

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
FAMILY COURT
MENTAL HEALTH & HABILITATION BRANCH**

In the Matter of	:	Case No.:
	:	Magistrate Judge Diane S. Lepley
[PERSON'S NAME]	:	ISP Meeting Date:
	:	Annual Review Hearing:
<i>Respondent</i>	:	

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND ORDER OF THE COURT**

This matter came before the Court on _____ for Respondent's annual review of commitment. The assessments, evaluations, and the Individual Support Plan ("ISP"), the meeting for which was held on _____, were filed with the Court on _____. The names of the parties present at the hearing are listed on the sign-in sheet filed herein. Upon consideration of the documents filed herein, including the status reports submitted for this hearing by the Provider and Respondent's Counsel, the testimony presented, and the representations of counsel, the Court finds beyond a reasonable doubt that:

FINDINGS OF FACT

1. Respondent, _____, born on _____, is _____ years of age. Respondent's psychological report of _____, dated _____ indicates a diagnosis of _____ in the cognitive sphere and _____ in the adaptive sphere. Respondent's other diagnoses are found in the Provider's Status Report which is incorporated herein.

2. The Court finds beyond a reasonable doubt that the Respondent [] is at least moderately intellectually disabled in both the cognitive and adaptive spheres, and requires habilitation.

was found incompetent and unlikely to regain competency in the foreseeable future in a criminal case after a hearing in accordance with *Jackson v. Indiana*, 406 U.S. 715 (1972). The Respondent is likely to cause injury to others as a result of his/her intellectual disability if allowed to regain his/her liberty. D.C. Official Code § 7-1304.06a (2013 Repl.).

3. The Court finds beyond a reasonable doubt that the Department on Disability Services is capable of providing the required habilitation and has certified that the residential provider and day program described in these Findings of Fact will implement Respondent's ISP. Placement with a residential provider is necessary for providing the habilitation.

4. Respondent resides at _____,
a _____ placement, operated by _____.
There are _____ other residents in this home.

Respondent resides in the District of Columbia.

Respondent resides in a residential placement outside of the District of Columbia but is considered a District of Columbia resident pursuant to D.C. Official Code § 7-1301.03(22).

5. Respondent attends the _____ during the day, located at _____, for _____ days per week, _____ hours per day. Respondent receives habilitation at this program as noted in the Provider's/Day Program's Status Report.

Respondent receives a stipend/pay in the amount of _____ per _____ for _____.

[] Respondent does not receive a stipend/pay.

6. In the residence, Respondent receives habilitation in the areas noted in the Provider's Status Report. During this review period, Respondent has demonstrated the most progress in:

_____.

7. Respondent participates in social and recreational activities in the community at least _____ times a week. The activities include the following: _____

_____.

Respondent went on vacation and/or day trip to: _____

on the following dates: _____.

Respondent has contact with the following family members: _____

Respondent's health care decision maker is:

Name: _____

Relationship: _____

8. Respondent's financial accounts are as follows:

D.C. Personal Allowance: \$ _____ as of _____.

Burial Fund: \$ _____ as of _____.

Community Account:

Savings: \$ _____ as of _____ held at _____.

Checking: \$ _____ as of _____ held at _____.

Other Account:

_____ : \$ _____ as of _____ held at _____.

Respondent's monthly allowance is \$ _____. Respondent receives the following benefits: _____.

9. Respondent receives medications as noted on the Provider's Status Report.

The Respondent does not receive psychotropic or seizure medication.

The Respondent receives psychotropic/ seizure medication. Provider is aware of Respondent's need to receive the required evaluations for such medications. Such evaluations have/have not been done.

Respondent's medical needs

are being met.

are not being met.

Respondent's physical and lab tests

are current

are not current.

The dates and results of Respondent's physical and lab tests are in the ISP and the Provider's Status Report field for today's hearing.

Respondent has the following emergency room visits and/or hospitalizations (date, hospital, purpose, and treatment): _____

During this review period, Respondent has suffered the following illness/injury/medical condition that required the attention of the Respondent's Primary Care Physician: _____

Respondent weighs _____ lbs. Based on the Respondent's nutritional information, the weight range is reported as DWR/HWR/IBW is _____ to _____ lbs.

10. Respondent is receiving some all none of the programs and services indicated as necessary by the ISP.

The level of habilitation provided is not adequate in the following area(s):

11. Through receipt of the above-described programs and services, and the progress made, Respondent has benefited from the habilitation provided.

12. Respondent is receiving habilitation by the least restrictive means as defined in D.C. Official Code § 7-1301.03(16) and § 7-1305.03 (2013 Repl.) at this time.

13. The Respondent's Report to the Court on Informed Consent for Voluntary Commitment was filed by Counsel for the Respondent on _____, following an interdisciplinary team meeting convened by DDS on _____ . The interdisciplinary meeting was was not convened during the annual ISP meeting.

14. The Report indicates that the interdisciplinary team is in agreement is not in agreement on the question of whether the Respondent has capacity to consent or refuse to continue his or her commitment.

15. To the extent the Respondent lacks capacity, the Report also indicates that the following individual(s) is/are reasonably available, mentally capable, and willing to consent to or refuse continued voluntary commitment on behalf of the Respondent based on either the Respondent's

expressed wishes or a good faith belief as to the best interest of the Respondent, if his or her expressed wishes are unknown and cannot be ascertained:

Respondent's General Guardian,

_____.

Respondent's Limited Guardian, _____,
who has obtained specific authority from the Court to provide informed consent.

