



Holly Honeymoon: A rare victory is Christmas present for one family and hope for others

By VOR, January 31, 2013

After an eight year journey, Virginia (“Ginger”) Massa now calls Holly Center home.

Families in similar situations across the country will appreciate what a monumental challenge it was for Ginger and her family to secure placement at Holly Center. As a Medicaid-licensed intermediate care facility for persons with intellectual disabilities (ICF/ID), becoming a permanent resident meant bucking a state and national trend.

Ginger’s good fortune is not lost on Mary Reese, Ginger’s stepmother and a VOR Board Member. As a national advocate, Reese knows all too well that Ginger’s struggle for the past eight years is one shared by thousands of individuals across the country. She recognizes that her job as an advocate is not done.

“Our elation at Ginger’s placement at Holly Center is diminished by the knowledge that thousands of others are ‘stuck’ in community residential programs without consistent care and comprehensive services that are so necessary for their well-being. I wish we could have done more to change this system which is so heartless and cruel in the name of individual rights and the subjective interpretation of least restrictive environment.”

Looking back and ahead

Ginger’s long journey, while certainly peppered with significant hurdles along the way, is not without success that will benefit others.

One early legal victory was the 2006 decision by the Maryland Court of Special Appeals ruling which stated that Ms. Massa was denied due process when Maryland’s Secretary of the Department of Health and Mental Hygiene refused to even hear her request for an ICF/ID placement. The controlling statute was found unconstitutional because it only provided for a hearing when ICF/ID admission was approved. No such hearing right was offered when ICF/ID admission was denied. Ginger’s fight changed state law which now requires appeal hearings in each case. (See related side bar)

“Families still face an uphill battle, but at least now there must be a fair hearing,” remarked Reese. “In our case, it reset the clock and gave us hope; before it was nothing more than the Director’s whim, letterhead and signature.”

Reese, who has long been involved in VOR and now serves on its Board of Directors, credits VOR for recognizing that a victory for Ginger would benefit Ginger’s peers throughout Maryland.

ICF/ID admission determination requires due process

The Maryland Court of Special Appeals, in 2006, found in favor Appellant, Mary Reese, who, on behalf of Virginia Massa, appealed the denial Virginia’s admission to Holly Center, a state-operated Medicaid ICF/ID. The Court agreed that Virginia was denied procedural due process because the Statute only provided for a hearing if the Secretary approved admission; it did not require a hearing when an application for ICF/ID admission was denied. Because ICF/ID admission is a state benefit, applicants who may be eligible have an interest that cannot be taken away without due process. To the extent that the Statute does not provide for a hearing when admissions are denied, the statute is unconstitutional.

The case is [Mary L. Reese, Guardian v. Department of Health and Mental Hygiene](#) (Md. Ct. Spec. App. 2006).

“VOR convinced the law firm Sidley Austin, LLP, that Ginger’s cause was a case worth taking,” said Reese. “Thanks to VOR, we had access to outstanding legal representation and advocacy to carry this cause forward.” Sidley Austin attorneys provided pro bono representation to Ginger and Mary for more than 6 years.

Ginger: At home at Holly

“I’ve been telling everyone it felt like Ginger and I were in the film *‘The Wizard of Oz,’*” says Reese. “Remember how the film begins in black and white and then at the yellow brick road everything turns to Technicolor? That’s the best way I know to describe what a dramatic change Ginger has experienced moving from her inadequate and, at times, unsafe, community placement to Holly Center, a licensed ICF/ID.”



“Her life and care has taken such a dramatic change, it is hard to believe we could have ever grown to tolerate for so long the poor care provided in her community home,” she adds.

“We will not now abandon those who are not as fortunate,” says Reese. “Our greatest hope is that Ginger’s long journey paves the way for others in Maryland and even across the country.”