

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

James and Lorie Jensen, as parents,  
Guardians and next friends of Bradley J.  
Jensen, et al.,  
Plaintiffs,

Civil No. 09-1775 (DWF/FLN)

v.

Minnesota Department of Human Services,  
an agency of the State of Minnesota, et al.,

Defendants.

**COURT MONITOR  
REPORT TO THE COURT  
REGARDING CLASS MEMBER E.G.**

The Court Monitor respectfully provides this status report regarding Class Member E.G. whose parent/guardian recently contacted the Court; the Court then provided information to those involved in this litigation.<sup>1</sup> E.G. remains in a hospital awaiting support services and placement. She is in need of services as a person with both developmental disabilities and mental health needs.

The Court Monitor respectfully

a. Notifies the Court of a state court order issued two days ago. A commitment hearing is pending before the District Court, Criminal Division, County of St. Louis which ordered on April 7, 2015 that “The Department of Human Services shall find a viable, local placement option for Respondent in the Duluth area.” Attachment A (the state court’s order). A hearing is scheduled for this Friday, April 10, 2015.

b. By this Report, the Court Monitor requires that the Department of Human Services, provide him bi-weekly status reports regarding E.G. with respect to the following:<sup>2</sup>

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<sup>1</sup> Email to Court from E.G. Guardian Tammi Beier, February 16, 2015.

<sup>2</sup> See Order of July 17, 2012 at 14 (Dkt. 159) (Court Monitor has “access to the facilities, services, programs, data, and documents relevant to the Settlement Agreement.”); Order of September 3, 2014 at ¶¶ 4.c, d and f (Dkt. 340) (Court Monitor’s authority to: “Oversee the activities of the Defendants

- 1) Report on all efforts being made, or to be made (with urgent timelines) under the CPA order, CPA EC 52, to address E.G.'s unmet needs in her own apartment and otherwise. (EC 52. "If an existing setting or service is not identified or available best efforts will be utilized to create the appropriate setting or service using an individualized service design process.").
- 2) Report on all efforts being made, or to be made (with urgent timelines) under the CPA order at page 2 regarding requirements of counties and providers ("Consistent with its obligations under the Settlement Agreement applicable law and the federal court orders in this case the Department of Human Services shall utilize best efforts to require counties and providers to comply with the Comprehensive Plan of Action through all necessary means within the Department of Human Services' authority including but not limited to incentives rule regulation contract rate- setting and withholding of funds.").
- 3) Report on the status of the investigation, if any, after the report to the State of rape on or about August 6, 2014, and provide the report, if any, of the investigation.

The background and context includes:

1. Jensen Class Member E.G. is 32 years old and, until July 2014, she had been living in her own apartment, working 30 hours per week with a job coach, and was a successful contributing person in our society. A trauma that time triggered PTSD and E.G. went in and out of mental health units. (She had earlier in life been subjected to abuse, as had other close family members).<sup>3</sup>
2. On August 6, 2014, E.G. was reportedly raped by another patient at the Hibbing Hospital; this was a patient about whom she had previously complained to staff. Her guardian reported the rape on the

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in order to ensure and affirm that the service system provides services and support that comply with the Court's Orders;" "Oversee the activities of the Defendants, including their oversight and monitoring, in order to ensure that their supervision and regulation of counties, contractors, providers, and agents results in substantial compliance with the Court's Orders;" "Supervise compliance activities by the Defendants with respect to the Court's Orders.").

<sup>3</sup> Email to Court from E.G. Guardian Tammi Beier, February 16, 2015.  
Discussion with Court Monitor February 17, 2015.

state-wide line for Vulnerable Adult maltreatment reporting, but was not contacted since that report.<sup>4</sup>

3. E.G was referred to the Department of Human Services (DHS) October 23, 2014 for community services and support. At the time, she was at Essentia Health in Duluth. Before that, she had been in her own apartment receiving services from the provider Trillium Services.<sup>5</sup> The need to resume services was recognized by the County Case Manager and DHS.
4. E.G. was to remain at that Hospital (the Miller-Dwan building) until December 29, 2014.
5. The DHS reports have “none” updates for October 27, November 3, November 10, November 17.
6. On November 19, 2014, DHS met with E.G. under the Comprehensive Plan of Action order, CPA EC 98, for an “initial assessment” to determine, in part, priorities for attention. Minnesota Life Bridge performed this assessment.
7. EC 98 requires DHS to “maintain” follow-up as follows:

DHS will maintain therapeutic follow-up of Class Members and clients discharged from METO/MSHS-Cambridge since May 1 2011 by professional staff to provide a safety network as needed to help prevent re-institutionalization and other transfers to more restrictive settings and to maintain the most integrated setting for those individuals.
8. The DHS EC 98 “Successful Lives Project” assessment found:
  - Has been in the hospital for over 80 days.
  - -No place for her to go, her apartment could return [sic] but she needs therapy first.

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<sup>4</sup> *Id.*

<sup>5</sup> Unless otherwise noted, the information in this document is from the DHS, Minnesota Life Bridge, Weekly Diversion Meetings, provided to the Court Monitor under the Comprehensive Plan of Action order.

