LEONARD DUNMORE	*	IN THE
Petitioner	*	
	*	CIRCUIT COURT
vs.	*	
	*	FOR
ARCHIE WALLACE , Superintendent	*	
CLIFTON T. PERKINS HOSP. CENTER	*	PRINCE GEORGES COUNTY
Respondent	*	
	*	
and	*	
BRIAN HEPBURN, Director	*	
MENTAL HYGIENE ADMINISTRATION	*	
Respondent	*	Case. No. _____

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PETITION FOR HABEAS CORPUS

Comes now, LEONARD DUNMORE, by his counsel of record Irene Smith and the Maryland Disability Law Center, and requests pursuant to Md. Ann. Code Health-Gen. §10-804 that this Court issue a Writ of Habeas Corpus to release Mr. Dunmore from his confinement at Clifton T. Perkins Hospital Center. Petitioner, Leonard Dunmore, is now confined and deprived of liberty by Archie Wallace, Acting Superintendent, Clifton T. Perkins Hospital Center, 8450 Dorsey Run Rd., Jessup, MD 20794 and Dr. Brian Hepburn, Director of the Mental Hygiene Administration, 55 Wade Ave., Catonsville, Maryland 20793. In furtherance of this Petition, Mr. Dunmore states as follows:

Facts

1. Mr. Dunmore was adjudicated as Not Guilty By Reason of Insanity in 1983 on charges stemming from a serious incident at the Maryland State Vocational Rehabilitation Center in Landover, Maryland.

2. Since that time, Mr. Dunmore has remained confined at Clifton T. Perkins Hospital Center (CTPHC).

3. CTPHC is a State psychiatric facility operated by the Maryland Mental Hygiene Administration (MHA), an agency within the Department of Health and Mental Hygiene (DHMH).

4. Pursuant to the due process rights set forth under Md. Ann. Code Crim.-Pro. §3-119, Mr. Dunmore sought a judicial release from CTPHC. On April 20, 2004, his case was presented before a jury of his peers. The jury found that Mr. Dunmore did not pose a danger to himself, others or property *with or without* conditions.[1]

5. Mr. Dunmore did not seek an unconditional release, however. After more than twenty years locked away in a State psychiatric institution, Mr. Dunmore appreciated the need for supports and services to promote his long-term recovery in the community.

6. The jury therefore returned the verdict that he be conditionally released and, accordingly, on July 6, 2004, this Court ordered that Mr. Dunmore be conditionally released.[2] The Court ordered MHA to coordinate the necessary resources to satisfy the conditions.[3]

[1] See attached jury verdict sheet.
[2] See attached Order of Conditional Release.
[3] See attached Order of Conditional Release, page, A(1).

7. The State's response has been to deliberately, continually, and arrogantly defy the Court's order. It has failed to develop a discharge plan and coordinate community resources and, most punitively, has kept Mr. Dunmore incarcerated in the most restrictive setting within the State hospital system.

8. The Office of Public Defender, who represented Mr. Dunmore at the time, was forced to take the highly unusual course of hiring its own social worker, Rebecca Bowman-Rivas, to make the necessary referrals for community placement. Ms. Bowman-Rivas developed a comprehensive discharge plan and referred Mr. Dunmore to the Prince George's County Core Service Agency (CSA).

9. The Prince George's County Core Service Agency is part of MHA and is delegated to oversee the network of private community providers in that county that serves consumers of the State's public mental health system.

10. Upon release from the State psychiatric institution, Mr. Dunmore will be eligible for social security benefits and medical assistance, thus qualifying him for the public mental health system.[4]

11. Mr. Dunmore's retention on a maximum security unit rendered the public defender's referrals to the CSA pointless. Community service providers consider patients on maximum security disfavorably.[5]

[4] See attached letter from Nina Diana to PG County Circuit Court.
[5] See attached Resident Grievance System Stage 1 report.

12. The Hospital meets monthly with the CSA to provide a list of persons eligible for community placement. Upon information and belief, the Hospital never presented Mr. Dunmore's name.

