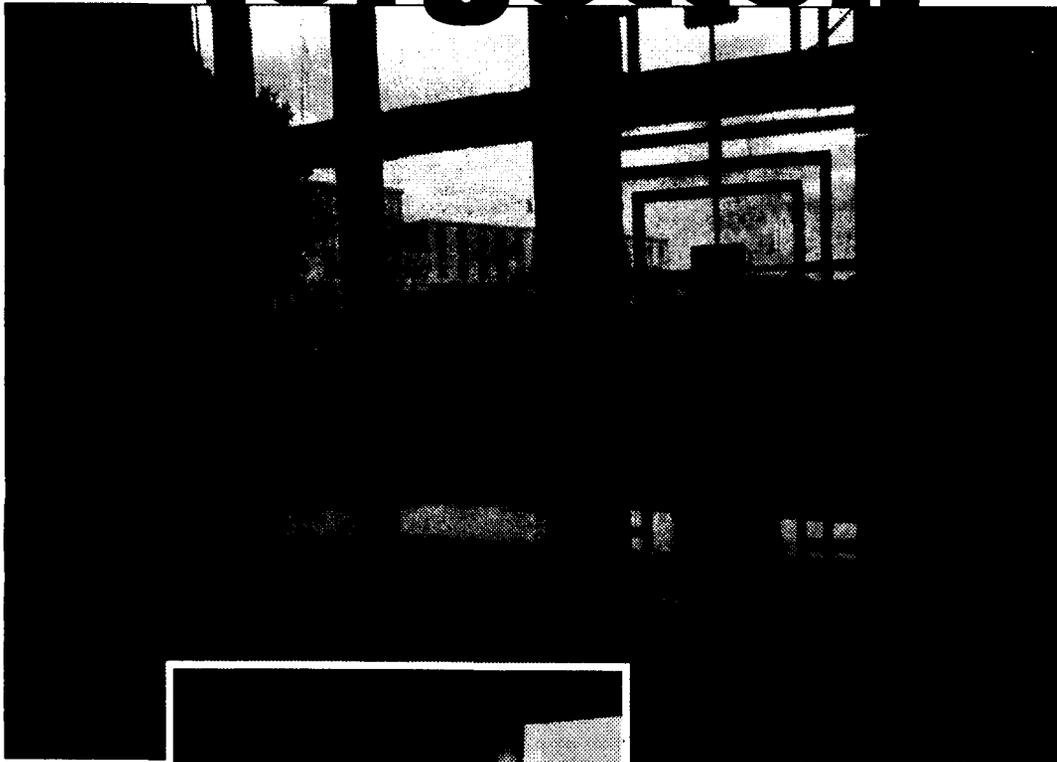


Fighting for the forgotten



LAWYER JAMES GREEN IS FINALLY ABOUT TO SEE DRAMATIC RESULTS OF A LENGTHY CRUSADE TO SHUT DOWN ONE OF THE STATE'S MOST NOTORIOUS MENTAL HOSPITALS

ST. PETERSBURG TIMES / V JANICE WINDSOR

DEADLY ENVIRONMENT: In 1995, a scathing Department of Children and Families report on conditions at C. Pierce Wood Memorial Hospital said that management and staff 'failures' contributed to 10 deaths at the state run facility.



PHILIPPE LENNE/ARGENT

PATIENT ADVOCATE: James K. Green has spent more than 13 years pushing to bring reforms to the state-run C. Pierce Wood Memorial Hospital in Arcadia. Earlier this year, state officials began making plans to close the hospital.

BY CAROL MARBIN MILLER

Review Staff

It was just before Christmas in 1985 when West Palm Beach attorney James K. Green first heard the name G. Pierce Wood Memorial Hospital.

That's when Green received a call from Jim Mensing, a staff lawyer for Florida Rural Legal Services, who had driven his Harley Davidson to the Arcadia state mental hospital hoping to visit several patients. But when he arrived, he was turned away. All hospital residents, he was told, were locked down.

Mensing contacted Green, who had made a name for himself by successfully challenging conditions at several South Florida jails. "Can they do that?" Mensing asked. "These are mental patients, not criminals."

At first, Green's mission was to open the hospital, so that the 450 residents then being held there against their will had some of the same freedoms other people enjoyed. But he soon discovered that the lockdowns weren't the only problem. More problematic was the lax supervision: One man who had cut himself twice previously, for example, was allowed to work in a hospital cafeteria, where he used a kitchen knife to stab himself 16 times.

Now Green, 47, may be about to accomplish something never before done in Florida: closing a state psychiatric hospital.

