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Chapter 1: Parents Can Commit
Children to Mental Institutions Without
Their Consent


1. The Court’s Decision: Commitment of
   Minors to Mental Hospitals by Parents Is
   Not Unconstitutional
   
   **Warren Burger**
   The U.S. Supreme Court held that confining children un-
   der the age of eighteen to mental hospitals at their
   parents’ request without an adversary hearing does not
   violate the Due Process Clause of the Fourteenth Amend-
   ment, although medical standards for admission must be
   met.

2. Opinion Dissenting in Part: Children
   Committed to Mental Hospitals by Parents
   Are Entitled to Post-Admission Hearings
   
   **William Brennan**
   Justice Brennan argues that although he agrees that a for-
   mal hearing is not required before children are confined
   to mental hospitals by their parents, a post-admission
   adversary hearing, rather than merely a medical review, is
   necessary.

3. In *Parham* the Court Recognized That Parents
   Act in Their Children’s Best Interests
   
   **Joan Beck**
   A columnist for the *Chicago Tribune* praises the Supreme
   Court’s ruling in *Parham v. J.R.*, viewing it as a welcome
   endorsement of parental rights and responsibilities.
4. Mature Minors Are Not Adequately Protected from Erroneous Commitment to Mental Hospitals

*Linda V. Tiano*

A law student argues that the Supreme Court’s failure to establish special procedures for “mature minors” and wards of the state is inconsistent with the Due Process Clause of the Fourteenth Amendment and that the Court should not have accepted staff physicians as neutral fact-finders.

**Chapter 2: Forcibly Medicating Psychiatric Patients**


1. The Circuit Court’s Opinion: Patients with Mental Illness Can Refuse Medication Except in Emergencies

*Frank M. Coffin*

In a landmark case, the U.S. Court of Appeals for the First Circuit ruled that competent mentally ill patients have a right to refuse medication except in emergency situations and that those who have been declared legally incompetent are entitled to a court hearing before being forcibly medicated.

2. Lawyers Debate Whether Benefits of Antipsychotic Medication Outweigh the Dangers

*Stephen Schultz and Richard Cole*

The attorneys present their opposing views on forced administration of antipsychotic drugs in the oral argument preceding the Supreme Court’s review of the case, which it did not decide but instead remanded for further consideration in the light of an intervening case.
3. Massachusetts Court’s Opinion: 
Incompetent Patients with Mental Illness Have the Same Rights as Other Patients 
*Ruth Abrams* 
In the opinion issued by the Massachusetts Supreme Court on remand, Justice Abrams emphasizes that mentally incompetent patients have the same dignity and worth as other patients and that the state must afford them the same rights and choices.

4. *Rogers* Ignored Mentally Ill Patients’ Incompetence to Determine Their Need for Treatment 
*Treatment Advocacy Center* 
In an analysis of *Rogers v. Okin* and the various later rulings on the case, the Treatment Advocacy Center, an organization strongly favoring the use of psychiatric drugs, argues that the decision was unfortunate and has led to significant costs and delays in the treatment of the mentally ill.

5. Rubie Rogers Helped Win Key Rights for Patients with Mental Illness 
*Bryan Marquard* 
In an article written at the time of Rubie Rogers’s death, a reporter describes the suffering Rogers experienced from forced drugging and discusses her later efforts to fight for the rights of other mental patients.

**Chapter 3: Defining the Rights of Institutionalized Patients**


1. The Court’s Decision: Patients with Mental Illness Have a Right to Training and Freedom from Bodily Restraints 
*Lewis Powell* 
The U.S. Supreme Court ruled that patients in mental institutions have a constitutionally protected right to conditions of reasonable care and safety, reasonably non-restrictive confinement conditions, and such training as may be required by these interests.
2. **Youngberg v. Romeo** Is a Cornerstone of the Patients’ Rights Movement

*Fred Barbash*

A news reporter explains that the decision in *Youngberg v. Romeo* establishes constitutional rights for the mentally retarded for the first time, and although it leaves many questions unanswered, it has importance comparable to that of earlier decisions on prisoners’ and defendants’ rights.

3. **Youngberg** Enlarged the Role of Mental Health Professionals in Institutional Reform

*Mark A. Small and Randy K. Otto*

Professors of psychology explain that because the Supreme Court held in *Youngberg v. Romeo* that courts must defer to the judgment of mental health professionals in determining what treatment services are constitutionally guaranteed to institutionalized persons, institutional reform advocacy efforts were changed dramatically by the case.

4. Judges, Not Mental Health Professionals, Should Make Decisions About the Rights of Patients with Mental Illness

*Susan Stefan*

A law professor argues that the Supreme Court in *Youngberg v. Romeo* based its opinion on an inaccurate perception of mental health professionals and that whereas the standards it set called for deference to them, such decisions ought to be made by judges in order to preserve liberties guaranteed by the Constitution.

**Chapter 4: The Right to Live and Receive Treatment in the Community**


1. The Court’s Decision: Patients Eligible for Community-Based Treatment Cannot Be Kept in Institutions Against Their Will

*Ruth Bader Ginsburg*
The Supreme Court ruled that under the Americans with Disabilities Act (ADA), the states are required to provide community-based treatment for persons with mental disabilities when treatment professionals determine that such placement is appropriate, the affected persons do not oppose such treatment, and the placement can be reasonably accommodated.

2. Dissenting Opinion: Treating Different Patients Differently Is Not Disability-Based Discrimination

Clarence Thomas

Justice Thomas argues that while the ADA prohibits discrimination against the disabled as compared to people without disabilities, the institutional treatment of some patients who are treatable in a community-based programs does not involve denial of community placement by reason of their disability, but merely means they must wait their turn.

3. Disability-Rights Activists Demanded the Right Not to Be Institutionalized

Nadina LaSpina

Prior to the Supreme Court hearings on Olmstead v. L.C. and E.W., a disability-rights activist explains why the case is important to people with disabilities—either mental or physical—and urges them to attend a rally in Washington.

4. Olmstead Is Unlikely to Lead to Widespread Creation of Community-Based Services for Patients with Mental Illness

Paul S. Appelbaum

Shortly after the decision, a professor of psychiatry explains the background of Olmstead and concludes that although advocates for the mentally disabled were happy with the outcome of the case, it is uncertain whether the Supreme Court will support lower courts in compelling states to create community alternatives that do not already exist.
5. *Olmstead* Was a Victory for People Who Have No Voice

*Atlanta Legal Aid Society*

An article from the Atlanta Legal Aid Society, which represented L.C. and E.W., tells what happened to the two patients after they were released from an institution as a result of the lawsuit and describes the reaction of the attorneys to the experience of arguing before the Supreme Court.

Organizations to Contact

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