13. However, in June 2004 the social worker contracted by the Public Defender made the CSA aware of Mr. Dunmore's situation and referred him to their program. The CSA failed to give Mr. Dunmore's name as an eligible candidate for services to any community provider for 10 months following this Court's order.[6]

14. Service providers have stated[7] that had they known about Mr. Dunmore before, they would have interviewed him, reviewed his records and created a discharge plan for him.

15. MHA was charged with the duty of coordinating services, contacting potential providers and ensuring that Mr. Dunmore navigate through the public mental health system.[8] MHA has done nothing to ensure that Mr. Dunmore was transferred out of the hospital and into a supervised housing environment, as ordered by the Court.

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[6] The CSA claimed in numerous correspondences with the social worker for the PD and the social worker for the Hospital that not only was Mr. Dunmore on the highest priority list but that he had been specifically referred to providers. (See attached letters) Now, apparently, the CSA claims that Mr. Dunmore was really part of the Baltimore City Mental Health Service this entire time. (See attached e-mail.)

[7] See attached letters.

[8] See attached July 6, 2004 Court Order.

16. MHA contends that it is above the law and, therefore, need not follow this Court's order. [9]

17. Dr. Barton, the clinical director at CTPHC and an employee of MHA, has concluded that "if the hospital maintains that Mr. Dunmore's clinical condition is of such severity to require treatment on the maximum security ward, it has the duty to treat him at that level of care, ***regardless of any order regarding conditional release."***[10]

18. Dr. Barton further contends that his determination as to Mr. Dunmore's physical whereabouts is "a clinical decision that is not subject to review by the judiciary."[11]

19. Mr. Dunmore's stay at CTPHC has been terrifying and traumatic. For example, early in his hospitalization, Mr. Dunmore was given high levels of medication which left him dystonic (in muscular paralysis). Staff kept him for nearly 15 minutes on a scalding hot floor which caused serious burns all over his body. The Hospital refused to have him treated at an outside medical facility or burn unit for nearly a month. This caused his wounds to become infected and more serious. Eventually, the hospital was forced to permit Mr. Dunmore to have professional medical attention. Mr. Dunmore had to have extensive medical procedures to treat his serious injuries. Mr. Dunmore been diagnosed with Post Traumatic Stress

[9] See attached Resident Grievance System, stage 2 response.
[10] See attached Resident Grievance System, Stage 2 response.
[11] Id.

Disorder from that incident. Mr. Dunmore has also been unlawfully forcibly medicated and restrained punitively (Dunmore v. Abbas, No. 87-CA-172, (Md. Cir. Ct. Oct. 28, 1991)) When Mr. Dunmore suggested to his treating psychiatrist that he speak English more clearly, the treating psychiatrist, in front of multiple witnesses, ordered Mr. Dunmore injected with anti-psychotic medications and put into 4-point restraints. Mr. Dunmore has also been assaulted several times in the hospital by other patients. Every single additional day that he is illegally incarcerated compounds the tragedy.

20. Mr. Dunmore's treatment team has identified the following issues as the major barriers to his release: (1) paranoid delusions that he is being treated unfairly and unlawfully kept at the hospital; (2) depressed mood; (3) writing unauthorized and angry letters to authority figures; and (4) anxiety.[12]

21. In a cruel twist of irony, Mr. Dunmore **is** treated unfairly and **is** being kept unlawfully by the State. Mr. Dunmore **is** rightfully and understandably depressed about his illegal incarceration. Because he does not understand why his rights are so egregiously violated, he writes angry letters to numerous officials pleading for help. He **is** understandably anxious about the possibility of another two decades of confinement.

22. Even crueler, therapy is the treatment option that the treatment team has identified that could help Mr. Dunmore relieve his depression and anxiety over his illegal

[12] See attached Clinical Forensic Review Board findings 2003-2004

confinement.[13] Like all maximum security patients, however, Mr. Dunmore is not permitted to attend therapy sessions.[14] In other words, he cannot get better because they will not treat him. They argue that if he isn't better than he cannot leave. It is a vicious circle.

