



MR-CA-005-003

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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JOHN R. DUNNE
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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

C 90 2641 EFL

STATE OF CALIFORNIA; GEORGE DEUKMEJIAN,
Governor of the State of California;
CALIFORNIA DEPARTMENT OF MENTAL HEALTH;
LYNN WHETSTONE, Acting Director,
California Department of Mental Health;
RICHARD P. FRIDAY, Executive Director,
Napa State Hospital,

Defendants.

Civil Action No.

COMPLAINT,
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

1 Institutionalized Persons Act of 1980, 42 U.S.C. § 1997 et seq.,
2 to enjoin the named defendants from depriving persons residing
3 at the Napa State Hospital (NSH), Imola, California, of rights,
4 privileges or immunities secured or protected by the Constitution
5 of the United States.

6 JURISDICTION

7 2. This Court has jurisdiction over this action under
8 28 U.S.C. § 1345.

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

11 4. The Attorney General has certified that all the pre-
12 filing requirements specified in 42 U.S.C. § 1997b have been met.
13 The certificate of the Attorney General is appended to this
Complaint and is incorporated herein.

14 5. Venue in the Northern District of California is proper
15 pursuant to 28 U.S.C. § 1391. The claims herein arose in said
16 District.
17

18 PARTIES

19 6. Defendant STATE OF CALIFORNIA is a "State" within the
20 meaning of 42 U.S.C. § 1997. The State of California owns and
21 operates NSH.

22 7. Defendant GEORGE DEUKMEJIAN is the Governor of
23 California, and, in this capacity, heads the Executive Branch
24 of State government and, among other duties, reviews and approves
25 budget requests submitted by Executive Branch agencies. He
26

1 selects and appoints the Director of the California Department of
2 Mental Health.

3 8. Defendant CALIFORNIA DEPARTMENT OF MENTAL HEALTH (DMH)
4 is responsible for the operation, control and administration
5 of NSH.

6 9. Defendant LYNN WHETSTONE is the Acting Director of DMH,
7 and, in this capacity, exercises administrative control of and
8 responsibility for NSH, with authority to direct DMH resources to
9 NSH in support of NSH's maintenance and staffing needs as well as
10 its medical, treatment and rehabilitative care programs.

11 10. Defendant RICHARD P. FRIDAY is the Executive Director
12 of NSH and, in this capacity, has the responsibility for and
13 control of the daily operation of NSH.

14 11. The individual defendants named in paragraphs 7, 9 and
15 10 above are officers of the Executive Branch of the State of
16 California and are sued in their official capacities.

17 FACTUAL ALLEGATIONS

18 12. NSH, a State mental health facility administered and
19 operated by DMH, is an institution as that term is defined in
20 42 U.S.C. § 1997(1)(A), (B)(i), and is located in Imola,
21 California, within the Northern District of California.

22 13. Patients residing at NSH include mentally ill and
23 handicapped citizens.

24 14. Defendants are legally responsible, in whole or in
25 part, for the operation of and conditions at NSH, as well as for
26 the care persons confined therein.

15. At all relevant times, defendants or their predecessors
2 in office have acted or failed to act, as alleged herein, under
3 color of State law.

4 16. Defendants have failed and are continuing to fail to
5 provide patients residing at NSH with adequate medical and
6 psychiatric care and treatment necessary to ensure that they are
7 free from unreasonable risks to their personal safety and
8 unreasonable use of bodily restraints.

9 17. Defendants have failed and are continuing to fail to
10 ensure that there is an adequate number of sufficiently trained
11 staff to render and implement professional judgments regarding
12 necessary care, medical services and psychiatric treatment to NSH
13 patients.

14 18. Defendants have failed and are continuing to fail to
15 ensure appropriate and timely review and evaluation of the
16 medical status and treatment needs of patients who reside at NSH.

17 19. Defendants have failed and are continuing to fail to
18 maintain professionally based recordkeeping and record review
19 systems to ensure that patient records contain accurate, up-to-
20 date, relevant and readily accessible information as is necessary
21 to enable staff to exercise professional judgment regarding
22 medical and psychiatric care and treatment decisions.

23 20. Defendants have failed and are continuing to fail to
24 ensure that medications are prescribed and administered to
25 persons confined at NSH pursuant to the exercise of professional
26 judgment by appropriately qualified staff.

1 21. Defendants have failed and are continuing to fail
2 to ensure that bodily restraints are administered to persons
3 confined at NSH only pursuant to the exercise of professional
4 judgment by appropriate qualified professionals and are not used
5 as punishment, in lieu of treatment, or for the convenience of
6 staff.

7 22. Defendants have failed and are continuing to fail
8 to employ effective monitoring and quality assurance measures
9 necessary to identify and correct the deficiencies described
10 in paragraphs 16 through 21.

11 VIOLATIONS ALLEGED

12 23. The acts and omissions described in paragraphs 16
13 through 22 constitute patterns or practice of resistance to the
14 full enjoyment of rights, privileges or immunities secured or
15 protected by the Constitution of the United States, and deprive
16 persons confined at NSH of such rights, privileges or immunities.

17 24. Unless restrained by this Court, defendants will con-
18 tinue to engage in the conduct and practices set forth in
19 paragraphs 16 through 22 above that deprive persons confined to
20 NSH of rights, privileges or immunities secured or protected by
21 the Constitution of the United States, and cause irreparable harm
22 to NSH patients.

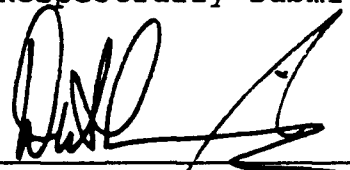
23 PRAYER FOR RELIEF

24 25. WHEREFORE, the United States prays that this Court
25 enter an order permanently enjoining defendants, their agents,
26 employees, subordinates, successors in office, and all those

1 acting in concert or participation with them from continuing the
2 acts, practices or omissions at NSH set forth in paragraphs 16
3 through 22 above, and to require defendants to take such action
4 as will provide constitutional conditions of confinement to NSH
5 residents.

6 26. The United States further prays that this Court grant
7 such other and further equitable relief as it may deem just and
8 proper.

9 Respectfully submitted,

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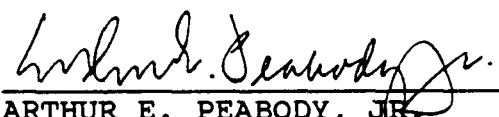
11 _____
12 DICK THORNBURGH
13 Attorney General of
the United States

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16 WILLIAM T. MCGIVERN
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19 California

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23 Assistant Attorney General
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