Respondent's Conservator, _____,
who has obtained specific authority from the Court to provide informed consent.

Respondent's spouse or domestic partner, _____.

Respondent's adult child, _____.

Respondent's parent, _____.

Respondent's adult sibling, _____.

Respondent's religious superior, _____.

Respondent's close friend, _____.

Respondent's nearest living, adult relative, _____.

Respondent's guardian *ad litem*, _____.

More than one individual has been identified as being reasonably available, mentally capable, and willing to consent to or refuse continued voluntary commitment on behalf of the Respondent. The individual of lower priority does does not seek to rebut the presumption and challenge the decision of an individual with higher priority as set forth in in D.C. Official Code § 7-1304.11(a)(5)-(6).

16. The Report indicates that the individual identified to provide informed consent on behalf of the Respondent intends does not intend to consent to continued voluntary commitment.

17. A Substitute Decision Maker's Report Regarding Continued Voluntary Commitment was filed on _____ by _____ (name and relationship to the Respondent). The substitute decision maker [] does [] does not provide informed consent on behalf of the Respondent to continue his or her commitment. This decision was made based on [] the expressed wishes of the Respondent [] on a good faith belief as to the best interests of the Respondent because the expressed wishes of the Respondent are unknown and could not be ascertained.

18. [] A Challenge to the Substitute Decision Maker's Report Regarding Continued Voluntary Commitment was filed on _____ by _____ (name and relationship to the Respondent). The challenger indicates that s/he [] would [] would not provide informed consent on behalf of the Respondent to continue his or her commitment. This decision was made based on [] the expressed wishes of the Respondent [] on a good faith belief as to the best interests of the Respondent because the expressed wishes of the Respondent are unknown and could not be ascertained.

19. An evidentiary hearing [] was [] was not held to determine whether the Respondent has capacity to provide informed consent to continue his or her commitment. To the extent an evidentiary hearing was held, the Court's ruling on the issue of incapacity is contained in an Order dated _____.

20. An evidentiary hearing [] was [] was not held to determine who should consent to or refuse continued voluntary commitment on behalf of the Respondent pursuant to D.C. Official Code § 7-1304.11(a)(2). To the extent an evidentiary hearing was held, the Court's ruling on the

issue of who should consent to or refuse continued voluntary on behalf of the Respondent is contained in an Order dated _____.

21. Based on the Respondent's Report to the Court on Informed Consent for Voluntary Commitment, the Substitute Decision Maker's Report Regarding Continued Voluntary Commitment, any Challenge to the Substitute Decision Maker's Report Regarding Continued Voluntary Commitment filed, any hearings held, and the record herein, the Court finds that

the Respondent has capacity to provide informed consent to continue his or her commitment and does does not provided informed consent.

the Respondent does not have capacity to provide informed consent to continue his or her commitment and _____, the _____ of the Respondent, does does not provide informed consent on behalf of the Respondent to continue his or her commitment. This decision was made based on

the expressed wishes of the Respondent.

on a good faith belief as to the best interests of the Respondent because the expressed wishes of the Respondent are unknown and could not be ascertained.

CONCLUSIONS OF LAW

Upon consideration of the foregoing findings of fact, the Court concludes as a matter of law that the requirements of D.C. Official Code § 7-1304.11 (2013 Repl.) for review and continuation of Respondent's voluntary commitment have have not been met.

ORDER

Upon consideration of the foregoing findings of fact and conclusions of law, it is, by the Court on this _____ day of _____, 20_____, hereby

[] **ORDERED** that Respondent, _____ shall continue to be voluntarily committed for the provision of care and habilitation consistent with Respondent's comprehensive evaluation and individual support plan, in accordance with all applicable law; and it is

[] **ORDERED** that the Respondent, _____, or an individual authorized to provide consent on his or her behalf, has not provided informed consent for his or her continued commitment, and the commitment is, therefore, **TERMINATED** and the case is **CLOSED**.

[] **FURTHER ORDERED** that this matter is scheduled for further proceedings and filings as follows:

- (a) The meeting for the next annual ISP shall be held on or before _____;
- (b) The approved ISP from the meeting above shall be filed with the Court within 30 days of the meeting;
- (c) There shall be an annual review hearing before this Court on _____ at _____; and
- (d) The Provider and Counsel shall file their status reports 10 days before the annual review hearing; and
- (e) Counsel shall file the Respondent's Report to the Court on Informed Consent for Voluntary Commitment no later than 60 days before the annual review hearing; and it is

[] **FURTHER ORDERED** that the Department on Disability Services shall notify all parties of the date and time set for the ISP and interdisciplinary team meeting; and it is

[] FURTHER ORDERED

IT IS SO ORDERED.

Magistrate Judge Diane S. Lepley

Revised: May 29, 2018

COPIES TO:

Respondent Name: _____

Respondent Address: _____

Attorney Name: _____

Attorney Address: _____

Residential Provider Name: _____

Business Address: _____

Advocate Name: _____

Advocate Address: _____

Name: _____

Assistant General Counsel
250 E Street SW, 6th Floor
Washington, D.C. 20024

Name: _____

DDS Court Liaison
250 E Street SW, 6th Floor
Washington, D.C. 20024

Family/Other:

Name: _____

Address: _____