"These institutions are dinosaurs," Green says. "But there was not enough political will on the part of [former Gov. Lawton] Chiles or the Legislature to do anything about it."

Earlier this year, officials with the state Department of Children and Families began making plans to close the hospital, which now

has 350 beds. The closure, which was approved by the state Senate last week, probably would take about two years if passed by the full Legislature.

The lawsuit Green filed 13 years ago to reform the facility most likely will remain in place until lawyers are assured all current and former residents — a class of more than 5,000 people — are well cared-for.

"This is a totally disenfranchised population," says Steve Hanlon, the pro-bono partner for Holland & Knight who helped Green litigate the case against the hospital. "They don't vote. They don't contribute to political elections. They don't lick stamps. They're out of the process. Essentially, Jim Green was the only thing that stood between these people and oblivion."

A one-time assistant public defender in Palm Beach County, Green had been out of law school only about three years when he took on his first county sheriff. Green was disturbed by what he saw every time he entered the county jail, and he quit the public defender's office and began investigating a possible suit to clean up the detention center.

Eventually, he would be the lead attorney in about 10 jail suits, and assisted in the prosecution of a couple more. Included in his suits were the Palm Beach County Jail, the West Palm Beach city jail, the Palm Beach County Stockade, the Martin County Jail, the St. Lucie County Jail, and the Fort Pierce city jail.

When Mensing first approached him about conditions at G. Pierce Wood, Green assumed his jail reform experience would offer useful insight into the case. The hospital, he figured, didn't seem that much different from the jails he had worked so hard to improve.

Green flew to Washington and consulted with lawyers at the Mental Health Law Project. Susan Stefan, a University of Miami law professor who once worked as a staff lawyer for the advocacy group, remembers the day Green appeared at the group's office — deeply tanned, extremely fit and wearing a Hawaiian-print shirt. "We kind of looked at him and thought: Is he a lawyer or a surfer?"

Moreover, Green had no experience whatsoever with mental health litigation. The Washington lawyers were skeptical, but agreed to help. "We thought this was a really serious problem," Stefan said. "But we did have our doubts about this one lawyer with just a prison and jail background being able to pull this off."

The Law Project warned Green about what he was taking on. It could take decades, they said, to bring about reform at a state psychiatric hospital. Green figured he could do it more quickly.

"Little did I know we'd be pushing 20 years in this case," Green said last week. "These institutional reform cases become a part of your life."

Since the dispute began, lawyers on both sides of the case have filed more than 12,000 pleadings into the court record, which is held in about 30 vol-

umes in Tampa. Under a 1989 court order, Green has successfully billed the state about a half-million dollars for the case. He's still owed about \$300,000 more.

Green actually has devoted an entire room in his West Palm Beach office to G. Pierce Wood documents, which take up three, floor-to-ceiling file cabinets.

Looking back, Stefan said, she can't help but admire Green for his tenacity.

"Governors come and go. State attorneys come and go," she said. "There have been four heads of that hospital. And the only constant is, basically, Jim

and the people he recruits to help him out."

Says Hanlon, "This may be Jim Green's most important case, though up until recently Jim would tell you it was his most important failure."

In 1987, Green filed suit in U.S. District Court in Tampa, arguing that the civil rights of mentally ill people under civil commitment to the rural DeSoto County hospital were routinely being trampled. Residents of G. Pierce Wood, he charged, were being locked down sometimes for 24 hours at a time.

The key to the case, which is pending,

was a 1989 consent decree between lawyers for G. Pierce Wood residents and the state. In it, the state agreed to reduce the number of beds at the hospital from a high of more than 1,000 to less than 400, to reduce the use of physical restraints, improve the hospital's buildings, provide recreation and beef up services for the mentally ill in their own communities.

The consent decree was one of the last to be modeled after a similar document created by legendary civil rights attorney Tobias Simon in his efforts to reform the

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Q&A

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ax. But we're not going to have that. We did talk before the Constitutional Revision Commission, asking that they have a public debate over it. I think the state would be healthier for people to sit down and discuss that. I'm not saying we should have a personal income tax, but there are advantages and disadvantages.

Where is the revenue coming from to replace the money that is now gone?

Gross revenue. Increases in corporate income tax, sales tax and other tax sources.

'We want an adequate tax base so we can provide a good education system. We want to make sure our citizens and their property are safe.'

When you look at the revenue structure of the state you increasingly find novel sources, such as the tobacco settlement and such as the lottery. These are, in some sense, forms of taxation as well. Does Tax Watch take a position on the tobacco settlement?

