



DISABILITY RIGHTS NEW YORK

New York's Protection & Advocacy System and Client Assistance Program

FOR IMMEDIATE RELEASE

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DRNY Appeals Abstention Ruling in Article 17A Guardianship Case

Brooklyn, NY - December 18, 2017 – Disability Rights New York (DRNY) filed its brief with the Second Circuit Court of Appeals challenging the dismissal of DRNY v. New York State, et. al. DRNY seeks to stop the state from terminating all decision making rights of people with intellectual and developmental disabilities under Article 17A of the Surrogates Court Procedure Act (Article 17A) without due process or equal protection of the law. In August 2017, the District Court ruled that it would abstain from hearing DRNY's case because DRNY could bring this action in State court.

Article 17A was enacted in 1969 and facilitates the appointment of a plenary guardianship where the guardian's powers are not limited to the individual's specific impairments. The Article 17A guardianship terminates all decision-making rights of individuals with intellectual and developmental disabilities. These rights include, the right to vote, where to live, whom to associate with, what medical treatment to seek and receive, whether to marry and have children, whether to vote, and where to work. Article 17A allows for the imposition of a guardianship without ever having the person present at the hearing or with any regard to the wishes of the individual and does not provide the individual a right to be represented by counsel.

A key responsibility of the Federal Courts is to determine when State laws, like Article 17A, violate the United States Constitution and Federal laws.

"Whether Article 17A violates the Constitution and other federal statutes falls squarely within the responsibility of the Federal Courts," said DRNY Executive Director Timothy A. Clune. "DRNY will continue to challenge this archaic and unconstitutional law."

DRNY is the designated independent non-profit Protection & Advocacy System empowered by Congress to provide legal and non-legal advocacy services to people with disabilities in New York. The Protection & Advocacy System was created by Congress as a direct result of the horrific conditions that were uncovered in the 1970s at New York's Willowbrook State School. DRNY investigates allegations of abuse and neglect and advocates for the civil and legal rights of people with disabilities.

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