

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 08-10252
Non-Argument Calendar

<p>FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT July 30, 2008 THOMAS K. KAHN CLERK</p>
--

D.C. Docket No. 06-00760-CV-1-CG-C

WILLIAMS GROUP HOME, INC.,

Plaintiff-Appellant,

versus

ALABAMA DEPARTMENT OF MENTAL
HEALTH & MENTAL RETARDATION, a public agency,
ERANELL MCINTOSH-WILSON, individually,
JERRYLN LONDON, individually,
FORDYCE MITCHEL, individually,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Alabama

(July 30, 2008)

Before BIRCH, DUBINA and COX, Circuit Judges.

PER CURIAM:

The district court granted the Defendants' motion for summary judgment (Doc. 80), and the Plaintiff appeals. The Plaintiff contends that the district court erred in granting the Defendants summary judgment on the Plaintiff's Due Process claim, and that the district court erred in granting the Defendants summary judgment on the Equal Protection claim (Blue Br. at 1).

The district court held that the Alabama Department of Mental Health and Mental Retardation, a state agency, was not a "person" subject to suit under 42 U.S.C. §§ 1981 and 1983. The Plaintiff does not challenge this holding on appeal. Therefore, we address only the Plaintiff's claims against the Defendants in their individual capacities.

Having considered the briefs and relevant parts of the record, we find no reversible error. We conclude that the Defendants were due summary judgment on the Due Process claim because, if process was due (which we need not decide), Alabama law afforded it. And, we conclude that the district court properly granted summary judgment on the Equal Protection claim because there was no showing that facilities treated differently were similarly situated.

AFFIRMED.