

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

BENJAMIN ALEXANDER et al.,

Plaintiffs,

v.

CASE NO. 4:18cv569-RH-MJF

MARY MAYHEW et al.,

Defendants.

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**ORDER GRANTING THE DEFENDANTS' SECOND
SUMMARY-JUDGMENT MOTION IN PART**

The plaintiffs are adults with physical disabilities or limitations. They need services that could be provided in a long-term-care facility—a nursing home—but they live and prefer to continue to live in the community. They allege they are eligible for home and community-based services through the State of Florida's Medicaid long-term-care waiver program. But they are on the program's waitlist; they are not currently receiving waiver services. The plaintiffs say this puts them at risk of unnecessary institutionalization, violating the state's duty under the Americans with Disabilities Act, as interpreted in *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999). That decision requires a state to provide needed services in

the community, not in a nursing home, when this can be done without fundamentally altering a state's programs. The defendants are the Secretaries of the Florida Agency for Health Care Administration and the Florida Department of Elder Affairs, the agencies that administer the waiver program.

The plaintiffs have attempted to assert claims not only for themselves but for a proposed class. The order of October 27, 2019 denied the plaintiffs' first motion to certify a class. This led the defendants to file a summary-judgment motion—their second—asserting the plaintiffs can recover only individual relief, not classwide relief. The plaintiffs filed a second motion to certify a class, but a separate order that will be issued contemporaneously with this one denies the second motion to certify a class. Only the plaintiffs' individual claims will go forward.

The plaintiffs have standing to assert only their own claims and to obtain only appropriate relief on their own claims. This order makes no ruling on the scope of relief available on the plaintiffs' own claims. But the defendants are correct: in the absence of a certified class, the plaintiffs have no standing to assert the rights of individuals whose only involvement in this case was as proposed class members. Whether labeled a motion for summary judgment or to dismiss, the result is the same: the plaintiffs cannot pursue a claim for relief on behalf of others. Accordingly,

IT IS ORDERED:

The defendants' second summary-judgment motion, ECF No. 98, is granted in part. Any claims for relief on behalf of individuals who are not named plaintiffs are dismissed. I do *not* direct the entry of judgment under Federal Rule of Civil Procedure 54(b).

SO ORDERED on March 31, 2020.

s/Robert L. Hinkle

United States District Judge