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State Supreme Court: Dumping mentally ill in emergency rooms illegal

High court bans 'boarding' of mental patients when institutions are full

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Mentally ill Washingtonians facing should not be housed in hospital emergency rooms against their will while authorities seek to have them committed to psychiatric institutions, the state Supreme Court ruled Thursday.

Weighing in on the practice known as "psychiatric boarding," the high court ruled unanimously that residents facing forced

hospitalization due to psychiatric concerns can't be kept locked in emergency rooms.

The Department of Social and Health Services and county authorities have used "boarding" to keep control of mentally unstable people while they seek commitment orders from the courts. Such orders allow the state to hold mentally ill people at mental institutions, where they can receive care and treatment.

The court found that mental health authorities have been locking patients in emergency rooms for days without proper care, and that workers at Western State Hospital who were supposed to monitor the practice weren't doing so.

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"This record does not show that the decisions to involuntarily detain these patients outside of certified facilities was the result of an exercise of professional judgment about the needs of the individual patient," Justice Steven Gonzalez wrote for the court. "Instead, the record demonstrates that (authorities) did not find room in a certified evaluation and treatment facility and that some person at Western State Hospital approved a request for (boarding) without knowing whether there was a medical justification for involuntarily detaining that individual patient outside of a certified facility."

Hearing a dispute between DSHS, Pierce County and 10 involuntarily held patients, the Supreme Court issued a sweeping decision expected to impact practices across the state.

The problem, Gonzalez wrote, stems from a chronically overloaded civil commitment system.

Enacted in 1979, the new model was supposed to drastically reduce the number of patients held at state mental institutions, which had become the subject of scandal in Washington and elsewhere. Several were closed outright, and the rest were scaled back.

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The change was supposed to be complimented by an increase in community support for mentally ill people to better allow them to live outside the walls of institutions. Critics say that investment was never truly made – Washington’s severely mentally ill were simply cut loose.

Overcrowding at the remaining institutions prompted counties to house mentally ill people facing civil commitment proceedings at hospital emergency rooms. Civil commitment proceedings – the aim of which is to forcibly hospitalize a patient – includes several stages during which authorities request court orders allowing for the patient to be held for of increasing lengths of time.

In the Pierce County case, patients were left in hospitals without facilities to manage and heal severely mentally ill people. Having obtained orders to hold the patients for 14 days, authorities held them at area hospitals after they failed to find room for them at treatment centers.

Gonzalez noted that officials at Western State Hospital who were supposed to be monitoring the practice approved the requests without question.

Questioned during the litigation, one DSHS worker said the practice has, in the past seven years, “pretty much exploded and is continuing to increase.” A Pierce County Superior Court commissioner opined that the boarded patients get “no psychiatric care or other therapeutic care for their mental illness.”

An attorney for two Pierce County hospitals used to board the patients put it succinctly.

“We have no psychiatrists. We have no psychiatric nurses. We have no orderlies,” the attorney said in March 2013. “We have no ability to provide any of the treatment that is mandated under the statute.

“We are basically warehousing these people, including kids. I mean, we had a kid in the ER at Mary Bridge (Hospital) for 10 days the other day.”

The Supreme Court agreed that the practice violates the state Involuntary Treatment Act, and ordered it stopped.

While the state argued the law allows for boarding when no room is available at a treatment center. The high court disagreed, finding that the law actually only allows for the practice when there is a medical justification making treatment in an emergency room better for the patient.

“By its plain terms, this rule does not authorize (boarding) merely because there is no room at certified facilities with which the county already has a contractual relationship,” Gonzalez said in the unanimous opinion.

The patients’ action drew support from disability rights advocates, the American Civil Liberties Union and other organizations.

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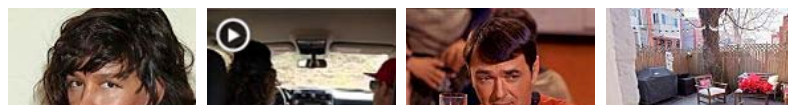
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