23. Mr. Dunmore has filed numerous grievances over the years over the lack of services (vocational, recreational, educational or therapeutic) available to him at CTPHC. For nearly 23 years, Mr. Dunmore has sat in the dayroom watching his life go by with no hope of intellectual stimulation. CTPHC prevents Mr. Dunmore from reading textbooks, using a calculator, receiving catalogs and informational brochures, or participating in correspondence courses.

24. For years, the only job CTPHC allowed Mr. Dunmore to do was to clean up cigarette butts. After being locked up for 23 years, CTPHC recently decided that this job presented a "security risk" and took the only activity he had away from him.

25. Mr. Dunmore has done everything he can do to comply with treatment and discharge. The only thing keeping Mr. Dunmore confined is the State's patent refusal to follow the law.

[13] They also recommend medication, which he takes voluntarily and is committed to continue taking for the rest of his life.
[14] See attached 2004 Clinical Forensic Review Board

Issue #1- Continued confinement in a locked psychiatric ward following a legal determination that Mr. Dunmore does not pose a danger to self, others or property violates his Constitutional due process and liberty interests, Maryland statutory law and the July 6, 2004 Court Order

The jury found that Mr. Dunmore did not pose a danger to himself, others or property *without* conditions.[15] Continued confinement in an inpatient maximum security psychiatric facility after a person has been adjudicated to be not dangerous violates the due process and liberty protections afforded by the U.S. Constitution. See, e.g., *Jackson v. Indiana*, 406 U.S. 715, 92 S.Ct. 1845 (1972); *O'Connor v. Donaldson*, 422 U.S. 563, 95 S.Ct.2486 (1975); *Addington v. Texas*, 441 U.S. 418, 99 S.Ct.1804, 60 L.Ed.2d 323 (1979), *Jones v. United States*, 463 U.S. 354, 103 S.Ct.3042 (1983), *Zinermon v. Burch*, 494 U.S. 113, 110 S.Ct.975 (1990); *Foucha v. Louisian*, 504 U.S. 71, 112 S. Ct. 1780 (1992). [16]

In *O'Connor*, the Court stated:

> "A finding of "mental illness" alone cannot justify a State's locking up a person against his will and keeping him indefinitely in simple custodial confinement. Assuming that that term can be given a reasonably precise content and that the "mentally ill" can be identified with reasonable accuracy, there is still no constitutional basis for confining such persons involuntarily if they are dangerous to no one and can live safely in the community."[17]

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[15] See attached Verdict Sheet.

[16] As well as *Wyatt v. King* 773 F.Supp. 1508 (M.D. Ala. 1991), *Heichelbech v. Evans*, 798 F. Supp. 708 (M.D. Ga. 1992), *Bension v. Meredith*, 455 F.Supp. 662 (1978), *Butler v. Comm'r Mental Health*, 463 F. Supp. 806 (1978), *Louisiana v. Boudreaux*, 605 So. 2d 608 (La. 1992), *Illinois v. Jurisec*, 766 N.E.2d 648 (Ill. 2002)

[17] *O'Connor* at 575.

The State simply has no compelling interest to override Mr. Dunmore's interest in being free from unwanted confinement because he poses no danger to self or others.

Moreover, a person found "not criminally responsible" and confined to the care and custody of DHMH does not lose his constitutional rights. An individual, including Mr. Dunmore, retains his fundamental due process right to be free from confinement by proving in a judicial release hearing that he is not dangerous.[18]

The fundamental right to be free from unwanted confinement if a person is not a danger to self or others is codified under Maryland law. Pursuant to Md. Ann. Code Crim.-Pro. §3-114(b), a committed person is eligible for discharge if that person would not pose a danger to himself, others or property. Under §3-114(c) a committed person is eligible for discharge *with conditions* if the conditions are necessary to ensure the safety of self, others or property. Therefore, by the plain language of the statute, a person who is not dangerous without conditions is to be discharged.

Mr. Dunmore, however, realized that more than two decades of confinement in a locked institution, without access to more than the most rudimentary services, left him unprepared to simply walk out of the courtroom a free man. He, therefore, argued that conditions, such as housing, educational supports and psychiatric services, were necessary to his ability to safely and successfully live in the community. The jury accepted that argument and, after also finding that he would not be dangerous with conditions, rendered a verdict that he be released with conditions.

