

Case studies from real life

Reproductive rights

Summary 1:

Australia - Sophie Carter had a court-ordered (Guardianship Tribunal) hysterectomy at age 21 following a petition by her parents, who are her legal guardians. Her parents described the "hardest part" of puberty as managing Sophie's periods. Sophie is described as having "the intellectual capacity of a three-year-old." According to the article,

The Carters consider themselves lucky. The Guardianship Tribunal concluded that the potential distress to Sophie's spiritual, mental, and physical health caused by menstruation justified the procedure.

In July 2013, the Australian parliament issued a committee report with 28 recommendations, including that "sterilizing disabled children without their consent should be banned unless it can be proven that the child is never likely to develop the capacity for consent." Sophie's mother denied that contraception was the reason for Sophie's hysterectomy, but expressed relief that Sophie cannot get pregnant. She admitted to fears that Sophie is at high risk of "getting into situations where she might be sexually abused."

'Once, she didn't arrive at her train stop for five-and-a-half hours. I had no idea where she was and what happened.

Sophie was not able to tell me.'

(Content pulled from *The Atlantic*, "Sterilizing a Child for a Better Life," by Marina Kamenev, Sept. 19, 2013 at:

<https://www.theatlantic.com/health/archive/2013/09/sterilizing-a-child-for-a-better-life/279765/>)

Summary 2:

United States - In Iowa, the mother and legal guardian of a 20-year-old man with an intellectual disability "decided that her son should get a vasectomy, and had a doctor perform it." Moreover, the mother contended that her son "was in favor of the procedure and that it been discussed and agreed to." The article states that the son disputed he had wanted the vasectomy and sought legal representation to sue, claiming Iowa law had been violated. It went all the way to the Iowa Supreme Court, which agreed with the son that court approval was required for the vasectomy and had not been obtained. The writer states, "it's worth noting that the court accepted that such vasectomies of the intellectually disabled can indeed be approved, if a court agrees."

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(Content pulled from *Washington Post*, "Sterilization of the Intellectually Disabled," by Eugene Volokh, April 18, 2014 at:

https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/04/18/sterilization-of-the-intellectually-disabled/?utm_term=.efbf5c5cbf19)

Capacity to consent

Summary:

United States - Paul Forziano, 30 and Hava Samuels, 36 both are described as having mild to moderate mental disabilities, and their parents serve as their legal guardians. Paul and Hava both lived in group homes run by different agencies, but attended the same day program. When they met in 2006 at the day program, they "immediately began telling their parents about their new friend. It wasn't long before they were calling each other 'boyfriend' and 'girlfriend'." In April 2012, **with their parents blessing and support, they married**. The marriage had been delayed for a few years because the couple wanted to live together after their marriage.

Paul's mother stated that when she approached the agency that ran her son's group home in 2009, she was **told the couple would not be allowed to share a living space** within the program. The agency's clinical director concluded that "Paul and Hava were **not capable of cohabitation**." Similarly, Hava's agency told her parents they "**didn't feel Hava was clinically capable of being in a marriage**." In response, the families had the couple assessed at a third agency "to determine whether they were emotionally and mentally mature enough for a sexual relationship." The couple also participated in relationship counseling. In a report, the psychologist concluded "that the **couple's desire to marry was appropriate**." In 2013, the parents filed a lawsuit claiming that the agencies had violated the couple's rights under the ADA, the Fair Housing Act and the 14th Amendment. After the lawsuit was filed, the state began looking for places to house the couple. Another agency came forward and offered a one-bedroom apartment to the couple.

NOTE: The lawsuit was eventually dismissed.

(Content pulled from ABC News, "Mentally Disabled Couple's Legal Battle Ends with New Home," by Kevin Dolak, May 23, 2013 at:

<http://abcnews.go.com/US/mentally-disabled-couples-legal-battle-ends-home/story?id=19237103>)