

WILLIAM M. BROOKS
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Port Washington, New York 11050
(631) 761-7086 (Office)

LEGAL EXPERIENCE

Touro College, Jacob D. Fuchsberg Law Center
Professor of Law and Director of the Civil Rights
Litigation Law Clinic. Supervision of law students
and litigation of class actions and individual suits
on behalf of mentally ill individuals and the teaching
of a seminar component that focuses upon substantive
issues of mental health and civil rights law and
lawyering skills; 1988-present.

Other Classes Taught: Disability Law; Pre-Trial
Litigation; Federal Courts; Federal Judicial
Clerkship.

Litigated or presently litigating the following cases:

Mary Jo C. v. NYSLRS (argued in the Second Circuit in
May, 2012, decision pending) appeal raises issues of
whether an accommodation under the Americans with
Disabilities Act ("ADA") that requires a state
official to act in contravention of state law is per
se unreasonable and whether a litigant can raise an
employment discrimination claim against a municipality
under Title II of the ADA or must file an action under
Title I;

Bolmer v. Oliveira, 2010 U.S. App. LEXIS 2600 (Feb. 8,
2010) (presently in litigation) (Congress validly
abrogated states' Eleventh Amendment immunity for
conduct that violates the ADA and the Due Process
Clause; due process confinement claims governed by
whether psychiatric evaluations promise some degree of
accuracy);

Monaco v. Hogan, 576 F. Supp.2d 335 (E.D.N.Y. 2008)
(presently in litigation) (challenge to manner in
which psychiatrists conduct civil commitment
evaluations);

Mental Disability Law Clinic v. Hogan, 2008 U.S. Dist. LEXIS 70684 (Aug. 29, 2008) (presently in litigation) (cause of action stated by allegation that by excluding certain individuals from coverage under New York's outpatient commitment law, the law violates the community integration mandate of the ADA because it results in involuntary hospitalization instead of treatment in the community);

Rodriguez v. City of New York, 72 F. 3d 1051 (2d Cir. 1995); Demarco v. Sadiker, 897 F. Supp. 693 (E.D.N.Y. 1995) (§ 1983 lawsuits defining standards for liability for civil rights actions arising out of involuntary hospitalizations);

Marion v. LaFargue, 2004 WL 330239 (Feb. 23, 2004) (\$1,000,000.00 award for wrongful confinement and forced drugging reduced to \$180,000.00);

Goetz v. Crosson, 967 F.2d 29 (2d Cir. 1992) (Right to independent psychiatric testimony at civil commitment proceedings when such testimony is deemed necessary by court for a reliable determination of the hearing);

Glass v. Mayas, 984 F.2d 55 (2d Cir. 1993) (4th amendment prohibition against unreasonable searches and seizures applies in the civil commitment context but defendants entitled to judgment on the basis of qualified immunity);

Acevedo v. Surles, 778 F. Supp. 179 (S.D.N.Y. 1991) (Office of Mental Health policy of assessing charges-in-full against psychiatric patients who sue the state violates the first amendment and equal protection clause; concomitant policy of setting off against any recovery the charges assessed violates the due process clause);

Brown v. Stone, 66 F. Supp. 2d 412 (E.D.N.Y. 1999) (presently in litigation) (challenge to policy of assessing full charges following the filing of a lawsuit that OMH modified after decision in Acevedo v. Surles);

Tewksbury v. Dowling, 169 F. Supp.2d 103 (E.D.N.Y. 2001) (privates physicians engage in state action when

they hospitalize a mentally ill individual after referral from governmental facility; private physicians not entitled to assert qualified immunity defense in § 1983 proceeding);

Camenero v. Rand, 882 F. Supp. 1319 (S.D.N.Y. 1995) (cause of action stated against New York City Health and Hospital Corporation for confining individuals remanded from court pursuant to a court order when the statute violated substantive and procedural due process; litigation resulted in amending Family Court Act § 251, which authorized commitment in absence of substantive standards and procedural safeguards);

Ruiz v. Acrish 89 Civ. 2935 (S.D.N.Y.) (class action that has resulted in writing of "PRN, i.e., as needed, for agitation" orders at New York State Office of Mental Health facilities);