Accordingly, the Court ordered that Mr. Dunmore be released with conditions and, further, ordered MHA to coordinate the necessary supports and services for those conditions. Pursuant to Maryland law, the State has thirty days to arrange for these

[18] See Footnote 11.

supports and services before the Court *shall* order the person released. Md. Ann. Code Crim.-Pro. § 3-119(c)(5)(emphasis added). Therefore, Mr. Dunmore was lawfully entitled to release on August 4, 2004.

His continued incarceration violates his rights under the U.S. and State Constitutions, violates the Maryland statute governing the release of persons found "not criminally responsible," and violates the express terms of the Court's order.

Issue #2 - The State is deliberately defying the Court's Order and its duty to provide Mr. Dunmore with conditional release thereby perpetuating his illegal confinement

The State has done **nothing** to follow the Court's Order. The State, obviously, disagrees with the decision of the jury and of the Court. Dr. Barton, the clinical director at CTPHC, testified both at the trial and in subsequent hearings that he does not believe Mr. Dunmore should be discharged. His *opinion* has been duly noted. Due process and Maryland law, however, demand that the determination as to who is dangerous not be left solely to the *opinion* of a psychiatrist. Md. Ann. Code Crim.-Pro. §3-119(c)(4)(i). The State put on its case and the jury weighed all of the evidence presented. The jury then firmly and unequivocally rejected the State's position, finding that Mr. Dunmore did not pose a danger, *even without conditions.* From that point forward, regardless of the opinion of any or all employees of MHA, he was constitutionally entitled to be free from unwanted confinement.[19]

[19] Consider the situation in which the police and prosecutor are convinced with certainty that a particular person committed heinous crimes. If the jury determines that the person is "Not Guilty", the person goes free. The fact that the prosecutor and police department believe the jury's decision to be erroneous does not give them license to detain the person further.

Contrary to the plain language of the statute and numerous United States Supreme Court decisions, the State continues to operate as though the issue of Mr. Dunmore's eligibility for release rests solely in its hands. Were it so, there would be no need for Article 3 of the Criminal Procedures Act and procedural due process would be rendered meaningless as the absolute power to confine people against their will indefinitely would be wielded by psychiatrists alone. Gladly, our system does not work that way. Instead, the power to confine a person against their will is in the hands of judges and juries, who weigh evidence and render justice fairly.

Following Mr. Dunmore's trial, the State initially stayed within constitutional and legal bounds by seeking to overturn the jury's verdict. The Court denied the State's motion. Having apparently exhausted its legal remedies, the State has made the extraordinary decision to simply thumb its nose at the Constitution, Maryland law, the jury and the authority of this Court. Incredibly, it contends that Mr. Dunmore's discharge is subject solely to a psychiatrist's "clinical" decision and, therefore, his discharge with conditions cannot be dictated by the Court.[20]

As Dr. Barton puts it, "if the hospital maintains that Mr. Dunmore's clinical condition is of such severity to require treatment on the maximum security ward, it has the duty to treat him at that level of care, ***regardless of any order regarding conditional release."***[21] Dr. Barton further contends that his determination as to Mr. Dunmore's physical whereabouts is "a clinical decision that is not subject to review by the judiciary.[22]

[20] See attached Resident Grievance System Stage 2 response.
[21] *Id*.
[22] *Id*.

This might be true if Mr. Dunmore had not won his conditional release. Had he not won, Dr. Barton might have the authority, unfortunately, to simply keep Mr. Dunmore rotting in a maximum security unit for the rest of his life under the guise of "clinical judgment." Mr. Dunmore did win, however, and therefore the State was obligated to take every measure to secure his release within thirty days. At this point, Mr. Dunmore is not asking that Dr. Barton or anyone at CTPHC "treat" him at all. He expects, however, that the State follow the law and arrange for his release pursuant to the Court's Order.

