

Termed

**U.S. District Court
Northern District of Ohio (Cleveland)
CIVIL DOCKET FOR CASE #: 1:87-cv-01456-AIK**

Nicoletti, et al v. Brown, et al
Assigned to: Judge Alvin I. Krenzler
Demand: \$0
Cause: 42:1983 Civil Rights Act

Date Filed: 06/12/1987
Jury Demand: Plaintiff
Nature of Suit: 440 Civil Rights: Other
Jurisdiction: Federal Question

Plaintiff

Phillip Nicoletti

*a resident of Cleveland Development
Center, Cleveland, OH, through his
parents
other*

Michael Nicoletti
other

Nancy Nicoletti

represented by **David G. Latanick**

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Plaintiff

Frank Konicdynski

*a resident of Cleveland Development
Center, through his sister and legal
guardian,*

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*LEAD ATTORNEY
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other

Claire Gondiek

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Plaintiff

Donna Marie Horovoth

*a resident of Cleveland Development
Center, through her mother,*

other

Nancy Horovoth

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Plaintiff

Wayne Cook

*a resident of Cleveland Development
Center, through his parents,*

other

Mary Ann Cook

other

Andrew Cook

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Plaintiff

Wanda Cook

*a resident of Cleveland Development
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other

Mary Ann Cook

other

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Andrew Cook

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Plaintiff

Gilbert White

*a resident of Cleveland Development
Center, through his cousin and legal
guardian,
other*
Mary E Jenkins

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Plaintiff

Martin J Pitts

*a resident of Cleveland Developmental
Center, through his mother and legal
guardian,
TERMINATED: 12/08/1987
other*
Alice L Pitts

represented by **David G. Latanick**
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Grant D. Shoub
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Plaintiff

Jack Eller

*a resident of Cleveland Developmental
Center, through his parents,
other*
Jack Eller

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other
Rita Eller

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Walter J. Gerhardstein
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Plaintiff

Ronald Moots
a resident of Warrensville
Developmental Center, through his
mother and legal guardian,
TERMINATED: 12/08/1987
other
Marie Moots

represented by **David G. Latanick**
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Plaintiff

Dora Lee Metivier
a resident of Broadview Developmental
Center, through her mother and legal
guardian,
other
Margaret M Metivier

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Plaintiff

Lois Anne Wesebaum
a resident of Broadview Developmental
Center, through her parents,
other

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Shirley Wesebaum
other
Paul Wesebaum

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Plaintiff

Mark Allen Liest
a resident of Apple Creek
Developmental Center, through his
father and legal guardian,
other
Alfred C Liest

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Plaintiff

Peter Andreano

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Plaintiff

Lynn Tabac

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Plaintiff

Anthony Cox

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Plaintiff

Dianne Donnelly

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Plaintiff

Michael Castano

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Plaintiff

Pamela J Burnett

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Plaintiff

Melvin Hill

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Plaintiff

David Pucell

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Walter J. Gerhardstein
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Plaintiff/Intervenor

Francis Johnson
individually and on behalf of all others
similarly situated

represented by **Robert S. Mills**
Ohio Legal Rights Service
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Plaintiff/Intervenor

Lawrence Haas
individually and on behalf of all others
similarly situated, by and through his
next friend,
other
Ohio Legal Rights Services

represented by **Robert S. Mills**
(See above for address)
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Plaintiff/Intervenor

Jackie Burts
individually and on behalf of all others
similarly situated, by and through his
next friend,
other
Ohio Legal Rights Services

represented by **Robert S. Mills**
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Plaintiff/Intervenor

Lora Mae Davis
a resident of Warrensville
Developmental Center, through her
mother and legal guardian,
TERMINATED: 12/08/1987
other
Kathleen Davis

represented by **Robert S. Mills**
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TERMINATED: 12/08/1987
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Plaintiff/Intervenor

Annie Evans
a resident of Cleveland Developmental
Center and on her own and on behalf of
all others similarly situated,

Plaintiff/Intervenor

Frank Ball
a resident of Broadview Developmental

*Center by and through his next friend,
other
Ohio Legal Rights Services*

Plaintiff/Intervenor

Charles Penko

*a resident of Broadview Developmental
Center, individually and on behalf of all
others similarly situated, by and
through his next friend,
other
Ohio Legal Rights Services*

Plaintiff/Intervenor

Zell Herbert

*a resident of Warrensville
Developmental Center, individually and
on behalf of all others similarly
situated, by and through her next friend,*

*other
Ohio Legal Rights Services*

V.