Balzi v. Surles, 85 Civ. 8706 (S.D.N.Y.) (class action that has resulted in elimination of involuntary use of Social Security benefits to satisfy care and treatment charges in state psychiatric hospitals);

Mental Hygiene Legal Service, Second Judicial Department
Attorney for mentally ill patients retained at Harlem Valley Psychiatric Center; 1983-present.
Attorney for mentally retarded individuals living at Wassaic Developmental Center and other less restrictive settings in Dutchess County; November 1981-September 1983. Represented clients in civil commitment and habeas corpus proceedings and undertook any action to protect patients' rights in connection with their care and treatment. E.g., Filed actions pursuant to the declaratory judgment provisions of the CPLR, 42 U.S.C. § 1983 and CPLR article 78.

Litigated the following cases:

Rivers v. Katz, 67 N.Y. 2d 485, 504 N.Y.S. 2d 74, 495 N.E. 2d 337 (1986) (right of civilly committed patients to refuse antipsychotic medication);

Matter of Harry M., 96 A.D. 2d 201, 468 N.Y.S. 2d 359 (2d Dept. 1983) (New York civil commitment law unconstitutionally overbroad);

Ughetto v. Acrish, 130 A.D. 2d 12, 518 N.Y.S. 2d 398 (2d Dept. 1987) (right of civilly committed patients to presence of counsel when examined by a testifying psychiatrist but no privilege against self-incrimination to refuse to speak to a non-treating psychiatrist who examines individual pursuant to testifying in court);

Ritter v. Surles, 144 Misc. 2d 945 (Sup. Ct. Westchester Cty. 1988) (Criminal Procedure Law § 730.40 violates due process clauses of the state and federal constitutions; Criminal Procedure Law § 730.60(6), Mental Hygiene Law § 29.11(h) and 14 NYCRR Part 540 violate the equal protection clauses of the United States and New York constitutions);

Baratta & Goldstein
General legal work and motion practice for a general practice law firm; 1980-1981.

New York Civil Liberties Union-Mental Patients' Rights Project
General legal work (Volunteer work); September 1980-October 1981.

Appalachian Research & Defense Fund-Kentucky Legal Services.
General legal work and the establishing of an "outreach" program to provide legal services to mentally retarded citizens of Harlan County; June-August 1978.

PUBLICATIONS

Law Review Articles

The Tail Still Wags the Dog: The Pervasive and inappropriate influence by the Psychiatric Profession on the Civil Commitment Process, 86 N. DAKOTA L. REV. 260 (2010);

The Privatization of the Civil Commitment Process and the State Action Doctrine: Have the Mentally Ill Been Systemically Stripped of the Fourteenth Amendment Rights?, 40 DUQUENSE L. REV. 1 (2001);

Reevaluating Substantive Due Process as a Source of Protection for Psychiatric Patients to Refuse Drugs, 31 INDIANA L. REV. 937 (1998);

A Comparison of a Mentally Ill Individual's Right to Refuse Medication Under the United States and the New York State Constitutions, 8 TOURO L. REV. 1 (1991).

Chapters

Litigating Federal Civil Rights Actions on Behalf of Individuals with Mental Disabilities in Danziger *et al.*, Representing People with Disabilities (3rd ed. 2003).
Updates published in 2007 and 2011

PROFESSIONAL AFFILIATIONS

Board of Directors, Mid-Hudson Legal Services;
November 1986 - August 1988. Vice-president of the
Board; November 1987 - August 1988.

New York State Bar Association Committee on Mental and
Physical Disability; 1988 - 2001.

American Bar Association Committee on Individual Rights
and Responsibilities; 1993 - present.

PROFESSIONAL STATUS

Member of the New York Bar.

Member of the Supreme Court of the United States

Member of the Court of Appeals for the Second Circuit.

Member of the United States District Court - Southern
District of New York and Eastern District of New York.

EDUCATION

State University of New York at Buffalo: Faculty of Law
and Jurisprudence
J.D. degree received in May 1979.

Ohio Wesleyan University.
B.A. degree received in June 1976.