Dr. Barton also claims that following the Court's order would be unethical for him.[23] It is not clear whether Dr. Barton sought and received a new and novel opinion from the American Medical Association or the American Psychiatric Association, or whether he simply rendered his own interpretation of ethics, much like he has done with the law. In any event, his interpretation appears to be at odds with published opinions. *See, e.g.* Attached Opinions on Section 3 from the American Psychiatric Association, especially Section 3-C "The public has a right to make decisions with which we may disagree, and our recourse is to convince the public otherwise." (November 1989) Interestingly, Dr. Barton is, however, ethically bound to provide treatment that is consistent with the best interests of the patient.[24] The Hospital and MHA. know that Mr.

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[23] See attached Resident Grievance System, Stage 2.
That a psychiatrist views it as his ethical duty to incarcerate a man in a maximum security unit of a hospital is terrifying and reminiscent of the views of those powerful doctors in Nazi Germany who, under the auspices of legal authority and "sound science", perpetrated the most horrendous abuses against persons with disabilities. In the United States of the 21st century, however, individuals diagnosed with a mental illness have a right to be free from confinement. The State may override that liberty interest only if there is a legal determination that a particular individual poses a danger. It is, thankfully, not the psychiatrist's duty, legally or ethically, to confine persons against their will.

[24] See attached Cannon of Ethics Section 1.

Dunmore needs individual therapy, job skills, educational training, etc. but they refuse, for no specific reason, to provide those services to Mr. Dunmore.[25]

Issue #3 - The Hospital and MHA have caused Mr. Dunmore's continued illegal confinement by their failure to act as required by the Court Order and statutory law

The State attempts to excuse its continuing illegal incarceration of Mr. Dunmore under the mysterious cloak of "clinical judgment." It reasons that Mr. Dunmore has the obligation to magically secure community services himself while confined in a maximum security unit. Until that time, it can keep him locked in the most restrictive setting, because it is Dr. Barton's "clinical judgment" that he remain in such setting.

As discussed earlier, however, it is MHA's duty to arrange for the necessary services and supports for the conditional release. It is instructive to note that MHA complies with this duty every year with respect to those persons who are conditionally released with the treatment team's approval. Maryland law, however, does not provide that MHA is released from its duty to secure and provide services in those cases where it disagrees with a jury's decision and a court order. Again, if this were the case, the provisions of the statute permitting the patient to request judicial release themselves would be rendered moot. The legislature could have just left the decision to apply for judicial release up to the treatment team, but they did not. The legislature, obviously, recognized that there are times when the treatment team and the patient will be at odds as to readiness for discharge and the patient has the right to secure freedom from the judiciary.

[25] See attached Clinical Forensic Review Board Finding 2003-2004.

It was a simple matter for the State to comply with the Court's Order. It was required to 1) transfer Mr. Dunmore to the least restrictive setting[26] within its system and 2) make the appropriate referrals to the CSA.

Mr. Dunmore was not transferred to the least restrictive environment within the Defendant's power and control. In fact, CTPHC is the most restrictive environment that MHA has to offer. Mr. Dunmore lives in the most restrictive unit inside the most restrictive hospital in Maryland. While Mr. Dunmore has for the past 3 years personally earned the highest level in the privilege system for a maximum security patient[27], his daily activities are still unfathomably limited. His daily activities, by hospital policy are:

6:00 am wake up
7:30 am goals group[28]
8:00 am breakfast
8:30 am medication
8:45 am smoke break
9:00 am sit around in the day room
12:30 pm lunch
1:00 pm smoke break
1:15 pm sit around in the dayroom
3:00 pm quiet time
4:15 pm smoke break
4:45 pm wrap up[29]
5:00 pm lockdown
5:30 pm dinner
6:00 pm showers, tooth brush
7:00 pm canteen
7:15 pm phones on Mon. Wedn. and Fri and Sun. only

[26] Citizens have the right to live in the least restrictive environment. The Americans With Disabilities Act (A.D.A.) (42 U.S.C. §12101(a)(2), (a)(3), (a)(5), and (a)(8)) was designed to end the unnecessary and shameful segregation of persons with mental illness from the community. The A.D.A. and the Integration Regulation (28 C.F.R. 35.130(d) (1998) and Section 504 of the Rehabilitation Act of 1973 (20 U.S.C. §701-797(b)) grant the right to individuals with disabilities, including mental illnesses, to be integrated into the community.

