



MR-IL-002-004

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA)

Plaintiff,)

v.)

STATE OF ILLINOIS, James R. Edgar,)
Governor of the State of Illinois;)
Leigh Steiner, Acting Director,)
Illinois Department of Mental Health)
and Developmental Disabilities; Kathleen)
A. Muniz, Superintendent, W.A. Howe)
Developmental Center)

Defendants.)

COMPLAINT

Civil Action No.

92C0694

JUDGE PLUNKETT

MAGISTRATE JUDGE SUZMAN

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 W.A. Howe Developmental Center ("Howe"), of rights, privileges or immunities secured or protected by the Constitution of the United States.

JURISDICTION

2. This Court has jurisdiction over this action under 28 U.S.C. Section (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 the pre-filing 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 Northern District of Illinois is proper pursuant to 28 U.S.C. (1391. All claims set forth in the Complaint arose in said District.

DEFENDANTS

6. Defendant STATE OF ILLINOIS owns and operates Howe, a state facility for mentally retarded people located in Tinley Park, Illinois.

7. Defendant JAMES R. EDGAR is the Governor of Illinois, and in this capacity heads the Executive Branch of the State government and, among other duties, reviews and approves budget requests submitted by Executive Branch agencies.

8. Defendant LEIGH STEINER is the Acting Director of the Illinois Department of Mental Health and Developmental Disabilities ("DMHDD") and, in this capacity, exercises administrative control of, and responsibility for, Howe. The Director selects and appoints the Superintendent of Howe.

9. Defendant KATHLEEN A. MUNIZ is the Superintendent of Howe and is responsible for the day-to-day operations of the facility.

10. The individual defendants named in paragraphs 7, 8, and 9 above are officers of the Executive Branch of the State of Illinois and are sued in their official capacities.

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

12. Persons residing at Howe include individuals who are mentally retarded and developmentally disabled.

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

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

FACTUAL ALLEGATIONS

15. Defendants are subjecting individuals residing at Howe ("Residents") to unreasonable risks to their personal safety and undue bodily restraint by failing and continuing to fail to provide them with the appropriate level of individualized training and behavioral programming.

16. Defendants have failed and are continuing to fail to provide adequate medical care to Residents.

17. Defendants have failed and are continuing to fail to employ staff and practices needed to maintain professionally based record-keeping 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 judgments regarding medical treatment and training decisions.

18. Defendants are subjecting Residents to undue bodily restraint by failing and continuing to fail to ensure that bodily

restraints are administered to persons confined at Howe only pursuant to the exercise of professional judgment by appropriately qualified professionals.

19. 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.

20. Defendants have failed and are continuing to fail to employ adequate staff, including physicians, psychologists, registered and licensed practical nurses and registered physical therapists, to reasonably provide for the appropriate and safe treatment and care of Residents.

21. The acts and omissions alleged in paragraph 15 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 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 15 through 20 that deprive Residents of rights, privileges, or immunities secured or protected by the Constitution of the United States, and cause irreparable harm to 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 Howe set forth in paragraphs 15 through 20 above, and to require defendants to take such action as will provide constitutional conditions of care to persons who reside at Howe. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

Respectfully submitted,



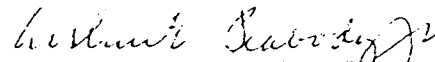
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CERTIFICATE OF THE ATTORNEY GENERAL

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, DC.



WILLIAM P. BARR
Attorney General of
the United States