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MR-PA-007-003

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
COMMONWEALTH OF PENNSYLVANIA;)
ROBERT CASEY, Governor of the)
Commonwealth of Pennsylvania;)
KAREN F. SNIDER, Secretary)
Department of Public Welfare;)
NANCY THALER,)
Deputy Secretary of Mental Retardation)
Office of Mental Retardation,)
Department of Public Welfare;)
REUBEN SHONEBAUM, Director)
Embreeville Center;)
)
Defendants.)

Civil Action No.
Complaint 93-CV-2090
Civil Rights

THE UNITED STATES OF AMERICA alleges:

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 Embreeville Center ("Embreeville") of rights, privileges or immunities secured or protected by the Constitution of the United States.

JURISDICTION

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

DEFENDANTS

6. Defendant COMMONWEALTH OF PENNSYLVANIA owns and operates Embreeville, a state facility for mentally retarded people located in Coatesville, 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 Secretary of DPW and, in this capacity, exercises administrative control of, and responsibility for, Embreeville.

9. Defendant NANCY THALER is the Deputy Secretary of Mental Retardation, Office of Mental Retardation, DPW, who, along with Defendant SNIDER, is responsible for the administration of Embreeville.

10. Defendant REUBEN SHONEBAUM is the Director of Embreeville and is responsible for the day-to-day operations of Embreeville.

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

13. Persons residing at Embreeville 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 Embreeville, 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.

FACTUAL ALLEGATIONS

16. Defendants have failed and are continuing to fail to ensure that Embreeville residents are protected from abuse and neglect.

17. Defendants have failed and are continuing to fail to provide residents residing at Embreeville 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.

18. Defendants have failed and are continuing to fail to provide adequate medical care to Embreeville residents.

19. Defendants have failed and are continuing to fail to ensure that there is an adequate number of sufficiently trained direct care and professional staff to render and implement professional judgments regarding care and treatment of Embreeville residents.

20. Defendants have failed and are continuing to fail to maintain professionally based recordkeeping and record review systems to ensure that resident records contain accurate, up-to-date and relevant information necessary to enable staff to exercise professional judgment regarding treatment and training of Embreeville residents.

21. Defendants have failed and are continuing to fail to ensure that psychotropic medications are prescribed and administered to persons confined at Embreeville only pursuant to the exercise of professional judgment by appropriately qualified professionals and are not used as a form of chemical restraint, in lieu of treatment, or for the convenience of staff.

22. The acts and omissions alleged in paragraphs 16 through 21 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 Embreeville of such rights, privileges or immunities.

23. Unless restrained by this Court, Defendants will continue to engage in the conduct and practices set forth in paragraphs 16 through 21 that deprive residents of Embreeville of rights, privileges, or immunities secured or protected by the Constitution of the United States, and cause irreparable harm to Embreeville residents.

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

PRAYER FOR 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 Embreeville set forth in paragraphs 16 through 21 above, and to require defendants to take such action as will provide constitutional conditions of care to persons who reside at Embreeville. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,



JANET RENO
Attorney General of the
United States



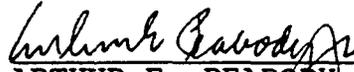
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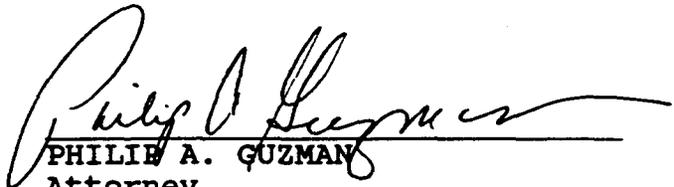
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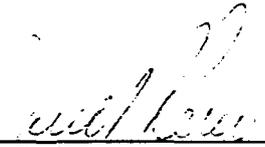
CERTIFICATE OF THE ATTORNEY GENERAL

I, Janet Reno, 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 14 day of April, 1993, at
Washington, D.C.



JANET RENO
Attorney General
of the United States