[27] Mr. Dunmore is a Super 3 which means he has certain extra privileges such as an additional 15 minutes of visitor time, he can watch TV with other Super 3's, can stay up an extra hour at night, and an extra canteen period.

[28] Everyone has to state a goal. For example "today I will read a book", "brush my teeth", "go to a group", etc..

[29] Everyone must state whether they accomplished their goal or not.

8:00 pm medications
7:00-11:00 pm sit in the dayroom.
11:00 pm go home

MHA and CTPHC are currently providing him with no meaningful treatment, activities, intellectual stimulation or job skills. He cannot, by the rules of the Hospital, participate in individual therapy, obtain job skills, or participate in educational activities.[30] He cannot go outside except for the authorized smoke breaks. He cannot read math or science text books, keep personal belongings, chew gum, sleep in, go on the internet, take a walk outside when he feels like it, etc.. Again, this refusal to provide services is not based on Mr. Dunmore's behavior but based on a blanket CTPHC policy. Every single thing that he does or says is controlled and monitored by nurses, staff, security guards, doctors, administrators. His every action is documented and dissected. It is the most restrictive environment imaginable.[31]

Moreover, the State's refusal to appropriately place Mr. Dunmore in the least restrictive setting has caused him to lose opportunities for community placement.[32] Mr. Dunmore is in competition with other persons diagnosed with mental illness for space in community programs.[33] The effect of Mr. Dunmore's continued assignment to a maximum security ward is that he is left on a waiting list that will never call his name. As the Defendant's own Right Advisor summarized "keeping Mr. Dunmore on maximum

[30] He attends three additional activities: one day a week for an hour he gets to type on a word processor, two days per month he goes to substance abuse group for an hour, one day per week he goes to a group called "Moving Ahead" designed to improve patients' clinical and interpersonal functions so they can "move ahead" outside the hospital. The fact that the hospital refuses to let him live outside the hospital makes attendance at this group seem rather pointless and cruel.
[31] Prisoners have many more rights than patients on maximum security at Perkins. Prisoners have the right to educational, vocational, job placement, parenting skills. Prisoners have more rights to access to reading materials and personal belongings. Prisoners have more rights to enjoy the outdoors.
[32] Id.
[33] See February 15, 2005 correspondence to the Court from Nina Dina. See also attached Resident Grievance System, stage 1 finding.

security wing of CTPHC is tantamount to defying the Court's verdict since placement from the maximum wing into supervised housing is unlikely, at best."[34]

Mr. Dunmore **was** referred to the CSA by the Public Defender's contracted social worker in June 2004. The CSA is charged with the duty of "planning, managing, and monitoring public mental health services" in Prince George's County.[35] Accordingly, it is required to determine whether a referred individual meets the medical criteria and determine his or her priority status.[36] The CSA then refers those people to privately-owned and operated service providers who evaluate the person to determine whether or not they can assist.

Mr. Dunmore met the criteria and should have been at the highest priority for placement.[37] The CSA communicated to the independent social worker on November 19, 2004 and the social workers at CTPHC on February 5, 2005 that 1) Mr. Dunmore was on the PG CSA's highest priority list 2) that service providers had been contacted about Mr. Dunmore. However, the CSA did not refer Mr. Dunmore to any service providers.[38] It is difficult to imagine how Mr. Dunmore was going to be accepted to a program that does not know he exists.

In response to concerns raised by Counsel for Mr. Dunmore, the CSA now claims that Mr. Dunmore is not on their list but is instead on Baltimore City's list.[39] Baltimore City advises that while Mr. Dunmore was briefly referred to their agency almost a year for the limited purpose of eligibility to a specific program, they were of the opinion that

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[34] See attached Resident Grievance System Stage 1 response.
[35] See attached Maryland Department of Health and Mental Hygiene, Core Service Agencies
[36] Id.
[37] Id. and see attached letter to the Court from Nina Diana and see attached letter from Raymond C. Watson.
[38] See attached letters.
[39] See attached email from Raymond Watson.