Yes. We thought the third-party liability was unconstitutional. We thought it was inappropriate to have any kind of law that says their degree of protection is entirely different from that of other industries. The net result is that the settlement represents a 30-cent per pack tax increase. And who's paying it? People who smoke. And there is some concern that one person decided to pay 25 percent of several billion dollars to 10 or 12 law firms

without any real appropriation. There's a whole system of checks and balances. Our governor and Cabinet sit and decide on things as small as a \$15,000 restoration. And here we had one person making, in the best interest of the state I believe, a multibillion-dollar decision.

What are you working on this legislative session?

Elimination of the intangibles tax on the assets managed by Florida-based investment advisers and trust officers. A Florida investment adviser or trust officer who is managing the assets of someone out of state, their client still has to pay an intangibles tax. It hurts Florida trust advisers.

No one wants to pay taxes. In every micro constituency there will be a group that says a tax is a burden to them. They're all right, within the limits of their argument. How do you sort out those claims?

The question is our tax structure. Are we having to pay a tax no one else is paying? Because the other side of that is that we can never spend enough money on education. We can never spend enough on public safety. It's not just a matter of the taxes being competitive. We don't want to be a Mississippi. We don't want to be an Alabama, with the lowest taxes. We want an adequate tax base so we can provide a good education system. We want to make sure our citizens and their property are safe. ■

Hospital

From Page A11

Florida prison system, said Hanlon. It gave the federal judge broad leeway to interpret the state's compliance with a host of goals, and established a court-appointed monitor to evaluate the state's progress.

"This is the only institutional consent decree in the country that gives patients the right to visitation by their pets," says Stefan, with a laugh. "That's Jim in a nutshell."

The lawsuit has changed through the years, as lawyers pressed first, for greater freedom for residents, and then for greater protection as evidence mounted that patients were at risk of physical harm. Though Green won battles along the way — such as the change in policy to forbid locking residents in their rooms for hours on end — critics continued to warn that residents were not safe there.

Much of the lawsuit's lifespan was spent trying to hold the state to its promises, though. In 1995, the Department of Children and Families' inspector general released a scathing report on the hospital, concluding that management and staff "failures" at G. Pierce Wood may have contributed to 10 deaths.

Two patients had died after choking on food they were forbidden to eat, the report stated. In other cases, patients who were supposed to be in "constant eye contact" were allowed to wander off, injure themselves or even attempt suicide. In three cases, the report said, staff members did not learn it was their job to monitor a resident until after the patient died.

The hospital's two top administrators were fired, and officials announced a "major overhaul" of the facility. (The current hospital administrator, Mike Murphy, was out this past week and could not be reached for comment.)

The next year, lawyers at the U.S. Department of Justice filed suit against the state, asking U.S. District Judge Susan C. Bucklew for permission to intervene on behalf of G. Pierce Wood residents. In its July 1996 request, which Bucklew granted, the Justice Department suggested patients at the hospital were at "serious risk of harm, including death."

In a recent review of the hospital, a New York psychologist hired by hospital residents reported an "overwhelming pattern of chaotic and purposeless activity in the name of rehabilitation that effectively resulted in rampant neglect of the rehabilitation needs of the residents."

To make matters worse, state officials have acknowledged that fighting the lawsuit had badly eroded their efforts to improve the hospital, which has a \$44 million-a-year operating budget. In testimony before the state Senate last month, the Department of Children and Families' mental health administrator, John Bryant, said the agency paid a Philadelphia law firm \$500,000 last year to fight the suit — and the Justice Department.

"Those are direct client services dollars that we had to use," Bryant said.

With little hope for dramatic improvement, state officials sought to simply close the facility. The hospital's closure already has passed the Senate. The House is still considering the closure, along with a proposal that the hospital be turned over to private management.

In the end, Green came to believe that only closing the rural hospital could improve the lives of its residents.

"Part of me wanted to believe in the 19th century libertarian idea of sanctuary or asylum," Green said. "As utopian an ideal as it was, it couldn't work — it wouldn't work — in Arcadia, Florida, in a place like G. Pierce Wood. The problem was its isolation and segregation. But it took me a long time to come to that conclusion."

"I learned," Green said, "that mental hospitals are not much safer — and are sometimes more dangerous — than prisons."

Marcia Beach, a longtime mental-health advocate who has lobbied for a decade or more to close the state's institutions, hailed the possible closure of G. Pierce Wood. "I think it's very important, a very important step to take, a giant step."

Beach, a Broward judicial candidate who formerly headed the state Advocacy Center for Persons with Disabilities, says Green must remain vigilant to make sure the patients discharged from the Arcadia hospital don't end up living in boxes on the street, or in county jails.

"Jim," she says, "needs to keep his teeth bared." ■

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