

# Example of legal representation of mentally disabled essay

[Law](#), [Criminal Justice](#)



## **Legal Representation of Mentally Disabled**

In this paperwork, I am going to present an overview of the general rights and protections afforded to the mentally disabled. The paperwork will also consist of some of the main difficulties facing advocates for the mentally disabled (both legal and non-legal advocates). Information on civil commitment standards, right to treatment in the least restrictive setting, prediction of dangerous and incarceration of the mentally disabled will also be included in my discussions. As I go through the paperwork; I will be suggesting for the existence of social change in these areas so as to end up with a more accurate results that are pleasant to both the advocate's and his or her client.

Through a literature review, it is important to note that mental health lawyers have habitually been fretful with patience's right to treatment while in the sanatorium, whereby, it has been the responsibilities of the lawyers to look at the dilemma of the chronically mentally disabled in the society. It is a significant responsibility that has been bestowed on lawyers as far as the welfare of the mentally disabled is concerned. According to my opinion, if the lawyers were not allowed to take part in helping the mentally disabled, then most of their rights, mentally disabled persons, would have been violated and that is the reason why we require the presence of the lawyers, so as to make sure that all the rights, for the mentally disabled, are strictly followed and practiced to the dot (Robert, 2007). Experts have depicted that the mentally disabled persons have the right to benefit from the complete panoply of reimbursement, services, and privileges which encompasses of the presence of the essential rudiments in the lives of many persistently

disabled persons. For all these rights to be practiced; we require the presence of advocates, since they act as watchdog as far as the issues concerning the mentally disabled are concerned. It is important to note that the attorneys' is known to play the role of an advocate, mediator, or even a psychoanalyst (Betty, 1982). The advocates play a significant role when it comes to making sure that the rights of the mentally disabled persons are not violated. It could have been very difficult for the mentally disabled persons to cope with the rest of the world in the absenteeism of the advocates. The mentally disabled persons rights and protections could have been violated by the mentally stable persons, but with the help of the advocates, they have played a significant role in ensuring that their rights are met. Failure to recognize the rights of the mentally disabled persons has led to severe consequences imposed on those persons- those violating the rights of the mentally disabled persons (Robert, 2007).

I have talked of the right to better treatment for the mentally disabled, but what does better treatment incorporate is another question that I will be trying to explain in details. Through a literature review, it is said that treatment includes numerous benefits that should be enjoyed by the mentally disabled, such as employment, accommodation alternatives, occupational teaching opportunities, communal work services, adequate monetary assistance, enlightening programs, and mental health care options. It is, therefore, important to note that for the mentally disabled person to be treated fully then all of the above mentioned benefits should be put into practice. As I said earlier-the lawyers are responsible in making sure that these benefits are enjoyed by the mentally disabled. The mentally

disabled persons who do not pose a greater threat to the society can be treated at home as far as their family members are legally responsible-taking care of him or her (mentally disabled person). Incarcerating the violent mentally disabled persons in confined setting helps in promoting peace in the society, since this lot of the mentally disabled persons is capable of destroying peace within the community, hence creating an environment that is not sound for the survival of the community (Janet, 1995). The attempt of alienating the mentally disabled persons who poses high degree of violence to the community has played a significant role as far as security matter is concerned. The community can enjoy a peaceful environment, since the lot, mentally disabled persons, has been segregated from the community. The segregated lot, mentally disabled persons, can recover quickly from this condition, since they receive maximum care and attention in these confined setting.

Through a literature review, it depicts the presence of the adversarial lawyer who is said to functions under a presumption that the client desires discharge from the mental health facility or desires not to be dedicated. From this literature review, about the role of the adversarial lawyer, it is important to note that it is the responsibilities of the lawyers to join, so as to make it possible for their clients, mentally disabled person, in obtaining the help that they would want if only the clients, mentally disabled person, knew what was in their individual paramount interests. It is, therefore, important to note that; in case the clients have mental disabilities, the assumption of the best interest's lawyers comes into play, whereby; it suggests that clients, mentally disabled person, need to be sheltered, protected, treated, or

habilitated. The law recognizes the fact that the mentally disabled person cannot make sound decision or be in a position of taking care of their wellbeing. It is the reason, why, it has come up with standard set rights that should be enjoyed by this lot-mentally disabled person. It is important to remind ourselves that we should be both our brothers and sisters keepers, since the mentally disabled persons are no different from us, hence the reason, why, we should not dissociate from them.

