

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

In the Matter of _____ : **Case No.:**
[PERSON'S NAME] : **Magistrate Judge Katherine M. Wiedmann**
 : **ISP Meeting Date:**
Respondent : **Annual Review Hearing:**
 :

**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 review was conducted remotely via Webex and the following parties appeared by telephone and/or video conference: _____

_____.

The Respondent [] appeared by video conference [] appeared by phone [] was unable to appear for the following reason/s _____ and the Court waived respondent's appearance. This order summarizes the findings of fact and conclusions of law placed on the record on _____. 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 the respondent's intellectual disability if allowed to regain his/her liberty. D.C. Official Code § 7-1304.06a (2018 Repl. & 2020 Supp.).

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 _____ 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. [] Due to the COVID-19 pandemic, the Respondent is not attending this program and the following services are in place: _____

_____.

[] 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 annual physical and lab tests are

are not in the ISP and the Provider's Status Report filed for today's hearing.

Respondent had 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 (2018 Repl. & 2020 Supp.) 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 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. The Report indicates that Respondent [] has [] does not have capacity.

16. 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 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, _____.

[] 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 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).

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

18. A Substitute Decision Maker's Report Regarding Continued Voluntary Commitment was filed on _____ by _____ (name and relationship to the Respondent). The Report indicates that Respondent has does not have capacity to consent to or refuse continued voluntary commitment. To the extent the Respondent lacks capacity, the substitute decision maker does does not provide informed consent on behalf of the Respondent to continue their 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. 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 takes the position that Respondent has does not have capacity to consent to or refuse continued voluntary commitment. To the extent the Respondent lacks capacity, the challenger would consent to refuse continued commitment on behalf of the Respondent.

No challenge to the Substitute Decision Maker's Report Regarding Continued Voluntary Commitment was filed.

20. An evidentiary hearing was was not held to determine whether the Respondent has capacity to provide informed consent to continue commitment. To the extent an evidentiary

hearing was held, the Court's ruling on the issue of incapacity is contained in an Order dated _____.

21. An evidentiary hearing was was not held to determine who should consent 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 commitment on behalf of the Respondent is contained in an Order dated _____.

22. 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 commitment and does does not provided informed consent.

the Respondent does not have capacity to provide informed consent to continue commitment and _____, the _____ of the Respondent, does does not provide informed consent on behalf of the Respondent to continue 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 (2018 Repl. & 2020 Supp.) 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 to continue 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 Katherine M. Wiedmann

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: _____