

# Daily Journal

June 26, 2015

## Deja Vu for Disability Rights at the Justice Department

By Thomas F. Coleman

One year ago I stood with other disability rights advocates outside of the federal courthouse in Los Angeles to announce the filing of a voting rights complaint against the Los Angeles County Superior Court. After the press conference, we walked to the office of the U.S. attorney where we delivered evidence that the court had been stripping conservatees of the right to vote in violation of federal laws.

In May, the Department of Justice notified the chief justice and the secretary of state that a formal investigation was being conducted, but instead of focusing on Los Angeles, the inquiry was broadened to the entire California judiciary. The state has until June 30 to turn over scores of records about the policies and practices of the court in disqualifying conservatees from voting.

Today we returned to the same spot on the sidewalk across from the federal courthouse to make two new announcements. The first is a follow up to the voting rights complaint. The second concerns ongoing violations of the Americans with Disabilities Act by court-appointed attorneys who represent people with developmental disabilities in limited conservatorship cases.



The courts have a duty to restore the voting rights of thousands of conservatees who lost those rights due to an illegal literacy test used by court investigators, appointed attorneys, and judges.

Consider the case of Gregory Demer, an autistic 28-year-old who was disqualified from voting 10 years ago. Although a court investigator filed a report in 2012 stating

that Demer's voting rights should be restored, neither the court-appointed attorney nor the judge on the case responded to that recommendation. They read the report but did not take remedial action. A similar report was filed last year when Judge Daniel Murphy was assigned to the case. Again, neither he nor the

court-appointed attorney followed their legal duty to have Demer's voting rights restored. As a result of these failures, Demer was deprived of his right to vote for president, governor, mayor and county supervisor.

There are about 12,000 people with developmental disabilities who have open conservatorship cases in Los Angeles County alone, not to mention the rest of the state. Thousands of them may need to have their voting rights restored.

But reform must go beyond voting rights. More fundamental rights, such as the right to having a competent attorney, are at stake. The superior court does not properly train these attorneys on the basics of disabilities and how to effectively interact with clients who have cognitive and communication difficulties. Training programs have not included segments on the legal requirements of the ADA. The court has not adopted performance standards for these attorneys, thus leaving them to comply with the ADA or not, as they wish. Many attorneys are putting in five hours or less on a case, when it would take 20 or more hours to do a proper job.

Title II of the ADA gives public agencies, including state and local courts, an obligation to use affirmative measures to ensure litigants with disabilities receive access to justice. Courts must take proactive steps to ensure that involuntary litigants such as proposed limited conservatees, can participate in their cases in a meaningful way. These cases are critical for these litigants since a judgment may take away the right to control their finances, make medical decisions, choose their friends, marry or have intimate relations with a romantic partner.

A class action filed Friday with the DOJ alleges that the court has been failing miserably in fulfilling its duty to provide litigants with developmental disabilities access to justice. An independent investigation by the DOJ should confirm those allegations.

During the Watergate scandal, “deep throat” famously told a reporter with the Washington Post to “follow the money” to get to the bottom of the matter. Here, the trail of money that funds the court-appointed attorneys leads to the Los An-

geles County Board of Supervisors. State judges appoint the attorneys and run the legal services program, but the county funds it. These supervisors should attach strings to the funding to stop ADA violations. As the funding source for the program, the county also has a duty under Title II of the ADA to make sure that the program complies with the requirements of federal law.

County officials and state judges must explore ways to overcome the deficiencies in the limited conservatorship system, including potentially having the public defender represent these clients and eliminating private attorneys from the picture altogether.

We have only gone to the door of the Department of Justice, now twice, because the state and local doors to political power and the machinery of justice would not open for us. Perhaps those in positions of judicial power in California will open the door when the feds come knocking again. ◇◇◇

*Attorney Thomas F. Coleman is the Executive Director of the Disability and Guardianship Project of Spectrum Institute. He has been using his advocacy skills for more than 40 years to promote equal rights and justice for populations who have historically been subjected to discrimination. Contact him at: [tomcoleman@spectruminstitute.org](mailto:tomcoleman@spectruminstitute.org)*



Disability and Guardianship Project  
9420 Reseda Blvd. #240  
Los Angeles, CA 91324  
(818) 230-5156  
[www.spectruminstitute.org](http://www.spectruminstitute.org)

---