



MR-PA-006-004

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,  
Plaintiff,

v.

COMMONWEALTH OF PENNSYLVANIA;  
Robert Casey, Governor of the  
Commonwealth of Pennsylvania;  
Karen F. Snider, Acting Secretary  
Department of Public Welfare;  
Steven M. Eidelman,  
Deputy Secretary of Mental Retardation  
Office of Mental Retardation;  
Alan M. Bellomo, Director  
Ebensburg Center;  
Defendants.

Civil Action No. 92-33J  
Complaint  
Civil Rights

1. This action is brought by the Attorney General, on behalf of the United States, pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. §1997 et seq., to enjoin the named defendants from depriving persons residing at Ebensburg Center ("Ebensburg") of rights, privileges or immunities secured or protected by the Constitution of the United States.

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1345.

3. The United States has standing to maintain this action pursuant to 42 U.S.C. §1997a.

4. The Attorney General has certified that all prefiling requirements specified in 42 U.S.C. §1997b have been met. The

certificate of the Attorney General is appended to this Complaint and is incorporated herein.

5. Venue in the Western District of Pennsylvania is proper pursuant to 28 U.S.C. §1391. All claims set forth in the Complaint arose in said District.

6. Defendant COMMONWEALTH OF PENNSYLVANIA owns and operates Ebensburg, a state facility for mentally retarded people located in Ebensburg, Pennsylvania.

7. Defendant ROBERT CASEY is the Governor of Pennsylvania, and in this capacity heads the Executive Branch of the Commonwealth's government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies. He selects and appoints the Secretary of the Department of Public Welfare ("DPW") and must approve the appointment of the Deputy Secretary of Mental Retardation, Office of Mental Retardation.

8. Defendant KAREN F. SNIDER is the Acting Secretary of DPW and, in this capacity, exercises administrative control of, and responsibility for, Ebensburg.

9. Defendant STEVEN M. EIDELMAN is the Deputy Secretary of Mental Retardation, Office of Mental Retardation who, along with Defendant WHITE, is responsible for the administration of Ebensburg.

10. Defendant ALAN M. BELLOMO is the Director of Ebensburg and is responsible for the day-to-day operations of Ebensburg.

11. The individual Defendants named in paragraphs 7, 8, 9 and 10 above are officers of the Executive Branch of the

Commonwealth of Pennsylvania and are sued in their official capacities.

12. Ebensburg is an institution within the meaning of 42 U.S.C. §1997(1).

13. Persons residing at Ebensburg include individuals who are mentally retarded and developmentally disabled.

14. Defendants are legally responsible, in whole or in part, for the operation of and conditions at Ebensburg, as well as for the care and treatment of persons residing at that institution.

15. At all relevant times, defendants have acted or failed to act, as alleged herein, under color of state law.

16. Defendants have failed and are continuing to fail to provide residents residing at Ebensburg with that level of individualized training and behavioral programming necessary to ensure that residents are free from undue bodily restraint, including chemical restraint, or unreasonable risks to their personal safety.

17. Defendants have failed and are continuing to fail to provide adequate medical care to Ebensburg residents.

18. Defendants have failed and are continuing to fail to employ staff and practices needed to maintain professionally based recordkeeping and record review systems to ensure that resident records contain accurate, up-to-date and relevant information as is necessary to enable staff to exercise

professional judgment regarding medical treatment and training decisions.

19. Defendants have failed and are continuing to fail to ensure that bodily restraints are administered to persons confined at Ebensburg only pursuant to the exercise of professional judgment by appropriately qualified professionals and are not used as punishment, in lieu of treatment, or for the convenience of staff.

20. Defendants have failed and are continuing to fail to prescribe and administer psychotropic medication safely and pursuant to the exercise of professional judgment by appropriately qualified staff.

21. The acts and omissions alleged in paragraph 16 through 20 constitute patterns or practices of resistance to the full enjoyment of rights, privileges or immunities secured or protected by the Constitution of the United States, and deprive residents of Ebensburg of such rights, privileges or immunities.

22. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 16 through 20 that deprive residents of Ebensburg of rights, privileges, or immunities secured or protected by the Constitution of the United States, and cause irreparable harm to Ebensburg residents.

23. The Attorney General is authorized under 42 U.S.C. §1997a to seek only equitable relief.

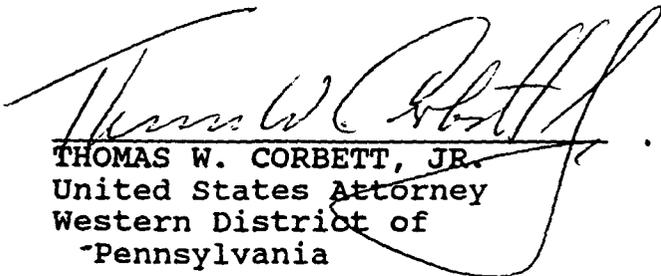
WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their agents, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, practices and omissions at Ebensburg set forth in paragraphs 16 through 20 above, and to require defendants to take such action as will provide constitutional conditions of care to persons who reside at Ebensburg. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,



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WILLIAM P. BARR  
Attorney General of the  
United States

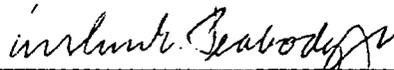


THOMAS W. CORBETT, JR.  
United States Attorney  
Western District of  
-Pennsylvania



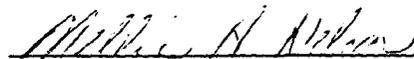
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CERTIFICATE OF THE ATTORNEY GENERAL

I, William P. Barr, Attorney General of the United States, certify that with regard to the foregoing Complaint, I have complied with all subsections of 42 U.S.C. § 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. § 1997b(a)(2). I further certify, pursuant to 42 U.S.C. § 1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution of the United States.

I further certify that I have the "reasonable cause to believe" set forth in 42 U.S.C. § 1997a to initiate this action. Finally, I certify that all prerequisites to the initiation of suit under 42 U.S.C. § 1997 have been met.

Pursuant to 42 U.S.C. § 1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. § 1997b(b), I am personally signing this Certificate.

Signed this 13th day of January, 1992, at  
Washington, D.C.

  
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WILLIAM P. BARR  
Attorney General  
of the United States