



MR-MS-001-002

SOUTHERN DISTRICT OF MISSISSIPPI  
**FILED**  
JUN 21 1990  
J. T. NOBLIN, CLERK  
BY \_\_\_\_\_ DEPUTY

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

JACKSON DIVISION

UNITED STATES OF AMERICA,	)
	)
Plaintiff,	)
	)
v.	)
	)
STATE OF MISSISSIPPI; RAY MABUS,	)
Governor of the State of Mississippi;	)
MISSISSIPPI DEPARTMENT OF MENTAL HEALTH;	)
ALBERT RANDEL HENDRIX, Executive Director;	)
ROGER MCMURTRY, Chief, Bureau of Mental	)
Retardation; CLYDE WOODRUFF, Director,	)
Ellisville State School,	)
	)
Defendants.	)

Civil Action No. J90-  
Complaint 0320(B)

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, to enjoin the named defendants from depriving persons residing at the Ellisville State School (ESS), Ellisville, Mississippi, of rights, privileges or immunities secured or protected by the United States Constitution.
2. This court has jurisdiction over this action under 28 U.S.C. §1345.
3. The United States has standing to initiate 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 Southern District of Mississippi is proper pursuant to 28 U.S.C. §1391. The claims herein arose in said District, and each of the named defendants resides in said District.

6. Defendant STATE OF MISSISSIPPI owns and operates ESS, a state residential mental retardation facility. Persons residing at ESS include mentally retarded and developmentally disabled citizens.

7. Defendant RAY MABUS is the Governor of Mississippi, and in this capacity, heads the executive branch of state government. He appoints the Mental Health Board of the State of Mississippi. As Governor and Chief Executive Officer of Mississippi, he is responsible in whole or in part for ESS.

8. Defendant MISSISSIPPI DEPARTMENT OF MENTAL HEALTH is responsible for the administration and operation of ESS and for the conditions therein.

9. Defendant ALBERT RANDEL HENDRIX is the Executive Director of the Department of Mental Health, and in this capacity, has responsibility for the operation of ESS. He appoints and supervises the Chief of the Bureau of Mental Retardation and the Superintendent of ESS.

10. Defendant ROGER MCMURTRY is the Chief of the Bureau of Mental Retardation of the Department of Mental Health and, in this capacity, supervises the Superintendent of ESS.

11. Defendant CLYDE WOODRUFF is the Superintendent of ESS, and, in this capacity, is the chief administrator of ESS and has responsibility for supervising the daily operations of ESS.

12. The individual Defendants identified in paragraphs 7, 9, 10, and 11 above are officers of the executive branch of the State of Mississippi and are sued in their official capacities.

13. ESS is an institution within the meaning of 42 U.S.C. §1997 (1)(A) and (1)(B)(i).

14. Defendants are legally responsible, in whole or in part, for the operation of ESS and for the conditions at ESS and the care of persons confined therein.

15. At all relevant times, the Defendants or their predecessors in office 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 persons confined to ESS with adequate medical care and treatment.

17. Defendants have failed and are continuing to fail to provide persons confined to ESS with that level of training necessary to protect them from unreasonable use of bodily restraints and undue risks to personal safety.

18. Defendants have failed and are continuing to fail to ensure that medications are prescribed and administered to persons confined to ESS pursuant to the exercise of professional judgment by qualified professionals and are not used in lieu of treatment or training, or for the convenience of staff.

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

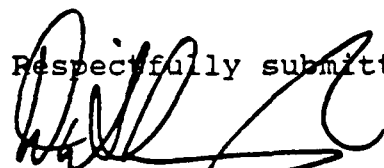
20. Defendants have failed and are continuing to fail to ensure that there is an adequate number of sufficiently trained staff to render professional judgments regarding necessary care, medical services, treatment and training to ESS residents, and to implement such professional judgments.

21. The acts and omissions of Defendants alleged in paragraphs 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 persons confined at Ellisville 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 above that deprive persons confined to ESS of rights, privileges or immunities secured or protected by the Constitution of the United States, and cause irreparable harm to ESS patients.

WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, agents, employees, subordinates, successors in office, and all those

acting in concert or participation with them from continuing the acts, omissions and practices at ESS set forth in paragraphs 16 through 20 above and to require Defendants to take such actions as will provide constitutional conditions of confinement to ESS residents. 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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DICK THORNBURGH  
Attorney General  
of the United States

*15/ George Phillips*

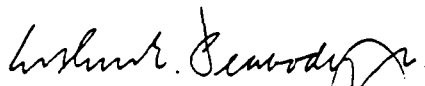
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GEORGE PHILLIPS  
United States Attorney  
Southern District of Mississippi



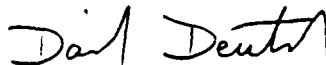
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JOHN R. DUNNE  
Assistant Attorney General  
Civil Rights Division



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Chief  
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DAVID DEUTSCH  
Senior Trial Attorney  
Special Litigation Section  
Civil Rights Division  
U.S. Department of Justice  
Washington, D.C. 20530



Office of the Attorney General  
Washington, D. C. 20530


CERTIFICATE OF THE ATTORNEY GENERAL

I, Dick Thornburgh, 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. Section 1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. Section 1997b(a)(2). I further certify pursuant to 42 U.S.C. Section 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. Section 1997a(a) to initiate this action. I finally certify that all prerequisites to the initiation of suit under 42 U.S.C. Sections 1997a and 1997b have been met.

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

Signed this 14th day of May, 1990,  
at Washington, D.C.



DICK THORNBURGH  
Attorney General of  
the United States