Though a literature review, it is depicted that most state legislatures and a number of courts, although recognizing the want for demonstration of counsel at civil commitment hearings, have totally botched to distinguish the need to describe the position counsel is to play in these events (Janet, 1995). It is, therefore, significant for these state legislatures to come up with counsels that will be in the positions of meeting all the needs of the mentally disabled persons. Through a literature review, it is depicted that several states passed new legislation that reflected this new commitment approach that is; the protection of due process rights for the mentally disabled. The new commitment approach has led to the transformation of the civil commitment process from a medically dominated happening to an adversarial, legal one (Betty, 1982). Numerous difficulties continue to face the mentally disabled advocates, such as determining whether a client is in a position of making a competent decision. It also becomes, even more difficult in determining the client's best interest. According to my stand, the mentally disabled persons will tend to behave to some extent as animals, hence making it difficult to gather sufficient information from them. As I noted earlier that mentally disabled persons have the right to the access of proper

treatment, it is also important to note the fact that treating mental illness may not actually resolve the troubles in some situations (Robert, 2007). Experts have it that there exists a great gap between the adversarial and non adversarial lawyering roles when it comes to their healing and ant therapeutic features. For the survival of a better and more healing illustration for clients with mental disabilities, it is anticipated that the healing features of the two customary functions be joint into a hybrid role, the meditational role, which in totaling would scrounge from intervention techniques used in other lawful backgrounds. Joining the gaps will create a friendly environment that will make it possible for an effective implementation of the rights of the mentally disabled persons. The mentally disabled persons will enjoy total protections if this approach was put into practice- bridging the two gaps (Janet, 1995).

Through a literature review, it is depicted that peacekeepers, like all other individual beings, have unfairness points, as well as incidences in their lives that manipulate how they respond to others. According to my stand, I would expect the mediators to remain neutral, but literature review has it that in some instances, both the cognitive dissension and heuristics are likely to come into play, thereby, upsetting the method in which the intercession is handled, perhaps to the loss of one or both parties involved (Janet, 1995). Hence, in such a case, whereby, the meditational lawyers are not neutral, they can use their consciousness of both their cognitive dissension and heuristics to help their clients. It is, therefore, important to train advocates on social ethics and the consequences that should be taken if an advocate failed to follow the set ethics, so as to minimize this incidence-biasness

(Janet, 1995). Unfairness when it comes to making final judgments regarding the mentally disabled persons has been noted to be in practice, mostly, because they are dealing with a person who cannot reason appropriately- who cannot make wise decisions. I call upon all advocates to practice fairness and to uphold their work ethics. By doing this, we shall be promoting the survival for a healthy society for all across the world.

Literature review has it that the unique scenery of civil commitment poses numerous problems for the respondent's lawyer. It, therefore, becomes difficult for an advocate to rely on the role of ethics or the tradition that his or her colleagues enjoy in criminal defense. The respondent's advocate, most likely, finds himself or herself involved in a struggle between his client's interests and those of the state or even the client's family. The problem becomes, even more, compounded as the advocate's endeavors to determine what, exactly, are his or her client's interests, where he is unsure if his or her client, mentally disabled person, is competent to make those choices. It is, therefore, important to implement better measures that will help in solving these numerous problems that have been facing our advocates for years (Janet, 1995).

In spite of the presence of these numerous confusion that creates, numerous, difficulties in the work of the advocacy; literature review has it that the advocate can alleviate these issues by being an active, knowledgeable counsel. It is, therefore, important to carry out a detailed, pre-hearing analysis which acts as a key element to the lawyer's purpose. It is a fact that a lawyer cannot be a valuable advocate if he or she is not familiar with his client- mentally disabled person. Experts depicts that the

lawyer is expected to be active person, whereby, a friendly environment is created, hence increasing his or her effectiveness during the hearing, cross-examining witness, and presenting evidence. The adoption of this approach will help the advocates in making informed decisions (Janet, 1995).