Defendant

Robert Brown

*Director Ohio Department of Mental
Retardation and Developmental
Disabilities*

represented by **David J. Kovach**
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Defendant

Patrick Rafter

*Chief Division of Developmental
Centers of Ohio Department of Mental
Retardation and Developmental
Disabilities*

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Defendant

Gregory Darling

*Superintendent Cleveland
Developmental Disabilities*

represented by **David J. Kovach**
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Defendant**Steve Schumacher***Superintendent Warrensville
Developmental Center***Defendant****Purcell Taylor, Jr.***Superintendent Broadview Development
Center***Defendant****Jeffrey Speiss***Superintendent Apple Creek
Developmental Center
TERMINATED: 12/08/1987***Defendant****Ronald C Boley***Superintendent Mt. Vernon
Developmental Center
TERMINATED: 12/08/1987***Defendant****Pamela K Matura***Superintendent Gallipolis
Developmental Center
TERMINATED: 12/08/1987***Defendant****Charles M Kennedy***Superintendent Springview
Developmental Center
TERMINATED: 12/08/1987***Defendant****Jerry D Johnson***Superintendent Tiffin Developmental
Center
TERMINATED: 12/08/1987***Defendant****Paul A Young***Superintendent Youngstown
Developmental Center
TERMINATED: 12/08/1987***Defendant****Patricia Barry***Director Ohio Department of Human*represented by **Karen Lee Lazorishak**
Office Of The Attorney General

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Defendant

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*Deputy Director Medicaid
 Administrator*

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Date Filed	#	Docket Text
06/12/1987	1	COMPLAINT (class action); jury demand (Summons(es), magistrate consent form issued) (22 pgs) (W,Gloria) (Entered: 09/18/1991)
10/01/1987	31	AMENDED COMPLAINT (class action) by plaintiffs Phillip Nicoletti, Frank Konieczynski, Wayne Cook, and Wanda Cook [1-1]; adding Martin J Pitts, Jack Eller, Ronald Moots, Dora Lee Metivier, Lois Anne Wesebaum, Mark Allen Liest, Ronald C Boley, Pamela K Matura, Charles M Kennedy, Jerry D Johnson, Paul A Young, Patricia Barry and Paul Offner (84 pgs) (summs issd re new dfts) (W,Gloria) (Entered: 09/18/1991)
11/23/1987	48	INTERVENOR'S COMPLAINT by intervenor-plaintiffs Francis Johnson, Lawrence Haas, Jackie Burts, and Lora Mae Davis (9 pgs) (W,Gloria) (Entered: 09/18/1991)
12/08/1987	57	2nd AMENDED COMPLAINT (class action) by plaintiffs [48-1], [31-1], [1-1] (65 pgs) (W,Gloria) (Entered: 09/18/1991)
12/08/1987	59	ORDER dismissing party Lora Mae Davis . Notice of pla of dism pursu to R 41(a)(10) dism w/o prej all claims against all dfts in this case. (issued on 12/9/87) Judge Alvin I. Krenzler (W,Gloria) (Entered: 09/18/1991)
12/08/1987	60	ORDER dismissing dfts Paul A Young, Jerry D Johnson, Charles M Kennedy, Pamela K Matura, Ronald C Boley, and Jeffrey Speiss pur to ntc of plas pur to R 41(a)(1) dism w/o prej their claims against dfts. And dismissing plas Ronald Moots and Martin J Pitts pur to R 41(a) dism w/o prej their claims against all dfts in this case. (issued on 12/9/87) Judge Alvin I. Krenzler (W,Gloria) (Entered: 09/18/1991)
02/22/1988	74	AMENDED INTERVENOR'S COMPLAINT by intervenor-plaintiffs Annie Evans, Frank Ball, Charles Penko, and Zell Herbert - class action (17 pgs) (W,Gloria) (Entered: 09/19/1991)
07/11/1989	153	ORDER that Peter Andreano, Lynn Tabac, Anthony Cox, Dianne

