



**MARYLAND**  
**LEGAL AID**

*Advancing*  
**Human Rights and**  
**Justice for All**

**For Immediate Release**

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## **Venable and Maryland Legal Aid Win Momentous Court of Appeals Decision for One of State's Most Vulnerable Clients**

**BALTIMORE, Md. (December 30, 2015)** – On December 22, Venable and Maryland Legal Aid won a landmark decision in the Court of Appeals of Maryland establishing the power of the juvenile court in Maryland child welfare cases to order state agencies to provide needed services and care for clients. This decision reverses a 35-year-old line of intermediate appellate cases under which some judges declined to order state agencies to provide specific services, citing separation of powers concerns. Juvenile courts in Maryland will now have more leeway to order state agencies to provide needed services.

The victory came in the civil case of Dustin R., one of the most medically fragile and highly incapacitated individuals in Maryland, who faced a potentially lethal cut in life-sustaining services as he transitioned out of the foster care system at age 21. The Maryland Court of Appeals ruled that the state Department of Health and Mental Hygiene (DHMH) must continue to support the extraordinary care that Dustin needs to stay alive. "This case exemplifies the highest level of what it means to preserve human rights and human dignity," said Maryland Legal Aid's Executive Director, Wilhelm H. Joseph, Jr. Venable partner and Maryland Legal Aid alum Mitchell Y. Mirviss briefed and argued the appeals pro bono, with assistance from Maryland Legal Aid attorney Margaret F. Holmes, who was the lead attorney in the juvenile court proceedings and has represented Dustin for close to fifteen years.

Dustin, now 23, has been in the state's guardianship since he was two years old, living in a Frederick County foster home under the care of Mr. and Mrs. Pratt. Dustin suffers from a rare and unknown mitochondrial disorder that has attacked every system and function of his body, disabling his mobility, vision, speech, mental capacity, and digestive ability, and rendering him completely incapacitated. As a result, Dustin requires constant 24-hour nursing by trained and skilled registered nurses. As his condition worsened, the Pratts fought with state agencies to receive nursing services and other resources that would enable Dustin to remain in their home. Maryland Legal Aid won a ruling in 2005 that the state must provide the 24-hour nursing care necessary for Dustin to remain with the Pratts.

But in 2011, the state again tried to cut nursing services, claiming that the supplemental assistance it had been providing since 2005 was illegal. Shortly before Dustin was due to age out of foster care at age 21, the Anne Arundel County juvenile court held a trial and ruled in Dustin's favor, finding that the case was a matter of life and death and that the state's planned significant cuts (both in nursing and the level of support to the Pratts) were life-threatening. It ordered DHMH to provide a plan to continue the status quo level of care after Dustin turned 21. DHMH appealed to the Court of Special Appeals, but that court ruled that its appeal was invalid because the trial court had failed to cross out the word "proposed" in the title of the order, rendering it ineffective. As the juvenile court no longer had jurisdiction over Dustin due to his turning 21, this ruling could have meant that the error could not be fixed and the order would be a nullity, thereby putting his life at risk. The Maryland Court of Appeals granted Dustin's petition asking it to hear the case, and then reversed the intermediate appellate court.

The Court of Appeals decision confirms the juvenile court's statutory and constitutional power to order DHMH to continue to provide the level of services and support that Dustin had been receiving since 2005, even after Dustin turned 21, so that the Pratts can continue to provide the care that Dustin needs to stay alive. It holds that juvenile courts have authority to require state agencies to provide necessary services, especially in extreme cases like Dustin's, where his life was at stake. Equally important, the court also ruled that the guardianship law empowers the courts to order services to obtain care post-age 21 for disabled children already under state guardianship as a bridge into the adult guardianship system.

"This could be a case that will set valuable precedent for many other child clients going forward," said Dustin's Maryland Legal Aid Attorney, Margaret Holmes. "I can't think of a better gift for Dustin and his family than to end the year with this great news." Added Mitchell Mirviss, "This decision, and the trial court's decision before that, literally saved Dustin's life. The evidence was overwhelming that Dustin would not survive outside of his home, which is exactly what would have occurred if the cuts were allowed."

Read the Maryland Court of Appeals full opinion [here](#).

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### **About Maryland Legal Aid**

Maryland Legal Aid is a private, non-profit law firm that provides free, civil legal services to low-income people in Baltimore City and Maryland's 23 counties from 12 offices and three District Court Self-Help Centers. The firm handles cases involving a wide range of issues, including family, housing, government benefits, healthcare, education, employment, and consumer law. Maryland Legal Aid also represents children in CINA (Child in Need of Assistance) proceedings in 12 Maryland jurisdictions. Other vulnerable populations, such as homeowners facing foreclosure, migrant and seasonal farm workers, nursing home and assisted living residents, and veterans seeking benefits and assistance with related legal issues also receive representation through special projects. *Website:* [www.mdlab.org](http://www.mdlab.org)

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