized services or community placement. Third, PASRR's diversion goal is rarely achieved since 97% of all admissions are exempt or expedited, thereby precluding all diversion efforts. And there is little outreach, education, or engagement with referring entities to prevent unnecessary admissions. Fourth, no one receives a professionally-appropriate, comprehensive functional assessment conducted by a qualified IDD professional, thereby making it impossible to accurately determine the need for specialized services. Fifth, there are two disconnected and inconsistent services plans (NF POC and ISP) prepared by two different teams (IDT and SPT), neither of which include appropriate goals, outcomes, and needed services. Sixth, as a result of the systemic deficiencies in the PASRR evaluation, the lack of a comprehensive functional assessment, the absence of adequate service planning and coordination, and the failure of HHSC to monitor service delivery, few if any people with IDD are receiving all needed specialized services and virtually none are receiving needed services with the frequency, intensity, and duration to constitute a program of active treatment. Consequently, many people with IDD in nursing facilities suffer loss of functioning, deterioration, and ongoing harm.

D. Nursing Facilities Are Segregated Institutions that Confine Thousands of People with IDD Who Could Successfully Live in the Community, Causing Irreparable Harm

Nursing facilities are segregated institutions that deny people privacy, choice, freedom of movement, access to the community, and community integration. There are at least 3,600 people with IDD in nursing facilities with lengths of stay of greater than six months, and more than 2,600 of them for who have been institutionalized for over a year. All of these people are qualified persons with disabilities and most could transition to the community, including those with significant medical, nursing and behavioral needs. In fact, Texas can and already does serve similar individuals in its community waiver programs, including individuals using oxygen, tracheotomies, catheters, feeding tubes, colostomies, seizure disorders, dementia, complex medical conditions, complex behaviors, and cerebral palsy.

People with IDD who remain institutionalized are experiencing ongoing harm on a daily basis. Research, professionals, and even the State's experts and officials agree that community living offers more opportunities, results in improved health and functioning, and is clearly preferred by and beneficial to people with IDD.

E. Informed Choice

Most individuals with IDD in nursing facilities have not made an informed choice to enter or remain in the institution. They were not provided with assistance or support through a transition process, nor a person-centered planning process that considered community living. Specifically, they were not provided with individualized information or education about community options; not offered or provided opportunities to visit community programs, speak with peers, or meet with families from the community; not given opportunities to engage in community activities; not recommended for specialized services that would allow them to be in the community; not offered accommodations to their communication and decision-making capacity, including the impact of their institutionalization on decision-making experience; and not provided with support to identify or address barriers, challenges, and fears about transition.

F. Diversion and Transition

The NF census has remained virtually unchanged from 2014-2017, demonstrating that the State's efforts to divert or transition people with IDD are ineffective. The State has been on notice for years about the obstacles to diversion and transition, including the lengthy diversion process and its requirement to exhaust other alternatives; the lack of provider capacity particularly for people with complex medical, nursing and behavior needs; the State's payment system which discriminates against people in NFs; the State's decision not to pursue increases in rates for serving individuals with complex conditions; opposition and retaliation by NFs; the lack of sufficient medications, timely medical equipment, and appropriate home modifications that delay or undermine timely discharge; and the absence of accessible group living environments. The State provides insufficient training to LIDDA diversion and coordination staff, and oversight of its diversion and transition process.

G. Inadequate Oversight of LIDDAs and Nursing Facilities

Texas does not have an adequate quality management and improvement plan, system, or data collection capacity. It completely ignores its own QSR process, fails to take actions to address QSR findings, and, for most HHSC units, is not even aware of the QSR process. Its oversight of LIDDAs is inadequate with respect to diversion and transition, does not focus on PASRR, does not use data from the QSR, and has not resulted in meaningful improvements or any fines.

Similarly, although Texas' nursing facilities are consistently ranked as the worst in the country, HHSC does not adequately oversee, monitor, or inspect NFs with respect to its PASRR, diversion, and transition activities. Finally, training for LIDDA and NF staff is inadequate and ineffective with respect to PASRR, diversion and transition.

H. It Is Reasonable and Possible for Texas to Serve People in the Community

Texas can, as other states do, accurately identify, screen, and assess individuals with IDD to prevent unnecessary admission to NFs. Similarly, it is reasonable for Texas, as other states do, ensure that all people with IDD can make a meaningful and informed choice about whether

to enter or remain in a NF. This would not require the creation of a new service. And it is reasonable for Texas, as other states do, to ensure that people with IDD in NFs can live in integrated settings in the community, that staff are appropriately trained, and that the state agency (HHSC) adequately and effectively oversee its DD and NF systems.

I. Texas Does Not Have an Effectively-Working Olmstead Plan

Texas' Promoting Independence Plan, its nominal *Olmstead* Plan, did not even mention people with IDD in NFs and did not include specific services for them until after the litigation began. As a result, Texas did not have a commitment to or a history of serving people with IDD in NFs. Moreover, the plan that it did develop in response to this litigation is not working. The long waiting list for waiver services, plus the underutilization and subsequent reduction of waiver slots for people with IDD in NFs, demonstrates that the plan is not moving at a reasonable pace. It abolished the only external oversight of its plan, and lacks the data and analysis for monitoring and revising the plan.

J. Summary of the Named Plaintiffs

All of the named plaintiffs are appropriate for and would benefit from community living. None had made an informed choice to remain in NFs, although they had been institutionalized for years. The Court carefully and compassionately reviewed the situation of each of the twelve named plaintiffs, noting that none received specialized services or community options until after they became a named plaintiff and Disability Rights Texas provided them legal assistance.

IV. The Court's Legal Rulings

The Court first decided that Texas failed to properly screen and evaluate people with IDD to determine if they could be more appropriately served in the community, and failed to provide those who were admitted to nursing facilities with specialized services and active treatment, as required by the Nursing Home Reform Amendments that were enacted by Congress in 1987. It then determined that Texas failed to offer people with IDD a meaningful choice of whether to receive needed support services in nursing facilities or in the community, and failed to provide those supports promptly, as required by the Medicaid Act. Third, the Court held that, under the ADA, nursing facilities were segregated facilities; that virtually all people with IDD in nursing facilities were qualified to live in the community; that few, if any, opposed transition to the community; that Texas failed to modify its policies and practices to allow people with IDD to leave segregated institutions and live in integrated settings in the community; and that such modifications were necessary, reasonable, doable, and required by the ADA and Section 504.

Throughout its opinion, the Court repeatedly explained that Texas failed to provide people with IDD with the information, opportunities, supports, and accommodations to make an informed choice about where they wanted to live and receive care. It concluded that these systemic failures caused people with disabilities irreparable harm through decades of unnecessary institutionalization, the lack of active treatment, and the absence of available community alternatives to nursing facilities. For many, the harm resulted in loss of functioning, deterioration, stunted lives, and even premature death. Finally, it noted that Texas knew about

these deficiencies, failed to make timely and effective reforms, and thus perpetuated this harm to thousands of people with IDD, including four of the plaintiffs who died waiting for transition to new homes in the community.

A. Relief

The Court ordered the parties to submit a proposed remedial order by August 1, 2025. While long delayed, the Court's decision is a stunning result that affirms the core goal of the ADA – to end the historical segregation of people with disabilities, and to allow all people in nursing facilities to transition to integrated programs in the community with appropriate supports.