		Donnelly, Michael Castano, Pamela J. Burnett, Melvin Hill, and David Pucell be added as pty plfts re: plas' 2nd amd cmplt; that all allegations contained in all causes of action in plas 2nd amdcomplt on behalf of plas Metivier and Wesebaum, be set forth in length as that of plas Andreano, Tabac, Cox, Donnelly, Castano, Burnett, Hill & Pucell; and that the names Peter Andreano, Lynn Tabac, Anthony Cox, Dianne Donnelly, Michael Castano, Pamela J. Burnett, Melvin Hill & David Purcell be added to plas' 2nd amdcmplt. (issued on 7/11/89) (4 pgs) Judge Alvin I. Krenzler (W,Gloria) (Entered: 09/19/1991)
06/19/1990	189	MINUTES of proceedings before Judge Alvin I. Krenzler ; Court reporter G. Staiduhar ; Settlement conf held. Plas requested lv to file written mot to dismiss by oral mot; ct grants lv to file mot & resp thereto; ct states partys have until 7/13/90 to file consent decree appointing Anthony Dinuzzo as Sp Master & Susan Arnowski as Sp auditor to ct; if decree is not forthcoming by June 13, ct will issue its own ord to same effect. All ptys stated approval of Mr. Dinuzzo. (1 pg) (W,Gloria) (Entered: 09/19/1991)
08/08/1990	195	CONSENT ORDER dissolving the ord re prelim inj & dissolving ord holding plas' mot for contempt in abeyance & granting plas' mot for appt of Sp Master; further ord directing the ODMR/DD dfts to comply with Medicaid ICF/MR standards at BDC and WDC and that prior to the transfer of any resident the ODMR/DD dfts to provide them with a post discharge plan; further ord appointing Anthony DiNuzzo as Sp Master until 6/30/92 or until the time BBC closes or until 6/30/91 if funding unavailable; the ODMR/DD dfts to bear all costs re services of SP Master, etc; further ord setting forth the responsibilities, power & authority of the Sp Master, etc. (issued on 8/8/90) (12 pgs) Judge Alvin I. Krenzler (W,Gloria) (Entered: 09/19/1991)
06/20/1991	190	ORDER re: consent decree & appt of special master; the ct on the record advised all of the ptys that they had until 7/13/90 to enter into a consent decree; this consent decree shall be filed with the ct on or before 7/13/90; the ct hereby appoints Anthony DiNuzzo as Sp Master & will issue separate ord of reference. If ptys do not enter consent decree approved by the ct, the court will enter its own ord setting forth the work to be done by the Sp Master; ct also appts Susan Arnoczky Ph D, as a special advisor to the ct in re the certification of Broadview & other issues relevant to this case. (issued on 9/21/90) (2 pgs) Judge Alvin I. Krenzler (W,Gloria) (Entered: 09/19/1991)
08/05/1991	219	ORDER of 3/15/91 vacating the 3/1/91 ord of ref is amd nunc pro tunc to read: pursu to this ct's ord of ref of 3/1/91, two reqs of the Sp Master in the above-captioned case were ref to US Mag Judge Jack B Streepy for an evidentiary hrg & a R&R decision. The hrg date was set for Sun, 3/3/91. Prior to the hrg, ptys notified Mag Judge Streepy that they had resolved the two reqs & did not require a hrg. Specifically, the ptys agree that the dfts would withdraw their objs to the ct's 1/25/91 ord & would augment the Sp Master's budget by \$30,000 through the fiscal yr expiring 6/30/91. This ct agrees that a hrg & rpt are no longer required &

