

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WALTER STEPHEN JACKSON, et al.,

Plaintiffs,

vs.

FORT STANTON HOSPITAL AND TRAINING
SCHOOL, et al.,

CIV 87-0839 JP

Defendants,

and

JOHN E. and IRIS YOUNG, et al.,

Intervenors.

FOURTH AMENDED COMPLAINT BY INTERLINEATION

Come now plaintiffs, by order of the court, and submit their fourth amended complaint.

Following paragraph j of Count VII on page 72 of Plaintiffs' Third Amended Complaint the following is added:

k. All plaintiffs in this action and all members of the plaintiff class have a developmental disability as defined by state law. Section 43-1-3(H) NMSA 1978.

1. All plaintiffs and all members of the plaintiff class have a disability which is attributable to a mental or physical impairment or a combination of mental and physical impairments, mental retardation, cerebral palsy, autism, or neurological dysfunction, regardless of the age of onset, which requires treatment or habilitation services similar to that provided to persons with mental retardation. As a result, all plaintiffs and

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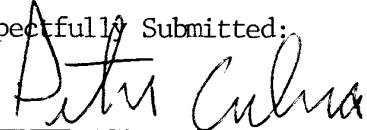
members of the plaintiff class are entitled, under state law, to all of the protections embodied in chapter 43 of New Mexico Statutes Annotated. Nevertheless, many plaintiffs are not being provided the procedural due process rights required of the defendants by state law.

m. All members of the plaintiff class are entitled to effective assistance of counsel under Section 43-1-4; to personal rights as provided by Section 43-1-6; to prompt treatment under Section 43-1-7; to prompt habilitation services pursuant to Section 43-1-8; to a comprehensive individualized treatment or habilitation plan pursuant to Section 43-1-9; to the right to be at liberty unless ordered by a court in a timely fashion to undergo residential placement pursuant to Section 43-1-13; to the right to exercise informed consent or refusal of consent to treatment pursuant to Section 43-1-15; if a minor, to a right to education in regular classes with non-handicapped minors whenever appropriate pursuant to Section 43-1-18; to a formal adequate process to guarantee plaintiffs' confidentiality pursuant to Section 43-1-19; to an assessment of the needs of the state's developmentally disabled population pursuant to Section 43-1A-4; to planning for community services for developmentally disabled persons pursuant to Section 43-1A-5; to the benefit of appropriate standards for services pursuant to Section 43-1A-7; to due process in decisions regarding admission and discharge of clients from services pursuant to Section 43-1A-8; to effective monitoring of compliance with regulations and other state imposed requirements pursuant to Section 43-1A-9; to a system to pay for services which accurately estimates funding requirements pursuant to Section 43-1A-10; and to all other procedural due process rights due any citizens when their liberty is restrained by the state of New Mexico.

n. All of these due process rights are being violated by the defendants.

o. The state-created liberty interest and due process rights entitle plaintiffs to substantive and procedural due process of law under the 5th and 14th Amendments to the United States Constitution.

Respectfully Submitted:



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I hereby certify that on October 13, 1988, a copy of the foregoing Fourth Amended Complaint was mailed to:

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