



**Testimony of Maureen Cronin, Executive Director, The Arc of Pennsylvania  
Before the Human Services Committee,  
PA House of Representatives, Harrisburg, Pennsylvania  
March 31, 2014**

Thank you for the opportunity to provide testimony regarding Pennsylvania's implementation of the Supreme Court's *Olmstead* decision. My name is Maureen Cronin and I am the Executive Director of The Arc of Pennsylvania. My testimony will provide background information on *Olmstead v. L.C.*, a case of discrimination against people with intellectual disabilities. The remaining speakers will focus on Pennsylvania's implementation of the decision and what should be the next steps in Pennsylvania. I am extremely honored to speak before you today alongside Pennsylvania's most committed advocates for persons with disabilities.

The Arc of Pennsylvania is part of The Arc US, the largest disability rights organization in the nation, advocating for and serving people with intellectual and developmental disabilities and their families. We encompass all ages and many types of disabilities including autism, Down syndrome, and other developmental disabilities. For 65 years, The Arc of Pennsylvania has worked to ensure that children and adults with intellectual and developmental disabilities receive the supports and services they need, are included in their community, and have control over their own lives. The Arc of Pennsylvania has 34 local chapters with over 7,000 members.

The *Olmstead* case was brought in 1995 by the Atlanta Legal Aid Society on behalf of Lois Curtis and Elaine Wilson. Tommy Olmstead was the Commissioner for the Georgia Department of Human Resources. Lois Curtis and Elaine Wilson were admitted into the psychiatric unit in the State-run Georgia Regional Hospital. These women with intellectual disabilities and mental illness completed their treatment and staff at the hospital recommended that they be discharged to community based programs, but there was a waiting list for community services in Georgia. *Olmstead v. L.C.* rose to the Supreme Court when the Georgia Department of Human Resources appealed a decision by the 11th Circuit that it had violated Title II of the Americans with Disabilities Act's integration mandate.

The integration mandate is a regulation issued by the U.S. Department of Justice requiring public entities to administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. 28 C.F.R. § 35.130(d). Georgia asked the Supreme Court to decide whether the Americans with Disabilities Act requires the state to provide treatment and habilitation for persons with intellectual disabilities in a community setting, when appropriate treatment and habilitation can also be provided to them in a state institution.

In June 22, 1999, in a 6-3 landmark opinion, the Supreme Court affirmed that the Americans with Disabilities Act did in fact prohibit needless segregation of individuals with disabilities. "Institutional placement of persons who can handle and benefit from community settings

perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life. Confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment." In addition the Court decided that the state must move the plaintiffs to a community based program. *Olmstead v. L.C.*, 527 U.S. 581 (1999).

Title II of the ADA requires that public entities make reasonable accommodations to avoid discrimination on the basis of disability unless those modifications would entail a fundamental change of the state's services. The integration mandate requires states to develop comprehensive plans to end unnecessary institutionalization at a reasonable pace with the goal of integrating individuals with disabilities into mainstream society to the fullest extent possible.

In support of states' efforts, President George W. Bush issued Executive Order 13217: Community-Based Alternatives for Individuals with Disabilities (the Olmstead Executive Order) on June 18, 2001, in which he extended application of the Supreme Court's Olmstead decision to all Americans with disabilities, and called upon selected Federal agencies, including the U.S. Department of Labor, to help support governors in their implementation of the Olmstead decision.

More so now but even 15 years ago at the time of the decision, there was broad support for community integration and recognition for the cost-effectiveness of providing services in the community instead of institutional settings was well established. We had the Pennhurst Longitudinal Study with robust data proving that individuals have better outcomes living in community settings rather than congregate care. My colleague here, Celia Feinstein, was an investigator on the study.

In the early 70's, The Arc of Pennsylvania led the movement to close state institutions where individuals with intellectual disabilities lived their lives. The Arc was a plaintiff in the *Halderman v. Pennhurst State School & Hospital* case and in the Western Center's *Richard C v. Snyder*. I know that the founders of The Arc of Pennsylvania who fought so hard to assure a better future for their children never thought that forty years later we would still have people living in institutions.

States are required to have Olmstead Plans including measurable objectives demonstrating how the Olmstead decision will be implemented in their state. *Frederick L v. DPW* cites language in the Olmstead decision as its basis for what states' implementation of Olmstead should look like. Language in the Frederick L decisions give guidance as to what in that case the court wanted to see in an Olmstead Plan; in short, benchmarks (in terms of numbers of individuals) and timelines set forth in such a way that compliance could be assessed by a court. The Olmstead plan requires reasonable, measurable benchmarks and timelines. To our knowledge, Pennsylvania does not have such a plan.

In closing, I want to thank you for taking the time to understand the importance of the Olmstead decision for Pennsylvanians and for your leadership in service of all those who receive services from the Department of Public Welfare, hopefully soon to be the Department of Human Services.