It is important to note that numerous approaches have been suggested, so as to solve or minimize the difficulties that face the advocates when trying to solve their clients, mentally disabled person, problems. Another important approach that has been suggested that would help in overcoming unproductive counsel is where both the state legislatures and supreme courts need to create tangible rules for the civil commitment lawyer. It is important to recognize the presence of the existing rules that do provide some regulation, but it is said that they are still far too uncertain to be of any sensible help for the civil commitment lawyer. Advocates who do not follow the clear ethical guidelines that have been set in place will be dissuaded by the likelihood of being competently warned. The approach would help in making sure that all the advocates are on their toes in coming up with fair judgments, thereby, discouraging biasness that has been affecting the rights of the mentally disabled persons negatively (Betty, 1982).

Another approach that has been suggested through a literature review is competency. Competency is another approach that should be adopted by the advocates, so as to increase their effectiveness as far as the rights of the mentally disabled person are concerned. It is, therefore, important for the advocate to educate himself on medical jargons and processes. The advocate should be in a position of learning how to both read and interpret medical charts and study the basics behind his or her client's mental



disability (Janet, 1995). It is a fact that an educated lawyer will not find the need to be an antagonist lawyer as long as he or she is active in his or her client's case. Literature review has it that adopting either role will not crack the problem that may actually be distressing the civil commitment process that is known to many as bad lawyering. From this, we learn that we still have a lot of work to do so as to come up with a more fruitful approach that will guarantee better or the best results. It is important to note that knowledge is power, and with it, chances of making unfair judgment are close to zero- they are highly minimized (Janet, 1995).

Through a literature review, it is depicted that the respondents in civil commitment faces the very real likelihood of the loss of their freedom for imprecise periods of time. It is, therefore, suggested that the respondent's advocate understands his or her role, and how he or she should do that role, so as to defend his or her client's rights and further society's interest in a just proceeding. Advocates are, therefore, expected to meet certain set qualifications, so as to be recognized as legal working advocates responsible for protecting the rights of the mentally disabled persons.

Some experts argues that; In order to end up with a more fruitful approach of dealing with the mentally disabled persons, it would wise to combine both the best interests counsel roles and the adversarial into a hybrid whereby meditational lawyering role that would retain the healing aspects of the two traditional roles and avoid the anti therapeutic aspects of each, without stepping on any one toes. It is important to note that the meditational lawyering role would be more healing to the mentally disabled client, since it is recognized not to upset the ethical codes and creed of the legal vocation

(Joshua, 2000). For the implementation of this approach to be achieved, it would require a great deal of both time and money. According to my stand, it would be wise if all the suggested approaches were incorporated into one entity, then implemented as one. Remember that a literature review has it that by adopting either of the approach or one of the suggested approach would not guarantee 100% effectiveness, hence the reason why I am suggesting for the incorporation of all the approaches that I have discussed in this paperwork. By doing this, it would mean that all the leaking holes that have been making it difficult for the advocates in carrying out their responsibilities, meeting the needs of the mentally disabled person, would be met (Janet, 1995). The implementation of a firm counsel whose main responsibilities would be after the protection of the mentally disabled persons would also be an appropriate move. As we expect the best for ourselves, we should also give the best for both our brothers and sisters who are mentally ill. When the mentally disabled persons recognizes that the society do care for their welfare; it will catalyze their healing process and those members who poses a great incidences of violence will have no alternative, but to learn how to leave peacefully- according to my opinion. As I quoted earlier in this paperwork, we, the mentally stable persons, should learn how to cope with the mentally disabled persons, so as to create a strong bond between us, hence resulting to a peaceful society where everybody cares for his or her neighbor (Betty, 1982). Adopting the above discussed approaches will results to the mentally disabled persons benefiting from the numerous rights that I mentioned earlier in this paperwork, such as employment, accommodation alternatives, occupational teaching

opportunities, communal work services, adequate monetary assistance, enlightening programs, and mental health care options. The protections of these persons, mentally disabled, will be highly recognized, hence making it possible for the existence of a peaceful relationship between the mentally disabled persons and the community as a whole (Joshua, 2000).

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