

# Tucker expresses concern for the 2016 Alabama Mental Health Budget

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By James A. Tucker

I write in my capacity as former lead plaintiffs' council in Wyatt v. Stickney, also known as Wyatt v. Kathy Sawyer when the case concluded in 2004. Because the proposed 2016 General Fund Budget for the Department of Mental Health threatens the rights of Alabamians with mental illness and intellectual disabilities, it will expose the State to litigation that rapidly will be known as Wyatt II. Simply put. We've been here before.

In December of 2003 Governor Bob Riley assured the Watt court that Alabama's Department of Mental Health would be adequately funded and meet its obligations to persons with disabilities in Alabama. The court relied on the Governor's representations and, in dismissing the then longest-running such case in the country (it ran from 1970-2004), concluded:

The adequacy of funding for the department [of Mental Health] has been a serious concern in this case, particularly in this time of fiscal crisis for the State. The Governor and the State of Alabama Legislature have maintained the funding necessary to fulfill the terms of the 2000 settlement agreement. During the December 5 [2003] fairness hearing, Governor Riley, Commissioner Sawyer, and Finance Director Nabers also assured this court and the plaintiff that, in fiscal 2005 and beyond, they will do everything in their power to see that the State of Alabama provides necessary financial support for the Mental Health System.

Wyatt Opinion, at 20, January 13, 2004, Doc. No.2250.

As Commissioner Reddoch's budget briefing for the Department of Mental Health made clear yesterday, the proposed 2016 General Fund Budget will dismantle Alabama's system of care for persons with mental illness and intellectual disabilities. Commissioner Reddoch explained that because Alabama closed all three of its state hospitals in the wake of Wyatt, if the Department of Mental Health cannot provide services to persons with mental illness in the community, it cannot provide those services at all. Indeed, as Reddoch noted, were the state to provide services in institutions that were previously provided in the community, "it would challenge lawyers to take the system apart." According to Reddoch, the proposed 2016 budget also threatens to eliminate services to 1,127 persons with intellectual disabilities currently served under the state's intellectual disabilities [ID] waiver.

The Wyatt case was filed in 1970 under eerily similar circumstances. As a result of a budget crisis,

the state threatened to reduce already minimal staffing in the mental hospitals and facilities for person with mental retardation/intellectual disabilities. Eventually, the court directed that Alabama had, and has, an obligation to provide adequate treatment to persons placed in its custody as a result of involuntary civil commitments. Commissioner Reddoch acknowledged the same when he reported: “Strict compliance with Wyatt and Olmstead must be maintained to avoid further litigation.” (Olmstead is a 1999 U.S. Supreme Court case directing that, pursuant to the ADA , states are obligated to provide services to persons with disabilities in the “least restrictive setting.”) Reddoch concluded it “would be impossible to defend” the cuts he outlined in view of the state’s obligations under Wyatt and Olmstead.

Governor Riley promised in 2003 that Alabama would not retreat from its mental health reform. Now, less than 12 years later that retreat threatens to become a reality. As Commissioner Reddoch emphasized, the proposed 2016 General Fund Budget invites another round of litigation on behalf of Alabama residents whose right to services is well-established. If the proposed budget passes, ADAP will do all within its power to preserve the legal rights of those served by the Department of Mental Health.

We urge you and your colleges to maintain the commitment Governor Riley made to Alabamians served by the Department of Mental Health when he concluded the Wyatt case, and to adequately fund mental health services in the 2016 General Fund Budget.

Respectfully,

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Alabama Disabilities Advocacy Program

cc: Members, House Ways and Means General Fund Committee Members, Senate Finance and Taxation General Fund Committee, Gov. Robert Bentley, Comm. Jim Reddoch