9. The DHS November 24 update states that the County Case Manager “would like for CSS to assist with E’s transition back into the community.” Also states, “At this point E still has no home.”
10. As of December 1, there was “none” update because “referral to CSS not yet received.” The referral to CSS was made by December 8 and, as of that time, “Paperwork expected to be received this week and a person assigned to the case.”
11. During December, the guardian requested that E not be contacted by CSS because of the anxiety E experiences when engaging with CSS. CSS agreed. “E is very frustrated with the system as a whole and the guardian has requested that there be no contact. The guardian reports that CSS told her that CSS was unable to assist in providing new services but could only make recommendations about current services.”<sup>6</sup>
12. As of December 15, E, G, was still in the hospital. MLB was in contact with E, G.’s guardian and the County Case Manager to discuss “the forthcoming support from CSS in the transition from hospital to community home.” As of December 29, “E’s team is working to figure out a plan to get the services that E needs and to get her back into her apartment.”
13. As of January 5, 2015, E “moved home with guardian on Monday 12/29/14, working on transitioning back to her apartment.” The weekly reports of January 20, and 27 repeat that work “continues on the plan” for transition.
14. As of January 27, DHS reports that there is a plan to transition E back to her apartment in the community and no CSS services are needed as of February 2 and February 9 reports.
15. On February 2, 2015, the County Case Manager reported that “E went back to her apartment somewhere around mid-January with 24 hour staffing provided by Trillium in home services.”
16. As of the February 9, 2015 Weekly Diversion Meeting report, E has a 45 day update meeting with Trillium set for February 12, 2015.
17. Since February 17, 2015, E, G. was accused of assaulting hospital staff and criminally charged. Also she had an incident at the hospital which

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<sup>6</sup> Guardian Tammi Beier, February 17, 2015.

resulted in her being placed into seclusion (Seclusion is forbidden by the orders in this case).

18. In the past month and a half, the County and DHS have discussed possible community options. An option proposed was placement in the Rochester area, far from her very active family, and the St. Louis County Court rejected that approach. Attachment A.

19. Under the CPA order, CPA EC 52, unmet needs must be addressed:

EC 52. If an existing setting or service is not identified or available best efforts will be utilized to create the appropriate setting or service using an individualized service design process.

20. E.G. is on the DHS "Priority Tracking List 2-5-2015" under EC 98.

21. Months of delay have occurred since the situation of E.G. came into urgent focus for DHS. She was updated on the DHS Diversion List as a class member at least as early as October 27, 2014. The Successful Lives Project assessment found that she had already (as of Fall 2014) been in the hospital 80 days and was in need of a place to live. Regardless of whether the state court order commitment to a large congregate institution or a community home, E.G. has a vital interest in DHS complying with the Comprehensive Plan of Action Order for services, protections and supports in the community. Regular reporting by DHS to the Court Monitor will both support ongoing efforts for E.G. and will enable the Court Monitor to seek the Court's assistance if necessary.

For the above reasons, the Court Monitor provides this status report and requires from DHS the bi-weekly reports described at the outset of this report.

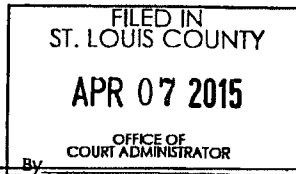
Respectfully submitted,

David Ferleger  
Court Monitor

April 8, 2015

ATTACHMENT A

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS



DISTRICT COURT  
CRIMINAL DIVISION  
SIXTH JUDICIAL DISTRICT

District Court File No. 69DU-PR-15-64

In the Matter of the Civil Commitment of:

E.R.G.,

**ORDER FOR CONTINUANCE**

Defendant.

The above-entitled matter came on for a commitment hearing before the Court, the Honorable Sally L. Tarnowski, District Court Judge presiding, on April 7, 2015.

Appearances:

- |                                    |                                |
|------------------------------------|--------------------------------|
| • Dr. Jacqueline Buffington-Vollum | • Beth Sullivan, DHS           |
| • Lindsey Holst                    | • Roberta Opheim, Ombudsperson |
| • Sheri Simmons                    | • Steve Jensen, DHS            |
| • Nicole Enger                     | • Steve Dahl, DHA              |
| • Joan Windberg                    | • Michael Woods, Ombudsperson  |
| • Tammi Beier, guardian            | • Katie Eagle                  |
| • Gordon Beier, guardian           | • Sandra Moore                 |

Based on the files, records, proceedings, and arguments in this case, the Court makes the following:

**FINDINGS OF FACT**

1. At the commitment hearing the Department of Human Services informed the Court that it is attempting alternatives to civil commitment for Respondent.

2. In the meantime, in Department of Human Services stated there is a crisis bed available for Respondent by this Friday, April 10, 2015. The crisis facility is located in Rochester, Minnesota. The long-term treatment facility DHS is considering is in Duluth, Minnesota.

3. Respondent has suffered many traumas and was recently moved from Miller Dwan to the St. Louis County Jail, and now to St. Luke's Hospital.



4. Respondent is connected to the Duluth area and has guardians who visit her daily in Duluth. Respondent has no family or connections in the Rochester area.

5. Respondent objects to being placed in a crisis facility located in Rochester pending a final placement in this matter.

6. There is good cause to continue this commitment hearing, pursuant to Minn. Stat. § 253B.08, subd. 1(a), to find a temporary placement option for Respondent that is in her best interests.

7. The Department of Human Services shall find a viable, local placement option for Respondent in the Duluth area.

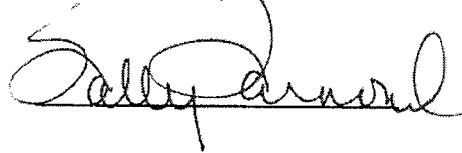
**ORDER**

1. This matter shall be continued to **Friday, April 10, 2015, at 9:00 a.m.** at St. Luke's Hospital in Duluth, Minnesota.

2. The Department of Human Services shall find a viable, local placement option for Respondent in the Duluth area.

**Dated: April 7, 2014**

**BY THE COURT:**

A handwritten signature in black ink, appearing to read "Sally L. Tarnowski", written over a horizontal line.

Honorable Sally L. Tarnowski  
Judge of the District Court