

For immediate release
May 15, 2015

Contact: Thomas F. Coleman
tomcoleman@spectruminstitute.org
(818) 230-5156

Department of Justice Opens Voting Rights Investigation of California Judiciary

In July 2014, the Disability and Abuse Project of Spectrum Institute filed a complaint with the Department of Justice alleging systematic violations of the voting rights of people with developmental disabilities by the Los Angeles Superior Court. The complaint has been under review by the DOJ for several months.

The Department of Justice issued a letter today informing the Judicial Council of California that it has opened a formal investigation based on this complaint. However, rather than merely investigating the Los Angeles Superior Court, the DOJ is investigating the policies and practices of the Judicial Branch statewide.

Thomas F. Coleman, legal director of the Disability and Abuse Project, received a phone call today from DOJ staff attorney Elizabeth Johnson informing him of the investigation. The call came from the offices of the Disability Rights Section of the Civil Rights Division in Washington D.C.

Coleman is elated that what started with one case (Stephen Lopate) and became a class-based complaint against one county court, has now been expanded into a statewide investigation.

“The timing of this investigation is perfect,” Coleman said. “The power of the federal government focused on the voting rights of limited conservatees is putting wind in our sails as we take on larger issues, such as bad lawyering by court-appointed attorneys who represent adults with developmental disabilities.”

The voting rights complaint may be resolved rather quickly. Senate Bill 589 will be voted on by the full Senate on May 18 and will move on to the Assembly where it should get quick passage. That bill will guarantee that people in conservatorships will retain the right to vote as long as they can express a desire to vote.

“No more illegal literacy tests,” said Coleman. “If a person can indicate they want to vote, they will allowed to vote – that’s what SB 589 will do.” The ACLU sponsored SB 589 as a follow up measure to last year’s AB 1311 which was prompted by work of the Disability and Abuse Project. AB1311 created a partial remedy by denying judges the authority to disqualify a conservatee from voting just because they had help from someone n completing a voter registration form.

While the DOJ voting rights investigation is proceeding, the Probate and Mental Health Advisory Committee of the Judicial Council will be considering a set of proposals to tackle the problem of poor advocacy by court-appointed lawyers. Proposals, submitted by the Disability and

Guardianship Project of Spectrum Institute on May 1 will get their first review by the advisory committee at its meeting in July.

Coleman hopes that the review of those proposals will move quickly, but new rules imposing stricter performance standards for court-appointed attorneys can't be adopted quickly enough according to Coleman.

“We just finished a two-year review in a conservatorship case in Los Angeles and what we found is appalling,” Coleman said. “The lawyer violated every ethical rule and performance standard in the books, and she committed the violations with knowledge of the judge in the case.”

A 60-page report on that case will be released on June 1. It will be distributed to judges and lawyers throughout California as an example of how people with developmental disabilities have been denied their constitutional right to an attorney who actually advocates for them.

“The issue of voting rights violations is bad enough,” Coleman said. “But it is just the tip of an iceberg of other constitutional violations, violations that make people with disabilities suffer and that have been allowed to continue for far too long.”

Dr. Nora J. Baladerian, executive director of the Disability and Abuse Project, is encouraged by the decision of the Department of Justice to investigate the California judiciary. “The legal system is failing people with developmental disabilities who come into contact with the limited conservatorship system,” Baladerian said. “We are in this for the long haul and intend to file other complaints with the federal government until this entire mess is cleaned up.”

The DOJ has assigned the investigation to the United States Attorney for the Eastern District of California. The investigation will be conducted from its offices in Sacramento.

(Update) May 18, 2015: SB 589 is being voted on today by the full Senate. If passed, it will move to the Assembly for consideration by that house. The enactment of SB 589 will solve the problem going forward, Coleman said. But we still have the issue of 30,000 or so people with developmental disabilities who have lost their right to vote based on the use of an illegal literacy test in California. Reinstating their voting rights was part of the complaint filed by the Disability and Abuse Project last year and presumably will be part of the dialogue between the DOJ and the Judicial Council.

#