		accordingly vacates its ord of ref to the Mag Judge issd 3/1/91, & orders the dfts to augument the Sp Master's FY 1991 budget by \$30,000. (issued on 8/5/91) (2 pgs) Judge Alvin I. Krenzler (W,Gloria) (Entered: 09/19/1991)
12/30/1991	220	ORDER finding Sp Master's req for addl funds is reasonable & necessary for the Sp Master to perform his duties. The court orders that the Sp Master's budget for the fiscal yr ending 6/30/92, shall be augmented by \$36,000, for a total of \$148,500 for the fiscal year. The Sp Master's annual budget for all subsequent fiscal yrs shall be \$150,000.00 (issued on 12/30/91) (2 pgs) Judge Alvin I. Krenzler (W,Gloria) (Entered: 12/30/1991)
05/26/1992	221	ORDER: Court finds Special Master's request for additional funds is reasonable and necessary; therefore, Special Master's budget for the fiscal year ending 6/30/92 shall be augmented by \$25,000.00 (issued on 5/26/92) (2 pgs) Judge Alvin I. Krenzler (E,E) (Entered: 05/27/1992)
06/23/1992	222	MOTION by pltfs to extend the term of the Special Master past 6/30/92, so as to continue the term until Broadview Developmental Center closes. (9 pgs & exh) (M,J A A) (Entered: 06/23/1992)
06/30/1992	223	RESPONSE by Jerome Manuel, Ronald Boley and Ronald I Ostroff to pltfs' motion to extend the term of the Special Master past 6/30/92, so as to continue the term until Broadview Developmental Center closes. [222-1] (2 pgs) (B,BA A) (Entered: 07/02/1992)
07/01/1992		MARGINAL ENTRY ORDER: granting motion to extend the term of the Special Master past 6/30/92, so as to continue the term until Broadview Developmental Center closes. [222-1] (issued on 7/1/92) Judge Alvin I. Krenzler (B,BA A) (Entered: 07/02/1992)
07/01/1992	224	ORDER: Granting pltf's mot to extend term of Special Master to December 31,1992. Defts shall continue to bear all reasonable & necessary costs for the duties & services of the Special Master, unless the defts are unable to secure funding for any budget req of the Special Master, despite their good faith effort to secure such funding. In the event that defts are unable to secure funding for any budget req of the Special Master, the term of the Special Master shall expire 6/30/92. (issued on 7/1/92) (2 pgs) Judge Alvin I. Krenzler (B,BA A) (Entered: 07/02/1992)
08/13/1992	225	LETTER from special master to court re: approving layoffs at Broadview Developmental Center. (1 pg) (Copy) (B,BA A) (Entered: 08/17/1992)
08/27/1992	226	LETTER (Copy) from special master to Ronald Ostroff re: Broadview's layoff plan. (1 pg) (B,BA A) (Entered: 08/31/1992)
02/03/1993	227	MOTION by pltfs to extend the term of the special master until 3/31/93 to allow him to close his files & issue all final reports on this matter (3+attach pgs) (B,BA A) (Entered: 02/03/1993)
02/09/1993	228	MOTION by defts for order dissolving & terminating Consent Order entered on 8/8/90 , and to dismiss case (13+attach pgs) (B,BA A)

