

## Voting Rights: Court Grants Psych Patients Absentee Ballot.

The Superior Court of New Jersey, Appellate Division, ruled recently that long-term residence in a psychiatric facility, in and of itself, has no effect on a citizen's right to vote by absentee ballot.

A local politician wrote to the county elections board complaining that an effort had been made to register the adult residents of the local psychiatric hospital. The elections board segregated the absentee ballots they cast and did not count them, pending a court ruling.

The court said this was completely improper. By law no psychiatric patient may be deprived of any civil right just because he or she is receiving treatment. Although an archaic state law disqualifies a person from voting who is an "idiot" or "insane person," a person who resides in a psychiatric facility is still by law presumed competent to vote unless proven otherwise. On top of that there is only one recognized procedure to challenge an election, which was not followed, demanding a recount afterward. **In Re Trenton Psychiatric Hospital**, 750 A. 2d 790 (N.J. App., 2000).

## Family And Medical Leave Act: Court Says Labor Union Has No Right To Sue For Employees.

***The Family and Medical Leave Act gives an eligible employee or group of eligible employees the right to sue their employer for violation of the Act, on their own behalf and on behalf of other eligible employees in their same situation.***

***By definition an employee is an individual who is employed by an employer.***

***An eligible employee is one who has been with the employer for at least twelve months and worked at least 1250 hours during that twelve-month period.***

***The employees' union does not fit the definition of an eligible employee.***

***Since the union is not an eligible employee as defined by law, the union has no right to sue and the Act imposes no responsibilities on the employer the union can sue to enforce.***

UNITED STATES DISTRICT COURT,  
LOUISIANA, 2000.

A healthcare employees' labor union filed suit in Federal court against a healthcare corporation whose employees the union represents, claiming the corporation systematically violated the employees' rights under the Federal Family and Medical Leave Act (FMLA).

The union stated in the suit its mission is to improve working conditions, protect employees' rights and resolve employment grievances on behalf of its members.

The corporation challenged the lawsuit on the grounds that a labor union does not have legal standing to sue for its members for violations of the FMLA.

The U.S. District Court for the Middle District of Louisiana agreed with the corporation and threw out the case without ruling one way or the other whether the corporation had violated its employees' FMLA rights.

The court looked at the explicit wording of the FMLA. Eligible employees have the right to sue their employer when their FMLA rights are violated. But only employees have the right to sue, and a labor union is not an employee.

The court looked at legal precedents decided under the Fair Labor Standards Act, which has been around much longer than the FMLA, where the courts have ruled labor unions ineligible to sue for their members. The court said Congress used the same language in the FMLA and must have had the same intention. **Local 100 SIEU AFL-CIO v. Integrated Health Services, Inc.**, 96 F. Supp. 2d 537 (M.D. La., 2000).

LEGAL EAGLE EYE NEWSLETTER

For the Nursing Profession

ISSN 1085-4924

© 2008 Legal Eagle Eye Newsletter

Indexed in

Cumulative Index to Nursing & Allied Health Literature™

Published monthly, twelve times per year.  
Mailed First Class Mail at Seattle, WA.

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