Mr. Dunmore is on the PG County waiting list. Again, it is impossible to imagine how Mr. Dunmore will ever get off maximum security and into the community, when the agencies mandated to make such a transfer possible are doing nothing to assist him.

On May 4, 2004, Counsel for Mr. Dunmore contacted every service provider in Prince George's County, and within an hour found three services providers that not only were willing to assist Mr. Dunmore but considered him to be a high priority.[40] These providers indicated that had they known about Mr. Dunmore sooner, they would have gone out to meet him, evaluated him for services and began working a plan to facilitate his integration in the community. However, each provider also advised that it would be difficult to transition Mr. Dunmore directly from maximum security and that he needed to be in a less restrictive placement. They are required to have CSA make the referral before they can do anything to assist. To date, there has been no referral.

This is why the Court charged MHA with the duty to "coordinate, supervise and monitor compliance" [with the conditional release plan], as well as "notifying all necessary agents expected to provide treatment or services."[41] Presumably the purpose of compelling MHA to make sure that everything went smoothly was to ensure that Mr. Dunmore was actually released. MHA did *not* ensure that the CSA had placed Mr. Dunmore as its highest priority or that it had contact the community service providers to interview him. MHA did *not* ensure that anyone was doing anything at all to assist Mr. Dunmore. MHA did nothing. Mr. Dunmore is in the exact same place he was the day before he won his conditional release.

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[40] See attached letters.
[41] See attached Order.

Issue #4 – The State has the power to immediately comply with the Court's Order

The State has the opportunity to immediately comply with the Court's Order and fulfill its duty to secure and coordinate the necessary supports and services for Mr. Dunmore's release. The State has several "assisted living units" (ALU) on the grounds of regional State psychiatric facilities. Persons are placed in such units upon discharge from a hospital as a transition while they await acceptance into a community residential program. The ALU provides supervision and Mr. Dunmore could have access to the services listed in the Court's order.[42] Given that it has willfully violated the Court's order and failed to take any action to secure a community placement, it now has the obligation to place Mr. Dunmore immediately in this program and take all other necessary steps to facilitate his acceptance by a community provider. Again, the community providers and the independent social worker are all of the opinion that Mr. Dunmore's residence in a less restrictive environment prior to placement in a community program would facilitate the transition process.

WHEREFORE, Mr. Dunmore requests this honorable court to:

A. Immediately issue a writ, pursuant to Md. Rule 15-303(e)(3) to Archie Wallace, Acting Superintendent, 8750 Dorsey Run Rd. Jessup, MD 20794 and Dr. Brian Hepburn, Directot, 55 Wade Ave. Catonsville MD, 21228 to appear with Petitioner before this court for purposes of determining whether Mr. Dunmore's detention is legal and further:

[42] Remember, Perkins is not offering the services listed in the release order because of a hospital policy.

B. Order that Mr. Dunmore be immediately transferred to an "assisted living unit" within the M.H.A. system and further:

C. Order that M.H.A. immediately fulfill its obligation to contact service providers and facilitate Mr. Dunmore's acceptance into a community program and further:

D. Order that if Mr. Dunmore is not placed in a community program within 4 months of this Court's Order, that the Respondents come forth and show cause why they should not be held in contempt and further:

E. Order that the Respondents be ordered to pay any and all costs, including but not limited to attorney's fees, associated with this action and further:

F. Order any such other as justice shall require.

Respectfully Submitted,

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Irene Smith, Esq.

Maryland Disability Law Center
Suite 400
1800 N. Charles St.
Baltimore, MD 21201
(410) 727-6352 ext 246
(410) 727-6389 (fax)

Certificate of Service

I hereby certify that I have sent a copy of the above Petition to Archie Wallace, Superintendent, Clifton T Perkins Hospital Center, 8750 Dorsey Run Rd, Jessup, MD 20794, Dr. Brian Hepburn, 55 Wade Ave. Catonsville MD, 21228 and Barbara Francis Assistant Attorney General, Counsel, MHA Office of the Attorney General 300 W.

Preston St. Baltimore, MD 21201 by certified mail, return receipt requested on May 12, 2005 and by fax.

_____

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