		(Entered: 02/10/1993)
02/11/1993	229	NOTICE by pltf's of withdrawal of motion to extend the term of Special Master. (2 pgs) (B,BA A) (Entered: 02/11/1993)
02/26/1993	230	MOTION by intervenor-plaintiffs for ext of time, utnil 3/16/93 to file memo contra dfts' mot to dissolve and term consent order and for final order of dism (3 pgs) (S,R) (Entered: 02/26/1993)
03/01/1993	231	MEMORANDUM by pltf's in opposition to defts' motion for order dissolving & terminating Consent Order entered on 8/8/90 [228-1], to motion to dismiss case [228-2] (10+attach (B,BA A) (Entered: 03/01/1993)
03/08/1993	232	MOTION (Ltr request) to extend the term of Special Master filed by Anthony DiNuzzo. (1 pg) (B,BA A) (Entered: 03/09/1993)
03/16/1993	233	MEMORANDUM by pltf-intervenors in opposition to defts' motions for order dissolving & terminating Consent Order entered on 8/8/90 [228-1] & to dismiss case (18 pgs) (B,BA A) (Entered: 03/16/1993)
03/19/1993		MARGINAL ENTRY ORDER: granting motion for ext of time, until 3/16/93 to file memo contra dfts' mot to dissolve and term consent order and for final order of dism [230-1] (issued on 3/19/93) Judge Thomas D. Lambros (K,V) (Entered: 03/22/1993)
04/06/1993	234	MOTION by defts to extend time to 4/16/93 to reply to pltf's memo in opp to defts' motion to dissolve & terminate the consent order and for final entry of dismissal (4 pgs) (B,BA A) (Entered: 04/07/1993)
04/20/1993	235	MOTION by defts for leave to file instanter their reply to response to their mot to dissolve & terminate cosent order (Reply attached) (3+attach pgs) (B,BA A) (Entered: 04/20/1993)
05/06/1993	236	MOTION by pltf's for leave to file response to defts' memo in rply to pltf's memo opp defts' motion to dissolve & terminate Consent Order (Response attached) (2+attach pgs) (B,BA A) (Entered: 05/06/1993)
05/06/1993		MARGINAL ENTRY ORDER: granting defts' motion to extend time to 4/16/93 to reply to pltf's memo in opp to defts' motion to dissolve & terminate the consent order and for final entry of dismissal [234-1] (issued on 5/6/93) Judge Thomas D. Lambros (B,BA A) (Entered: 05/07/1993)
05/12/1993	237	ORDER: Case referred to Mag. Judge Patricia A. Hemann (issued on 5/12/93) (1 pg) Judge Thomas D. Lambros (B,BA A) (Entered: 05/12/1993)
08/23/1993	238	MINUTES of proceedings before Mag. Judge Patricia A. Hemann ; pty's to consider stipulated dism w/o prej & will file resp to req of Sp Master for payt of costs. (1 pg) (W,Gloria) (Entered: 08/24/1993)
08/24/1993	239	MEMORANDUM by defts in opposition to letter of Special Master (6 pgs) (B,BA A) (Entered: 08/25/1993)

09/20/1993		MARGINAL ENTRY ORDER granting dft's motion for leave to file instanter their reply to response to their mot to dissolve & terminate cosent order [235-1] (issued on 9/20/93) Mag. Judge Patricia A. Hemann (W,Gloria) (Entered: 09/20/1993)
09/20/1993	240	MEMORANDUM IN REPLY by defendant re [233-1] to plas' & pla'intervenors' memoranda opposing dfts' mot to dissolve & terminate consent order & for final entry of dism. (3 pgs) (W,Gloria) (Entered: 09/20/1993)
09/20/1993		MARGINAL ENTRY ORDER granting plas' motion for leave to file response to defts' memo in rply to pltfs' memo opp defts' motion to dissolve & terminate Consent Order [236-1] on 9/20/93) Mag. Judge Patricia A. Hemann (W,Gloria) (Entered: 09/20/1993)
09/20/1993	241	RESPONSE by plaintiff to memorandum in reply [240-1] of defts' to plas' memorandum opposing dfts' mot to dissolve & terminate consent ord. (4 pgs) (W,Gloria) (Entered: 09/20/1993)
10/12/1993	242	ORDER: Cleve Developmental Ctr & the Broadview Developmental Ctr are closed; Warendsville Developmental Ctr is & since Oct. of 1988, has been certified under the Medicaid program as an Intermediate Care Facility for the Mentally Retarded; the Consent Order of 8/8/90 is dissolved & terminated; and, this action is dismissed w/o prejudice at the defts' costs. dismissing case (issued on 10/13/93) (2 pgs) Judge Thomas D. Lambros (B,BA A) (Entered: 10/13/1993)
10/12/1993	243	REPORT AND RECOMMENDATION , Accordingly, the undersigned recommends that the Special Master's motion for extention so that out-of-pocket expenses and personal service costs incurred by him betw 1/1/93 & 2/15/93 may be reimbursed be DENIED. (issued on 10/15/93) (2 pgs) Mag. Judge Patricia A. Hemann (L (Entered: 10/15/1993)
10/12/1993	244	ORDER that the case referral order is hereby term, and this case is retn to the referring judge. (issued on 10/15/93) (1 pg) Mag. Judge Patricia A. Hemann (L (Entered: 10/15/1993)
02/22/1994	245	ORDER: Referring all post-judgment matters to the docket of Judge Wells. (issued on 2/22/94) (1 pg) Judge Thomas D. Lambros (B,BA A) (Entered: 03/01/1994)

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